



Whistleblowing in Washington: Lessons Learned and Unlearned

Patrick Eddington

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In light of the attention focused on two anonymous whistleblowers who have accused President Donald Trump of shaking down the government of Ukraine to dig up dirt on his political rivals, people often ask what makes someone willing to risk their career and endure skepticism or even ridicule from co-workers to expose government wrongdoing? Such tortuous odysseys often take years and may, or may not, solve the problem the whistleblower seeks to expose. The fact is, there are several steps Congress could take to ease this fraught path to accountability.

In describing some of the common characteristics of famous whistleblowers such as Daniel Ellsberg, journalist Tom Mueller writes in his new book, *Crisis of Conscience: Whistleblowing in an Age of Fraud*, “The ability of all these men to act was enhanced by a certain independence of character, a lack of awe of authority often accompanied by a sarcastic sense of humor, a sense of options in their lives beyond their specific career, a relatively modest need for approval from their peers, and a confidence that they could act independently and effect real change with their acts.” (p. 131, Penguin Publishing Group, Kindle Edition). In my case, you can add a few more: rage and relentless determination.

The 1991 Persian Gulf War, Operation Desert Storm, was my war, fought from a distance. Even though I was an Army Reservist at the time, my day job as a CIA military imagery analyst guaranteed that, instead of being shipped to the battlefield, I would be reporting on Iraqi military moves from the safety of a fence-secured compound in the satellite imagery equivalent of CNN Headline News.

I knew what I and my colleagues were doing was important, but even so I felt guilty about my good fortune at not being called up. My grandfather had fought in France under Pershing in World War I. My father had served in the Pacific Theater in World War II. My brother served aboard an aircraft carrier during the Vietnam War. My veteran cohort deployed to Saudi Arabia as I and my colleagues were writing reports indicating that Saddam had likely moved chemical weapons into the Kuwait Theater of Operations.

Once the war started, a stream of reports from the theater seemed to indicate that chemical weapons had been detected, repeatedly. Yet every time we sought confirmation from General Norman Schwarzkopf’s headquarters in Saudi Arabia, we were always told, “False alarm, forget about it.”

First Reports of Illness

Within a year of the victory parade in Washington, the first reports of ill Desert Storm veterans surfaced. By 1993, the reports were making headlines in major regional papers like the *Hartford Courant* and the *Birmingham News*.

It was against this backdrop that, in early 1994, my wife Robin, also a CIA analyst, made her way to the Senate as part of a CIA-sponsored executive leadership training program. She landed on the staff of the Senate Banking Committee as then-Chairman Donald Riegle (D-MI) was investigating potential links between U.S. dual-use exports to Iraq before the war and the “mystery illnesses” so many veterans were reporting in Michigan and elsewhere in the United States, what the press would ultimately call “Gulf War Syndrome.”

After her first day working for Chairman Riegle, Robin brought home a copy of the preliminary staff report the committee had issued in September 1993. As she handed it to me, she said, “Read this. I think we got gassed.”

The report contained dozens of credible accounts from veterans about chemical weapon (CW) detections throughout the 1991 war, and some evidence of actual symptoms. Robin told me something else: the office of then-Joint Chiefs of Staff Chairman Colin Powell had tried to quash the report before it was published.

Reading the report brought back all my memories about the intelligence and operational traffic about chemical agent alarms and National Security Agency reporting on potential chemical attacks underway. “False alarms, forget about it.” The alarms, it now seemed, might not have been false after all. Whether the reason was actual Iraqi CW attacks, fallout from allied bombing of CW production and storage facilities, or fallout/exposure from CW ammunition storage demolition operations after the war, the veterans deserved answers.

Becoming a Whistleblower

That day, I made a decision that would ultimately change our lives forever. I decided to find out whether or not the Pentagon, and potentially the CIA, were lying about what really happened during and after the Persian Gulf War.

I began a covert, totally unauthorized investigation that stretched from February to July 1994, utilizing CIA IT systems and databases — electronic and paper, including the CIA library — to pull together every bit of intelligence and scientific research relevant to the question. I also began to recruit, on a discrete and highly selective basis, individuals inside in the Pentagon to help me get answers.

Not surprisingly, after I formally surfaced my investigation with my front-line manager at CIA, he freaked out and told me to cease and desist. I asked, and my manager promised, to have the “experts” take a look at my findings. Those of course were the same “experts” who said no chemical exposures had taken place during the Gulf War.

We only learned what had really happened with my request after my wife wrapped up her assignment on the Senate Banking Committee in November 1994. She happened to bump into another analyst at the CIA’s Office of Imagery Analysis (OIA) who told her, rather proudly, that he had been tasked to “debunk” her work on the Hill and my own analysis of the available intelligence and operational records.

As the individual in question didn’t have the proper background to “debunk” anything either of us had pulled together, it was clear CIA was not taking us seriously. I upped the ante, writing a letter to the editor of the *Washington Times* that was published on Pearl Harbor Day 1994 and accused the Pentagon of a cover up.

I didn't identify myself as a CIA officer or utilize any classified information, but my First Amendment activity was not appreciated and led to a confrontation with that same front-line manager. I told him I knew what was up and would go to the Hill if CIA didn't get right on the issue.

Stonewalling at CIA and on the Hill

What ensued was a multi-month charade in which CIA claimed to be re-evaluating their conclusions while refusing to talk to the same veterans interviewed by the Senate Banking Committee or examine Pentagon operational files that supported the veterans' claims. In light of all of this, and with the help of a former Senate Banking Committee staffer from Robin's days on the Hill, I decided to make good on my threat.

During this entire time, one extremely sensitive source kept me apprised of how then-Deputy Secretary of Defense John Deutch was trying to steer the issue in a way that would deflect blame away from the Pentagon, particularly in the run-up to Deutch's appearance on *60 Minutes* prior to his confirmation hearing to become CIA Director. Prior to Deutch's appearance on the venerable CBS news show, I had smuggled over 100 highly classified documents, including very damning NSA reports, out of CIA and delivered them to staff of the Senate Select Committee on Intelligence (SSCI). I asked that they question Deutch closely on the issue, in closed session if necessary.

I subsequently learned that they not only asked Deutch nothing about ill Desert Storm veterans, but that SSCI staff had called CIA to let them know what I'd done. Fortunately, before turning over my package of classified documents to them, I insisted that SSCI give me a letter stating that my actions were legitimate and pursuant to the committee's oversight responsibilities.

It wasn't just my "get out of jail free" card. It was my way of ensuring that SSCI would never be able to say there were in the dark about how much CIA and the rest of the Intelligence Community had withheld about potential or actual chemical agent exposures among Desert Storm veterans. From that point on, Robin and I began planning our exit from CIA.

By the spring of 1996, then-CIA Deputy Director of Intelligence Doug McEachin had asked CIA security to open a counterintelligence investigation on me. Friends told us they'd been approached by CIA Security with this question: "Would Eddington let his conscience override his secrecy agreement?" Let that one sink in. The CIA was more concerned about concealing its Gulf War-related failure and its impact on thousands of veterans rather than coming clean, admitting the error, and making all relevant information public. This was especially critical, since the Department of Veterans Affairs was denying Desert Storm-related environmental exposure claims for lack of documentary evidence. The latest research, published earlier this year, suggests that Desert Storm vets with Gulf War Syndrome are more likely to develop Parkinson's than their otherwise healthy Gulf War-era counterparts.

Going Public

In October 1996, 23 years ago this month, my wife and I made our own debut as whistleblowers, via a page one *New York Times* story in which we accused our by then former employer of covering up evidence of potential chemical agent exposure among Desert Storm veterans. For the first time in its history, the CIA called a press conference, and the purpose was to rebut our allegations.

Over the ensuing three months, the staffs of no less than five Congressional committees would meet with us: House Intelligence, Armed Services, and Veterans Affairs, and Senate Armed Services and the Senate Oversight and Investigations subcommittee. We were not taken seriously by any of them.

It wasn't until I was contacted by committee staff working for then-Rep. Chris Shays (R-CT), the chairman of the National Security subcommittee of House Oversight and Government Reform, that I found a congressional oversight body willing to listen and take seriously what we had to say. Four months after I testified before Shays' subcommittee, the CIA admitted in April 1997 that they had, in fact, botched their response to our allegations.

Two years after we went public, Congress passed the Intelligence Community Whistleblower Protection Act (PL 105-272). The law was not a truly serious attempt to stop the kind of retaliation I and others had faced. It forced Intelligence Community whistleblowers to go through their department or agency Inspector General before coming to Congress. That was a prescription for sabotaging any attempts to report waste, fraud, abuse, mismanagement or criminal conduct. I'm certain that's one reason why whistleblowers like Thomas Drake and Edward Snowden didn't bother going to the NSA IG with their complaints.

Indeed, as Snowden noted in a 2018 affidavit in an Electronic Frontier Foundation lawsuit against NSA, he had a "specific and strong recollection" of a March 2009 NSA IG report "that indicated to me that the government had been conducting illegal surveillance." It was, in fact, President George W. Bush's illegal STELLAR WIND mass electronic surveillance program, which the NSA IG did nothing to stop.

Modest Improvement with ICIG

The process was improved somewhat a few years ago with the creation of the Intelligence Community Inspector General office and the option for IC whistleblowers to take their complaints there. But as the current case demonstrates, even that process can be obstructed or otherwise subverted by political pressure, as was clear from Director of National Intelligence Joseph Maguire's initial stonewalling of Congress over the "Ukraine-gate" whistleblower report.

I've written previously that current House Intelligence Committee Chairman Adam Schiff (D-CA) has not exactly been terribly interested in whistleblower protection issues until the two "Ukraine-gate" IC whistleblowers stepped forward. Indeed, when nearly a year ago Senator Chuck Grassley (R-IA) revealed that CIA had been actively monitoring the communications of CIA whistleblowers with the ICIG and Congress, Schiff and the committee he led made no public statement on the issue, despite the fact that such CIA domestic spying is exactly what the House and Senate Intelligence Committees were established to prevent. In his nearly 20 years in Congress, Schiff has sponsored whistleblower-related legislation just once, on September 24, 2019 with regard to the #Ukraine-gate whistleblower complaint to the ICIG.

That should be a warning sign for any American concerned about ensuring national security whistleblowers get genuine legal protections and solid confidential channels for making disclosures on a bipartisan basis long after this current crisis is over.

As a result, Schiff and his Democratic colleagues have, at least in this author's view, created the impression that these whistleblowers are simply a quick means to a short-term end: the removal of Donald Trump from the Oval Office. For anyone truly concerned about deterring or detecting

future abuses of executive power at *any* level — and there will be such abuses — securing ironclad protections for national security whistleblowers will always take precedence over the partisan political drama of the moment.

Serious Protection for Whistleblowers

So what would real national security whistleblower protections look like?

It would start with the repeal of the Intelligence Community Whistleblower Protection Act and a reaffirmation that 5 U.S.C. Sec. 7211 is the operating statute for *any* whistleblower to report concerns to Congress. That law currently states as follows:

“The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.”

The law should be expanded to encompass IC contractors. It should also mandate that each House and Senate office will have at least one staff member cleared to receive any whistleblower complaint, regardless of the classification level, to assist his or her member with following up on the whistleblower’s allegations.

Additionally, national security whistleblowers should have a legal right to have their cases heard in federal court, before a jury, if they so choose. Finally, the law should expressly forbid any form of retaliation and make it a felony for any federal official (executive, legislative, or judicial branch), including the President, to reveal the identity of any whistleblower without the whistleblower’s express, written consent. Violations should be punishable by a prison term of not less than 10 years and at least a \$1,000,000 fine.

Changing the law as I’ve suggested would help level the playing field for potential national security whistleblowers. However, no change in the law alone can provide the full range of political support and protection whistleblowers need. That can only come from consistent House and Senate member engagement on their behalf, not simply in a moment of crisis when it happens to be politically expedient.

Patrick Eddington is a Policy Analyst in Homeland Security and Civil Liberties at the Cato Institute and Former Senior Policy Advisor to Rep. Rush Holt (D-N.J.).