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The National Security State Shields One of Its Own Miscreants—Again

Ted Galen Carpenter

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The shocking double standard with respect to violations of federal law committed by members of the national security bureaucracy compared to similar offenses by whistleblowers is on display once again. In late January, federal judge James Boasberg sentenced former FBI assistant general counsel Kevin Clinesmith, who admitted falsifying evidence submitted to the Foreign Intelligence Surveillance Act (FISA) court for a warrant to spy on Carter Page—a onetime foreign-policy adviser to former President Donald Trump. Boasberg sentenced Clinesmith to a mere twelve months probation and four hundred hours of community service. The judge said the evidence persuaded him that "Mr. Clinesmith likely believed that what he said about Mr. Page was true."

A *Wall Street Journal* editorial points out just how much that excuse lacks credibility since prosecutors made clear that "evidence of Mr. Clinesmith's animus toward Donald Trump is considerable. As for being an honest mistake, remember that Mr. Clinesmith changed an email confirming Mr. Page had been a CIA source to one that said the exact opposite, explicitly adding the words 'not a source' before he forwarded it."

Moreover, his forgery was only the most egregious abuse that he and other officials committed in the FBI's handling of the Page case and the rest of the "Crossfire Hurricane" investigation into Russia collusion allegations. The Dec. 9, 2019 report by Justice Department Inspector General Michael Horowitz identified seventeen major instances of improper behavior, including violations of standard procedures and safeguards for the rights of individuals targeted in an investigation.

Boasberg's decision to give Clinesmith the proverbial slap on the wrist is typical of how the courts have treated loyalist national security bureaucrats even when they're caught red-handed committing crimes. Two other cases stand out as especially outrageous examples: the plea deals given to Bill Clinton's former national security adviser, Samuel R. "Sandy" Berger, and Barack Obama's former CIA director, David Petraeus.

Evidence emerged that in 2000 Berger had illegally removed classified documents on two separate occasions from the National Archives—reportedly by stuffing them down his pants before exiting a secure reading room. After months of negotiations with federal prosecutors, he entered a guilty plea to a misdemeanor charge of mishandling classified material.

It was, to put it mildly, an extremely generous offer by the government, since Berger's theft of highly classified materials was so brazen.

Treating such a violation of law as a mere misdemeanor was the operational definition of a "sweetheart deal," but the penalty phase of the plea bargain was even worse. Not only did Berger avoid having to serve any jail time, the penalties he did experience was little more than a cynical joke. He had to pay a $50,000 fine and relinquish his security clearance for three years. The court also sentenced him to one hundred hours of community service. Someone with Berger's economic means probably could pay $50,000 out of the family's petty cash account.

The Petraeus case was an even clearer example of how the Washington national security establishment protects one of its own. His criminal conduct occurred when he served as the commander of U.S. military forces in Afghanistan, although it did not come to light until later when he was head of the CIA. After a lengthy FBI investigation, Petraeus admitted that he gave highly-classified journals to his lover, Paula Broadwell, who was writing a laudatory biography. He also admitted that he had lied to FBI and CIA investigators about his conduct when first questioned.

Despite such flagrant misconduct, Petraeus only had to plead guilty to a single misdemeanor charge of unauthorized removal and retention of classified information. Moreover, as part of the plea bargain, he did not have to serve a single day behind bars. His sentence consisted of two years of probation and a $100,000 fine. Although the latter might seem a significant financial penalty, it was reportedly less than Petraeus charges for a single speaking engagement.

While national security insiders are routinely given the kid-glove treatment that Berger, Petraeus, and Clinesmith received, the experiences of whistleblowers who dare expose even the most blatant misdeeds by those agencies are very different indeed. Stephen Kim, a former State Department official, pled guilty to one count of violating the 1917 Espionage Act for merely discussing a classified report about North Korea with *Fox News* reporter James Rosen. Moreover, the report itself was subsequently described in court documents as a "nothing burger" in terms of its sensitivity. Yet, even with a plea deal, Kim was given a thirteen-month sentence in federal prison.

CIA agent John Kiriakou and Army private Chelsea Manning, who disclosed classified information in the course of blowing the whistle on U.S. government abuses (and in Manning's case, outright war crimes), received even longer sentences. Kiriakou was given thirty months in federal prison. Manning's penalty was the most shocking and draconian of all. She was sentenced to thirty-five years, although Barack Obama commuted her sentence once she had served seven years. One can only imagine what Edward Snowden would face if U.S. authorities ever got their hands on him.

The double standard at play could scarcely be more blatant. The U.S. "justice" system crucifies whistleblowers and other critics who expose the misdeeds of or otherwise embarrass the mandarins in charge of national security policy. Conversely, high-level members of that governmental club have little to fear even when there is irrefutable evidence of their criminal behavior. The Clinesmith case is the latest confirmation that the corruption and lack of accountability is pervasive.

Ted Galen Carpenter, a senior fellow in security studies at the Cato Institute and a contributing editor at the National Interest*, is the author of twelve books and more than nine hundred articles on national security and international affairs.*