

JOSHUA SCHULTE UNDERMINES THE WIKILEAKS CLAIM TO PUBLISH “WHISTLEBLOWERS”

In this post, I noted that The Intercept – including Micah Lee – had fairly systematically ignored the most recent superseding indictment against Julian Assange, and as such had ignored the overt acts in it tied to helping Edward Snowden flee. I think the outlet has real ethical responsibility to actually report the truth of that detail – which they should do in any case to address the legally suspect aspects of some of the claims made about Snowden.

I'd like to look at an earlier Micah Lee post, not because of anything it (necessarily) says about The Intercept, but as background for a larger post about WikiLeaks I hope to move towards. In an article subtitled, “The Trump Administration Is Using the Full Power of the U.S. Surveillance State Against Whistleblowers,” Micah laid out how (according to his read of what he claimed were the court filings) the government had found a bunch of “whistleblowers.” Before he gets there, though, he describes the subjects of his post to be “government whistleblowers” who, only after they see something wrong, do they reach out to journalists and share information.

GOVERNMENT WHISTLEBLOWERS

ARE increasingly being charged under laws such as the Espionage Act, but they aren't spies.

They're ordinary Americans and, like most of us, they carry smartphones that automatically get backed up to the cloud. When they want to talk to someone, they send them a text or call

them on the phone. They use Gmail and share memes and talk politics on Facebook. Sometimes they even log in to these accounts from their work computers.

Then, during the course of their work, they see something disturbing. Maybe it's that the government often has no idea if the people it kills in drone strikes are civilians. Or that the NSA witnessed a cyberattack against local election officials in 2016 that U.S. intelligence believes was orchestrated by Russia, even though the president is always on TV saying the opposite. Or that the FBI uses hidden loopholes to bypass its own rules against infiltrating political and religious groups. Or that Donald Trump's associates are implicated in sketchy financial transactions.

So they search government databases for more information and maybe print some of the documents they find. They search for related information using Google. Maybe they even send a text message to a friend about how insane this is while they consider possible next steps. Should they contact a journalist? They look up the tips pages of news organizations they like and start researching how to use Tor Browser. All of this happens before they've reached out to a journalist for the first time.

Having laid out certain assumptions not just that all these people are whistleblowers, but also about what whistleblowing entails (and made certain claims about motive that don't necessarily match the claimed motive of some of the subjects of the story, though some of that has become public since Micah wrote this), Micah explains that Joshua Schulte is an exception *with regards to how he was caught*.

Of the four Espionage Act cases based on alleged leaks in the Trump era, the most unusual concerned Joshua Schulte, a former CIA software developer accused of leaking CIA documents and hacking tools known as the Vault 7 disclosures to WikiLeaks. Schulte's case is different from the others because, after the FBI confiscated his desktop computer, phone, and other devices in a March 2017 raid, the government allegedly discovered over 10,000 images depicting child sexual abuse on his computer, as well as a file and chat server he ran that included logs of him discussing child sexual abuse images and screenshots of him using racist slurs. Prosecutors initially charged Schulte with several counts related to child pornography and later with sexual assault in a separate case, based on evidence from his phone. Only in June 2018, in a superseding indictment, did the government finally charge him under the Espionage Act for leaking the hacking tools. He has pleaded not guilty to all charges.

He doesn't return to Schulte's case for the rest of the piece.

About the rest of the subjects of the story, Micah describes how, whether the subject took some measure to protect himself (such as with Terry Albury and James Wolfe) or did not (such as Reality Winner), they all got caught. What they all have in common is that they were among a very limited circle of people who had access to the stuff that got leaked, and therefore could be ultimately identified with more investigation.

I think Micah's comment was meant to suggest that Schulte wasn't identified that same way, but was instead identified only after he was busted for child porn. I texted Micah at the time and let him know that's not what the court records reflect (he had not, in fact, reviewed

the affidavits in the court docket). By that point, a slew of the warrants in the case had been revealed, including the first ones, which showed that Schulte was identified as a suspect almost immediately, in part the same way the others were – because he was one of three people who had access to the files believed to have been leaked. (It would later become clear that at least a few more people had access to the server and that the files were copied on a different, more incriminating date than FBI originally suspected.)

Micah never corrected his post.

Of note, however, even that initial warrant raised real questions about any claim that Schulte was a whistleblower – a claim WikiLeaks made in its first Vault 7 post.

In a statement to WikiLeaks the source details policy questions that they say urgently need to be debated in public, including whether the CIA's hacking capabilities exceed its mandated powers and the problem of public oversight of the agency. The source wishes to initiate a public debate about the security, creation, use, proliferation and democratic control of cyberweapons.

That first warrant revealed that Schulte,

- Had already restored his access to the exact files in question without authorization once (FBI would later discover he did this at least two more times)
- Was pissy about something that had nothing to do with the hacking CIA did with the tools that Schulte wrote,

basically a juvenile work
dispute with a colleague

- Had laid a paper trail in the weeks before he left CIA, making a claim to be a whistleblower, but the claim was not backed by any prior record of concern (per the FBI agent who admittedly should not be trusted on face value)

That is, even that first affidavit suggested that Schulte had used the claim to be a whistleblower as cover.

Schulte declined to present much of a defense at his first trial, a decision that (given the hung jury) absolutely was the right decision. So we can't claim to have fully assessed all his claims to be a whistleblower, claims he made in pro se filings and deceitful Tweets he intended to post from jail. He chose not to make that case personally and he didn't need to make the case to avoid a guilty verdict.

That said, all the evidence presented at trial strongly backs the initial FBI assessment that he was just an angry shithole who thought he was god, aiming to get back at people at the CIA he thought had dissed him. Indeed, two pieces of evidence submitted seriously undermine his claim to be a whistleblower, because they show he acted in ways that would be inconsistent from someone who genuinely had the concerns Schulte claimed to have – both a concern about the role of contractors and about security.

First, at one point when he was pissy because the CIA had contracted with a consultant to finish off a project that had been taking too long under him, Schulte actually considered become a contractor. Yes, he was pissy that a contractor could take away his project. But considering a job as a contractor is

inconsistent with his claims about the use of them. It makes the claims translated into the WikiLeaks statement yet another cover for Schulte's own resentment.

Then, at trial, the government showed that Schulte himself was responsible for setting up a root password that he allegedly used to steal the files. That is, to the extent the files were totally insecure from someone like Schulte, they were insecure because Schulte set them up to be. So not only was he not complaining to anyone else about the insecurity of these files, he was the one making them insecure.

Again, maybe Schulte could make a persuasive case he leaked these files to expose wrongdoing. But thus far, every piece of evidence suggests not only that Schulte was not a whistleblower, that every time he wrote up a claim to be one he otherwise told identifiable lies, and that he's mostly just a rage-driven dude who decided to burn the CIA to the ground for spite.

Now, if WikiLeaks is a publisher, as it claims, that doesn't necessarily matter. Journalists get information from sources operating out of a variety of motives, and personal pique is a common one. Except it raises the stakes on the newsworthiness of the files published. And on that front, WikiLeaks (on Twitter especially) vastly oversold the newsworthiness of the CIA files it published. Yes, it was *useful* for security firms to have CIA's files identified publicly. But there was never anything published showing that CIA was operating outside of its mandate, and much of what was published showed tools that would be narrowly targeted. Just as importantly, CIA wasn't actually doing anything particularly exotic with its hacking files. Spies were spying, news at 11.

I've written before about how a close associate of Assange's sternly asked me to downplay Schulte because he hurt the public case for Julian Assange. I think that's partly the allegations of child porn, racism, and sexual

assault against him. People associated with WikiLeaks also knew before it was public that there was evidence involving Schulte implicating Russia (though the record on what the import of various pieces of evidence about Schulte pertaining to Russia mean is very mixed; Sabrina Shroff argued fairly convincingly that some of what is there stems from work Schulte was doing for his cellmate). Still, that may be another reason WikiLeaks boosters don't want anyone to talk seriously about Schulte, because in the wake of Julian Assange working with Russia to get harm Hillary, their next big source also had some tie, of uncertain nature, to Russia.

But the existing record on Schulte, at least, not only undermines WikiLeaks' claim to facilitate whistleblowers. On the contrary, WikiLeaks gave a disgruntled spook an easy way to burn the place down. More importantly, somewhere along the way, Schulte decided to cloak his bitter revenge plot inside a false claim to be a whistleblower.

People can certainly still defend WikiLeaks as an outlet permitting disgruntled spooks to burn their agencies to the ground out of spite. Certainly, if you believe the CIA is inherently, uniquely evil, you might still champion this leak. But on the Vault 7 leak, WikiLeaks boosters should be clear that's what they're doing.