



Written by [Joe Wolverton, II, J.D.](#) on November 9, 2012

## Newly Reelected President Files Charges of Espionage Act Violation

President Obama, flush from his Election Night victory, has charged another former government employee with violating [the Espionage Act](#). As [reported by the Associated Press](#):



A linguist for the Navy in Bahrain is charged under the Espionage Act with possessing classified documents — some of which ended up in public archives of the Hoover Institution at Stanford University.

James Hitselberger, who is fluent in Arabic, had the job as a federal contractor of translating documents for the Joint Special Operations Task Force-Gulf Cooperation Council. The council contains a unit conducting unconventional warfare, counterterrorism and special reconnaissance.

An FBI affidavit unsealed Monday says Hitselberger copied documents last spring that discussed military troop activities in the region and gaps in U.S. intelligence in Bahrain. His superiors later found the material stashed in his backpack, and investigators said they subsequently discovered additional classified material at Stanford in the “James F. Hitselberger Collection.”

Hitselberger pleaded not guilty on Oct. 26.

[As we have reported](#), Hitselberger is the seventh individual to be prosecuted by the Obama administration for allegedly violating the Espionage Act. Although he is not a whistleblower, those individuals charged with similar violations have been reportedly targeted for their efforts to expose government corruption. In fact, the others charged with espionage are targets of an apparent vendetta against whistleblowers in direct contradiction of the president’s promise to protect them.

In 2008, then-president-elect Obama [declared](#):

We need to empower federal employees as watchdogs of wrongdoing and partners in performance. Barack Obama will strengthen whistleblower laws to protect federal workers who expose waste, fraud, and abuse of authority in government.

Not that politicians have a habit of keeping campaign promises, but President Obama’s policy of zealously pursuing, prosecuting, and punishing those who report abuses in government is remarkable for its relentlessness.

Steven Aftergood, the director of the Federation of American Scientists’ government secrecy project, is [quoted in a story published by Reason magazine online](#), explaining, “The administration’s aggressive pursuit of leaks represents a challenge to the practice of national security reporting, which depends on the availability of unauthorized sources if it is to produce something more than ‘authorized’ news.”

This ferocity has come to the attention of others, as well. Speaking at a symposium on investigative reporting held in April at Berkeley, Edward Wasserman [powerfully chronicled](#) the chilling effect that the Obama administration’s pursuit of whistleblowers is having on such disclosures and against the



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journalists who report them.

Wasserman, the Knight Professor of Journalism Ethics at Washington & Lee University, informed the audience,

[The Obama] Justice Department has conducted six prosecutions over leaks of classified information to reporters. Five involve the Espionage Act, a powerful law that had previously been used only four times since it was enacted in 1917 to prosecute spies.

The first whistleblower cited in Wasserman's address was Thomas Drake. Drake was a senior executive at the National Security Agency who made the mistake of [revealing to the \*Baltimore Sun\*](#) that the NSA's [Trailblazer Project](#), a project intended to analyze data carried on in the United States and elsewhere through the Internet, cell phones, and e-mails, not only violated the Fourth Amendment's proscription against unwarranted searches and seizures, but it was a "billion-dollar computer boondoggle."

In April 2010, Drake was indicted by a federal grand jury of several crimes, including violation of the Espionage Act. A spokesperson for the Government Accountability Project [reported that the government's prosecution of Drake left him devastated](#). "His intelligence career is over, his finances are drained and he is personally spent," said Jesselyn Radack.

Early in the summer of 2011, after several exposés ran in newspapers and on television, the Obama administration dropped all the charges against Drake in return for Drake's guilty plea to a misdemeanor of misusing NSA computers. Drake was sentenced to one year of probation and community service.

*The New American* interviewed Drake in May.

The second target of the government's attack on whistleblowers was Shamai Leibowitz, an FBI linguist who was eventually sentenced to 20 months in a federal prison for leaking documents to a blogger.

Leibowitz testified that he believed that the papers he transmitted while working for the FBI contained evidence of "violations of the law" including the illegal attempt by the embassy of Israel to influence American foreign policy.

In exchange for his guilty plea to one count of disclosure of classified information, Leibowitz agreed to never file petitions to look at documents related to his case and to "never disclose" any classified or sensitive information to which he had access while on contract with the FBI.

Next on the list of those who believed (wrongly) that President Obama would keep his campaign promise to shield from prosecution those government employees brave enough to bring to light hidden abuses and waste is John Kiriakou.

Kiriakou was an agent with the Central Intelligence Agency (CIA) who was [indicted earlier this year](#) by a federal grand jury for disclosing to reporters the name of another CIA asset who was tasked with interrogating alleged al-Qaeda financier, Abu Zubaydah.

The indictment included one charge of making false statements, which carries a maximum five-year prison sentence, and four counts of violating federal law, including the Espionage Act — an offense punishable by up to 10 years in a federal prison.

In October, Kiriakou [pleaded guilty](#) to violating the Intelligence Identities Protection Act and will [serve up to 30 months in a federal prison](#).

There is little wonder why the Obama administration would seek to silence Kiriakou: In 2007, Kiriakou told ABC News that he considered waterboarding an "unnecessary" form of interrogation.



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Wasserman then mentions two others upon whom the federal government must place the muzzle of prosecution:

Stephen Kim, a State Department analyst, allegedly told a reporter for Fox News — wait for it — that the U.S. was worried North Korea might respond to new U.N. sanctions by testing another A-bomb; and Jeffrey Sterling, who allegedly disclosed a botched CIA operation in Iran that was described in a 2006 book by a *Times* reporter.

[A story published by Politico](#) confirmed that “the case [against Kiriakou] is the sixth of six leak-related prosecutions brought during President Barack Obama’s term — a higher tally than under all previous presidents combined.”

Supporters of the president may wonder why he didn’t think this through a little better and provide the whistleblowers with the protection he promised rather than seek to silence the journalists who break the stories given them by these well-informed sources.

The answer to that question was given in [a comment made “rather gloatingly”](#) by “a national security representative” to Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press: “We’re not going to subpoena reporters in the future. We don’t need to. We know who you’re talking to.”

Given this president’s propensity for rapidly and relentlessly enlarging the size and power of the surveillance state apparatus, it is certain that Dalglish’s statement is truer than we would like to believe.

Hitselberger is charged with violating a section of the Espionage Act that “prohibits unauthorized possession of defense information that could be used to injure the United States or aid a foreign power,” although U.S. Magistrate Judge Deborah Robinson admits that Hitselberger “did not disseminate the classified information to a ‘foreign power.’”

[Secrecy News broke the story](#) of the Obama administration’s prosecution of Hitselberger, reporting:

In traditional espionage cases, a suspected spy is sometimes identified by unexplained affluence or ostentatious behavior. But, as noted, this is not an espionage case and there is no question of affluence.

To the contrary, the government and the court seemed disturbed by Mr. Hitselberger’s extraordinary frugality which, they suggested, might enable him to quietly vanish.

“Defendant has demonstrated his ability to live abroad and survive on his apparently modest means,” [wrote](#) Judge Robinson. “Defendant’s pattern of residing in, and relocating to, various countries without ascertainable income bespeaks his ability to live abroad undetected with limited resources.”

Based on that reasoning, Judge Robinson ordered that Hitselberger be denied bond.

*Photo of President Barack Obama: AP Images*



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