

Don't Grade Justice on a Warped Curve: Assessing the Case of CIA Whistleblower Jeffrey Sterling

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Yes, I saw the glum faces of prosecutors in the courtroom a few days ago, when the judge sentenced CIA whistleblower Jeffrey Sterling to three and a half years in prison — far from the 19 to 24 years they'd suggested would be appropriate.

Yes, I get that there was a huge gap between the punishment the government sought and what it got — a gap that can be understood as a rebuke to the dominant hard-line elements at the Justice Department.

And yes, it was a positive step when a May 13 [editorial](#) by the *New York Times* finally criticized the extreme prosecution of Jeffrey Sterling.

But let's be clear: The only fair sentence for Sterling would have been no sentence at all. Or, at most, something like the recent gentle wrist-slap, with no time behind bars, for former CIA director David Petraeus, who was sentenced for providing highly classified information to his journalist lover.

Jeffrey Sterling has already suffered enormously since indictment in December 2010 on numerous felony counts, including seven under the Espionage Act. *And for what?*

The government's righteous charge has been that Sterling provided information to *New York Times* reporter James Risen that went into a chapter of his 2006 book "State of War" — about the CIA's Operation Merlin, which in 2000 provided Iran with flawed design information for a nuclear weapon component.

As Marcy Wheeler and I [wrote](#) last fall:

"If the government's indictment is accurate in its claim that Sterling divulged classified information, then he took a great risk to inform the public about an action that, in Risen's words, 'may have been one of the most reckless operations in the modern history of the CIA.' If the indictment is false, then Sterling is guilty of nothing more than charging the agency with racial bias and going through channels to inform the Senate Intelligence Committee of extremely dangerous CIA actions."

Whether "guilty" or "innocent" of doing the right thing, Sterling has already been through a protracted hell. And now — after he has been unemployable for more than four years while enduring a legal process that threatened to send him to prison for decades — perhaps it takes a bit of numbness for anyone to think of the sentence he just received as anything less than an outrage.

Human realities exist far beyond sketchy media images and comfortable assumptions. Going beyond such images and assumptions is a key goal of the short documentary "[The Invisible Man: CIA Whistleblower Jeffrey Sterling](#)," released this week. Via the film, the public can hear Sterling speak for himself — for the first time since he was indicted.

One of the goals of the government's assault on whistleblowers is to depict them as little more than cardboard cutouts. Aiming to dispense with such two-dimensional portrayals, the director Judith Ehrlich brought a film crew to the home of Jeffrey Sterling and his wife Holly. (On behalf of ExposeFacts.org, I was there as the film's producer.) We set out to present them as they are, as real people. You can watch the film [here](#).

Sterling's first words in the documentary apply to powerful officials at the Central Intelligence Agency:

"They already had the machine geared up against me. The moment that they felt there was a leak, every finger pointed to Jeffrey Sterling. If the word 'retaliation' is not thought of when anyone looks at the experience that I've had with the agency, then I just think you're not looking."

In another way, now, maybe we're not truly looking if we figure that Sterling has received a light sentence.

Even if the jury's guilty verdict was correct — and after sitting through the entire trial, I'd say the government didn't come close to its burden of proof beyond reasonable doubt — an overarching truth is that the whistleblower(s) who provided journalist Risen with information about Operation Merlin rendered a major public service.

People should not be punished for public service.

Imagine that you — yes, *you* — did nothing wrong. And now you're headed to prison, for three years. Since the prosecution wanted you behind bars for a lot longer than that, should we figure you got a "light" sentence?

While the government keeps harassing, threatening, prosecuting and imprisoning whistleblowers for public service, we're living in a society where corrosive repression continues to use fear as a hammer against truth-telling. Directly countering such repression will require rejecting any claim or tacit assumption that government prosecutors set the standard for how much punishment is too much.

Norman Solomon's books include *War Made Easy: How Presidents and Pundits Keep Spinning Us to Death*. He is executive director of the Institute for Public Accuracy and coordinates its ExposeFacts project. Solomon is a co-founder of [RootsAction.org](#), which has encouraged donations to the [Sterling Family Fund](#). Disclosure: After the guilty verdict, Solomon used his frequent-flyer miles to get plane tickets for Holly and Jeffrey Sterling so they would be able to go home to St. Louis.

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