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The Obama Administration's Hostility to Whistleblowers Is Both Immoral and Illegal

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Faced with a public backlash at the revelation of NSA surveillance against the average American citizen, the Obama Administration has responded with a new program, dubbed the "Insider Threat" program, which aims to preempt future whistleblowers from speaking out.

The system works by encouraging government workers to rat out any coworkers they suspect of being potentially inclined to blow the whistle before any leaks are even attempted, with an eye toward rooting out potential "threats" and intimidating rank-and-file workers against even daring to risk revealing information about government crimes and abuses.

It wasn't supposed to be this way. President Obama ran his initial campaign on a pledge for transparency and a promise to enhance whistleblower protection, both of which have been scrapped. Instead, the administration now forwards the narrative that whistleblowers by their very nature are a threat to national security, and that all government actions that aren't explicitly publicized by the White House are secrets as a matter of course.

Government hostility to whistleblowers is nothing new, of course. Though the claims of grave danger stemming from making the public and "the enemy" (in many cases the two seem identical

for the career bureaucrat) never pan out, whistleblowers have always faced threats both overt and covert, and attempted retaliation from all levels of government.

In the past the worst of this retaliation was extralegal -- President Nixon ordered a break-in at the psychiatrist of whistleblower Daniel Ellsberg in the hope of uncovering something to use against him. That's no longer the case, however, as in spite of laws like the Whistleblowers Protection Act (WPA) of 1989 the retaliation against recent whistleblowers has primarily focused on threats of huge prison sentences, and in an era of secret laws and secret courts, those threats have more force now than in the past.

The WPA, and efforts to enhance it like the No-FEAR Act, have at their core an exemption for "national security," and in recent administrations the attempt to label anything and everything as a matter of national security has left them treating these laws as though they essentially don't exist.

That's where the Insider Threat program comes in. Detailed by McClatchy newspapers in recent weeks, the new scheme encourages all agencies of the federal government to come up with their own disparate anti-whistleblower rules, at the center of which will be a threat to punish anybody who even suspects a potential whistleblower and doesn't turn them in. The details of the initiative get more terrifying the deeper one delves into them, with the conclusion that recent divorcees and people with perceived money troubles have to be turned in, and will face preemptive action against them, likely ending their careers on mere suspicion that they couldn't be trusted, when the chips are down, to continue betraying the public trust in the name of secrecy.

With the "national security" exemption in the law, the administration may feel the initiative is secure, but the reality is that any efforts to use the exemption must pass muster in a court. Even in this security-mad era, no court is going to buy that the Department of Education or others implementing this program have real concerns that an internal whistleblower uncovering abuse is truly threatening the nation as a whole.

Though it may take quite some time to get fleshed out in court, it is plain that the administration's hostility to whistleblowers has gone from pathological to downright illegal, as the Insider Threat program is explicitly designed to discriminate against whistleblowers (or even would-be whistleblowers) in ways banned under federal law.

This level of hostility toward the public's right to know cannot be permitted, nor simply left for the courts to resolve. Congress should immediately push initiatives to bolster protections for whistleblowers to the extent that a sitting president can no longer threaten the entire class of government employees. From Peter Buxtun's revelation of the Tuskegee experiments of the 1960's to the wiretapping and torture revelations of today, whistleblowers have provided an essential check against government overreach and abuse. Now more than ever that's a check we need in place.