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JOHN KIRIAKOU: The South Korean ‘Spy’ Affair

Ignoring the headlines about the case, let’s look at what it is that ex-C.I.A. analyst Sue Mi Terry is actually accused of doing.

The major media outlets earlier this month ran breathless headlines about a former C.I.A. officer “caught spying for South Korea.”

The BBC, for example, wrote “Ex-CIA Analyst Charged with Spying for South Korea.” The Los Angeles Times wrote, “Sloppy Spycraft? Indictment of a Former CIA Analyst Embarrasses South Korea.” Even the venerable Time Magazine disingenuously wrote, “Former CIA Office Charged with Being Secret Agent.”

The problem is that literally none of those headlines were true.

Sue Mi Terry, a former Korea analyst for the C.I.A., a former deputy national intelligence officer for the Koreans, and a former national security council director for Korean Affairs, was most certainly not charged with spying for South Korea. She was not guilty, or even accused, of “sloppy spycraft. And she was not charged with being a secret agent.

Every one of those headlines was factually false.

Take a look at the actual Department of Justice charging document. Terry was charged with “acting as an unregistered agent of the South Korean government.” The charge has literally nothing to do with spying. It’s not even in the same part of the U.S. code as espionage.

So what does this actually mean? Quite literally, it means that Terry neglected to fill out a form. More specifically, because she was also charged with conspiracy, she allegedly decided in advance to not fill out the form.



Sue Mi Terry speaking at New America’s Future of War Conference in 2018. (Eric Gibson/ New America, Flickr, Wikimedia Commons, CC BY 2.0)

Filling Out a FARA Form

Here in the United States, we have something called FARA, the Foreign Agents Registration Act. Whenever a person does something on behalf of a foreign government, he or she has to go here and fill out a form saying, “I’m taking abc action on behalf of xyz government.” It’s as easy as that.

For example, in 2008 I won a small \$4,000 contract with the Abu Dhabi Chamber of Commerce to write four op-eds to be placed in business journals around the country saying that Abu Dhabi was a great place to do business. I went to the FARA website, put in my name and contact info, noted that I was being paid \$4,000 by the Abu Dhabi Chamber of Commerce, and attached links to the op-eds. No problem.

So let’s look at what it is that Sue Mi Terry is actually accused of doing. The Justice Department alleges in its indictment that she:

1. Advocated for South Korean policy positions, including in published articles and media interviews;
2. Disclosed “non public” information to Korean intelligence officers and facilitated access between Korean and American officials. (She apparently attended a meeting between Secretary of State Antony Blinken and think tank Korean experts and then told the South Koreans what was said. No classified information was involved);
3. Accepted a coat, two purses, “high-priced seafood dinners,” and \$37,000 in funding for a think tank that she founded in Washington;
4. Testified on Capitol Hill without saying that she was advocating positions supported by the South Korean government.

The thing is, none of this is illegal, other than the act of not filling out the form. And notice two other things: Terry was never accused of espionage. She was never accused of providing classified or “national defense” information to the South Koreans.

And she wasn’t charged with income tax evasion, indicating that the transfer of \$37,000 to her think tank was done in the open and that she paid taxes on it. To call her a spy for the South Koreans is not only factually wrong, it’s defamatory.

Targeting Nazi Propaganda



President Franklin D. Roosevelt at his home in Hyde Park, New York, 1933-1945. (U.S. National Archives, Public domain)

The Foreign Agents Registration Act has been on the books for a long time. Passed in 1938 and signed into law by President Franklin D. Roosevelt, FARA was meant specifically to target propaganda paid for by the Nazi government in Germany, and, indeed, between 1938 and 1945, FARA violations were prosecuted 23 times.

Between 1945 and 1955, the number of prosecutions fell to two. And then between 1956 and 1962, the number was nine, according to a report published by the U.S. Senate Committee on Foreign Relations.

Those numbers remained stagnant until 2016, when Obama Attorney General Eric Holder, already at war with national security whistleblowers, decided to use FARA as a political weapon and to go after people who had previously been ignored.

Not only did the Justice Department initiate dozens of cases a year, *Foreign Affairs Magazine* wrote that, “FARA is no longer a forgotten and oft ignored piece of New Deal-era reforms. Eight decades after being enacted, FARA is finally worth the paper it was written on.”

I actually think that FARA is a good idea, at least on paper, and provided that it is universally enforced. The problem is that it has never been universally enforced. And punishments for violating it are all over the map.

First, it took me literally 10 minutes to fill out the form online when I was writing for the Abu Dhabi Chamber of Commerce. Sue Mi Terry should have taken the same 10 minutes.

Second, the federal sentencing guidelines for violating FARA call for a jail sentence of zero-to-six months and/or a small fine. Why, then, was Maria Butina, a Russian grad student at American University, held in solitary confinement at the Washington, D.C., jail for 18 months for violating FARA? Coming at the height of the Russiagate mania in 2018 it was clearly political.

And perhaps more importantly, why does the American Israel Public Affairs Committee, AIPAC, not have to register when it is clearly, obviously, promoting Israeli interests?

The answer, of course, is politics. And nobody on Capitol Hill has either interest or the wherewithal to do anything about it. My advice is simple. Fill out the form. It’s fast, easy, and you won’t regret it. And don’t be afraid to point out the hypocrisy that the Justice Department has foisted upon us.

And at the same time, the media have to get their act together and learn the difference between a spy, an “agent,” and a person who is either too lazy or lacking in knowledge to fill out a form.

I hate to be a complainer. But a felony conviction and 18 months in solitary confinement for not filling out a form is draconian. It’s wrong. But it’s also very American.



Maria Butina presents her Prison Diary at the Moscow International Book Fair, March 2021. (Rodrigo Fernández, Wikimedia Commons, CC BY-SA 4.0)

John Kiriakou is a former C.I.A. counterterrorism officer and a former senior investigator with the Senate Foreign Relations Committee. John became the sixth whistleblower indicted by the Obama administration under the Espionage Act — a law designed to punish spies. He served 23 months in prison as a result of his attempts to oppose the Bush administration’s torture program.