

Two More Illustrative Cases of Wrongdoing

Written by Administrator
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On April 15, 2010, the Department of Justice (DOJ) announced that Thomas A. Drake had received a 10-count indictment from a Federal Grand Jury, accusing him of (among other things) willfully retaining classified information, obstruction of justice, and making false statements. According to the DOJ [press release](#), Drake (age 52) was a high-ranking senior executive with the

[National Security Agency](#)

(NSA, often called “No Such Agency” because of the highly classified nature of its work) from 2001 through 2008. During the later years of his tenure with the NSA, “

newspaper reporter published a series of articles about the NSA. The indictment alleges that Drake served as a source for many of those articles, including articles that contained classified information.”

According to the DOJ release—

The indictment alleges that in approximately November 2005, a former congressional staffer asked Drake to speak with a reporter. Between November 2005 and February 2006, according to the indictment, Drake signed up for a free account and then paid for a premium account with an e-mail service that enabled its users to exchange secure e-mails without disclosing the sender or recipient's identity. Using an alias, Drake allegedly then contacted the reporter and volunteered to disclose information about the NSA. The indictment alleges that Drake directed the reporter to create the reporter's own secure e-mail account. After the reporter created such an account, Drake also allegedly required the reporter to agree to certain conditions, including never revealing Drake's identity; attributing information gathered from Drake to a "senior intelligence official"; never using Drake as a single source for information; never telling Drake who the reporter's other sources were; and not commenting on what people, to whom Drake recommended the reporter speak, said to the reporter.

Drake allegedly attempted to conceal his relationship with the reporter and prevent the discovery of evidence linking Drake to his retention of classified documents after the FBI began a criminal investigation into the disclosure of classified information. Specifically, Drake allegedly shredded classified and unclassified documents, including his handwritten notes that he had removed from the NSA; deleted classified and unclassified information on his home computer; and made false statements to FBI agents.

The indictment also alleges that Drake took a series of steps to facilitate the provision of this information to the reporter, including:

- exchanging hundreds of e-mails with and meeting with the reporter;
- researching stories for the reporter to write in the future by e-mailing unwitting NSA employees and accessing classified and unclassified documents on classified NSA networks;
- copying and pasting classified and unclassified information from NSA documents into untitled word processing documents which, when

printed, had the classification markings removed;

- printing both classified and unclassified documents, bringing them to his home, and retaining them there without authority;

- scanning and emailing electronic copies of classified and unclassified documents to the reporter from his home computer; and

- reviewing, commenting on, and editing drafts of the reporter's

articles.

The announcement ends with a reminder that, “Willful retention of classified documents carries a maximum penalty of 10 years in prison. Obstruction of justice carries a maximum penalty of

20 years in prison. The charge of making a false statement carries a maximum penalty of five years in prison. Each of the charged counts carries a maximum fine of \$250,000.”

In a second story, DOJ announced on April 19, 2010, that Charles Jument, a Virginia resident, had received the longest prison sentence for violations of the [Foreign Corrupt Practices Act](#) (FCPA) ever handed out to

an individual. The DOJ
announcement

stated that Jumet was sentenced to 87 months in prison “for paying bribes to “former Panamanian government officials to secure maritime contracts, in violation of the Foreign Corrupt Practices Act (FCPA), and for making a false statement to federal agents.” In addition to receiving the long prison term, Jumet was

ordered to pay a \$15,000 fine
plus serve three years of
supervised release.

The DOJ press released
provided the following
details of Jumet's
wrongdoing—

According to court documents, from approximately 1997 through July 2003, Jumet and others conspired to pay money secretly to Panamanian government officials in exchange for awarding contracts to Ports Engineering Consultants Corporation (PECC) to

maintain lighthouses and buoys along Panama's waterway. In December 1997, the Panamanian government awarded PECC a no-bid 20-year concession. Upon receipt of the concession, Jumet admitted that he and others authorized corrupt payments to be made to the Panamanian government officials. In

total, Jumet and others caused corrupt payments of more than \$200,000 to be paid to the former administrator and the former deputy administrator of the Panama Maritime Authority and to a former high-ranking elected executive official of the Republic of Panama.

Jumet also made a false statement to federal agents about a 'dividend'

check payable to the bearer in the amount of \$18,000 that was endorsed and deposited into an account belonging to the high-ranking elected Panamanian government official. Jumet falsely claimed that this ‘dividend’ check was a donation for the high-ranking elected

official's re-election campaign, when, in fact, Jomet admitted it was given to the elected Panamanian government official as a corrupt payment for allowing PECC to receive the contract.

In a related case, John Warwick pleaded guilty on Feb. 13, 2010, for his role in the same conspiracy to violate the FCPA. He is scheduled

to be sentenced by
Judge Hudson on May
14, 2010.

Marshall J. Doke, Jr.
(a noted legal
practitioner) testified
before the Senate
Committee on

Homeland Security and Governmental Affairs in February, 2010. He testified—

Competition is required not only to obtain lower prices but also to prevent unjust favoritism, collusion, or fraud. I emphasize this last purpose because of what one federal judge called a

growing culture of corruption in Washington. I personally believe we have had more reported fraud in government contracting in the last 10 years (including fraud by high level government officials) than the

combined amount in the previous 40 years. I believe the deficiencies in our competition process have given such enormous discretion to contracting officials that, together with a lack of transparency, they have created an

environment and
circumstances that
have contributed
significantly to this
increase in fraud.

Stories such as these two tend to confirm Doke's impression.

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