

Memorandum

Re: Intelligence Community Whistleblower Protection Fact Sheet
From: Make It Safe Coalition leadership, including Public Citizen, Project On Government Oversight, Government Accountability Project, Whistleblowers of America, and ACORN8

Whistleblowers have a legal right to anonymity.

The law stipulates that whistleblowers who follow appropriate procedures shall have their anonymity protected, if they so desire.ⁱ

Oversight officials agree: Unmasking the whistleblower will be devastating.

Former intelligence community Inspectors General warn that not protecting whistleblower confidentiality would seriously inhibit future disclosures; encourage unchecked misconduct; contradict constitutional checks and balances, and; force future whistleblowers to use nonofficial channels to publicize abuses, if they don't have confidence in the systems established to protect lawful whistleblowing.ⁱⁱ

President Trump's threats against the whistleblower are shameful, dangerous and UnAmerican.

Appallingly, President Trump likened the whistleblower and the whistleblowers' sources as "spies." He threatened "Big Consequences!" and suggested they should be executed for "treason." These statements plainly put the whistleblower's well-being in serious jeopardy, making efforts to violate the whistleblower's right to anonymity all the more outrageous.

Trump does NOT have a right to know who the whistleblower is.

Trump has claimed he has the right to confront his accuser. But the whistleblower is not an accuser in a criminal case and Trump's claim is completely untrue under whistleblower law.ⁱⁱⁱ

The whistleblower followed the law.

The whistleblower made the disclosure within the bounds of a legal framework designed by Congress to enable protected whistleblowing to the intelligence committees.^{iv}

There is bipartisan congressional support to protect the identity of the whistleblower.

Members of Congress on both sides of the aisle have repeatedly called for the protection of the whistleblower's identity, as required by law. In response to escalating efforts to expose the whistleblower, Senator Grassley, co-chair of the Senate Whistleblower Protection Caucus, asserted "we should always work to respect whistleblowers' requests for confidentiality."^v

The whistleblower's identity is irrelevant.

The whistleblower provided a factual account of President Trump’s effort to pressure a foreign government to intervene in our elections. No one should believe or disbelieve the account based on the whistleblower’s identity.

Almost every consequential claim in the whistleblower’s account has now been validated.

Trump did have a call with the Ukrainian president to pressure him to investigate Joe Biden’s son. The call transcript was sent to a highly classified system. Rudy Giuliani did play the role the whistleblower described.

Whistleblowers are truth tellers and American heroes.

At great risk to themselves, and acting out of conscience, whistleblowers reveal and uncover corporate and governmental abuse. They have brought public attention to illegal surveillance schemes, torture, war-time lies, nuclear hazards, massive fraud against governmental agencies and consumers, and much more.

Whistleblowers need protection from retaliation – or worse.

Whistleblowers are frequently shunned, fired, bullied, degraded, threatened with criminal prosecution and even forced to endure threats to their family and their physical well-being.

The Ukraine case highlights the need for enhanced whistleblower protections.

The mistreatment of the whistleblower shows the need for reform, especially to protect intelligence community whistleblowers. Intelligence community whistleblowers do not have access to independent due process or the protections available to other federal employees under the Whistleblower Protection Act.^{vi}

ⁱ The right to remain anonymous is established under Section 7(b) of the Inspectors General Act of 1978, which states “The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.” Penalties for harassing a government witness can be found under Division D, Section 713 of the FY 2019 Omnibus Appropriations Act, 18 U.S.C. § 1505, 18 U.S.C. § 1512, and 18 U.S.C. § 1513(e).

ⁱⁱ Open Letter to Congress from Group of Former Intelligence Community Agency Inspectors General, Regarding the Intelligence Community Inspector General’s “Letter of Urgent Concern”, October 3, 2019, <https://bit.ly/2p02IfA>.

ⁱⁱⁱ Noelle Yasso, “Trump has no right to confront the whistleblower who triggered an impeachment inquiry” *USA Today*, October 7, 2019, <https://bit.ly/2K0neUF>.

^{iv} 50 U.S.C. § 3033(k)(5)

^v Press Release, Grassley Statement Regarding Intel Community Whistleblower, October 1, 2019, <https://bit.ly/2JTveqr>; Burgess Everett and Marianne Levine, “Republicans break with Trump and Rand Paul on whistleblower unmasking,” *Politico*, October 5, 2019, <https://politi.co/2roGPHL>.

^{vi} 50 U.S.C. § 3234(d) (2019) leaves enforcement of IC whistleblower retaliation provisions to the President rather than laying out an independent mechanism for enforcement as in civil service whistleblower protections. <https://bit.ly/32kQBas>.