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On June 11, 2009, Stephen Kim did what so many government officials do every day in Washington, DC: he talked to a reporter. Regrettably, the topic and some of the information that he discussed with a reporter was also contained in a classified report. Accordingly, Stephen pled guilty today to one count of disclosing this classified information to someone not authorized to receive it. Stephen takes full responsibility for his actions. But there is so much more to say about this case:

1) Stephen did not reveal any intelligence “sources” or “methods.” The information at issue was less sensitive or surprising than much of what we read in the newspaper every day. At the time of the disclosure and during the case, many former government officials and media commentators noted that the information was nothing significant, that much of it was in public sources, and that the prosecution of this information was another example of the “over-classification” of information by the government. A great deal of harmless information is “classified,” even when it is widely available to the public.

2) Stephen did not steal any information. He did not provide any documents or electronic data to anyone. He did not pay for or receive payment for his actions. All that he did was have conversations with a particular reporter on a particular day -- yet he faced more than 15 years in jail for this conduct.

3) Stephen’s case demonstrates that our system for prosecuting “leaks” in this country is broken and terribly unfair. Lower-level employees like Mr. Kim are prosecuted because they are

easier targets or often lack the resources or political connections to fight back. High-level employees leak classified information to forward their agenda or to make an administration look good with impunity. In fact, in this case, news reports from the same day demonstrate that Stephen was not the only government employee discussing the topic at issue. Stephen may have told the reporter what the reporter already knew from others, but Stephen was the only one charged.

4) “Leak” cases are prosecuted under the Espionage Act, a 100-year-old law with crushing penalties that was never intended to apply to conversations between a government employee and a news reporter. The Act and its penalties are designed to punish traitors and spies – not State Department analysts answering questions from the media about their area of expertise. Stephen faced more than a decade in jail for the type of public discussion of foreign policy issues that ought to be encouraged. This Administration and Congress should address these problems, as they undermine the basic fairness of our criminal justice system.

5) Stephen’s was the case that revealed that the Obama Administration had targeted the media as criminal “co-conspirators” and obtained private email and cell phone records of reporters. As a result, Attorney General Holder issued new guidelines for investigating so-called “leak” cases. Yet, Stephen did not receive any of the benefits of these reforms (DOJ not using improperly obtained evidence in criminal cases and DOJ pursuing non-criminal resolutions of cases against government employees) because the government refused to apply them in his case.

6) Faced with the draconian penalties of the Espionage Act, the tremendous resources that the federal government devoted to his case (a half-dozen prosecutors and a dozen FBI agents), and the prospect of a lengthy trial in today’s highly-charged climate of mass disclosures, Stephen decided to take responsibility for his actions and move forward with his life.

Stephen, who has provided years of important and valued public service, appreciates all of the support and kind words that he has received from the community. His life has been in limbo for four years – with his plea today, he hopes to find a path back to some normalcy.

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