

Online panel examines what would happen if Assange is extradited to the US

By Kevin Reed
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On August 8, the Courage Foundation sponsored an online panel discussion entitled, “What would Julian Assange face in the US?” The participants reviewed in detail the drive to extradite the WikiLeaks publisher from the UK, explored the legal issues involved in the first-ever prosecution of a journalist under the Espionage Act of 1917 and described the conditions that Assange would face within the criminal justice system if he is dispatched to the US.

The three-person panel consisted of Barry Pollack, Assange’s US attorney, Jeffrey Sterling, a CIA whistleblower who was convicted of violating the Espionage Act in 2015, and Lauri Love, a UK political activist who successfully defeated a US extradition request in 2016.

The online event was moderated by US independent journalist Kevin Gosztola, editor of *Shadowproof.com*. The Courage Foundation is an international organization that raises funds for the defense of persecuted whistleblowers and journalists. The organization’s website says that it “supports those who risk life or liberty to make significant contributions to the historical record.”

The 90-minute discussion, which can be watched in its entirety on YouTube here, was significant because it brought together three panelists who are very familiar with the abuses of the American government in extradition proceedings, the multiple legal conundrums in cases that involve national security and intelligence matters, the aggressive and inhumane tactics of the US Eastern District Court of Virginia and the US Fourth Circuit Court of Appeals, and the personal toll that fighting the US government has on individuals facing political persecution.

Following introductions by Kevin Gosztola, Barry Pollack said: “What is unprecedented is using the Espionage Act to prosecute a publisher or a journalist. That has never happened previously and so there are a lot of legal issues that could come up in this case, if Mr. Assange is ever extradited, that have never been subject to court rulings in the past and we don’t know how they are going to come out.”

Pollack explained that US laws governing the handling of classified material in state prosecutions often means that relevant information is not available to be shared with the defendant. “One of the great challenges in defending this sort of case is there may be large volumes of evidence that I, as the lawyer, cannot even discuss with my own client. That makes it extraordinarily difficult,” Pollack said.

Pollack said the any attempt by the defense to use classified

information in its case would require a “page by page, line by line” review and a dispute with the government over whether the defence needed to preview its case with the state, a practice that does not happen in any other federal trial.

Pollack added that the pretrial conditions for Assange would involve the most draconian conditions: “In all likelihood, he would be in administrative detention and would have very little access, if any, to visitors, to email or even to snail mail because of the government’s concerns that he has been privy to classified information.”

Jeffrey Sterling is one of seven people charged with violating the Espionage Act during the Obama administration, which includes Edward Snowden and Chelsea Manning. All of them were accused of disclosing classified information to publishers. Sterling, who is African American, was targeted by the US government in retaliation for a discrimination lawsuit he filed in 2000 against the CIA. The suit was ultimately thrown out because the government successfully argued that his case, if it were to go forward, would reveal state secrets.

Arrested a decade after he had left US intelligence and charged with revealing classified information to *New York Times* journalist James Risen, Sterling was convicted on January 26, 2015. He served three-and-a-half years at the Federal Correctional Institution of Englewood, Colorado.

Sterling spoke extensively about his treatment by the courts and prison authorities as well as the way those accused of violating national security interests are abused by the entire US government. When Sterling was arrested, he explained, “They were treating me like a terrorist. They were believing, if I were free to go, I would go out and start assassinating CIA employees. The judge was believing that. The Fourth Circuit was believing everything the government said.”

Sterling said the presumption of innocence was non-existent in his situation. “Their view is that: if you’re a defendant, you’re guilty. We are going to do everything to isolate you and punish you,” he stated.

Lauri Love appeared before Westminster Magistrate’s Court in London—the same court where Assange has been brought prior to the start of his extradition hearing—on June 28–29, 2016 in connection with claims by the US that he had hacked a server of the federal judicial system and posted a video protesting the treatment of internet activist Aaron Swartz who had committed suicide days earlier.

The US brought two separate indictments against Love for allegedly “breaching thousands of computer systems in the United States and elsewhere—including the computer networks of federal agencies—to steal massive quantities of confidential data,” and demanded his extradition to New York. In February 2018, the UK High Court ruled in favor of Love and blocked his extradition while also ruling that it would “not be oppressive [to] prosecute Mr. Love in England for the offences.”

Speaking about the extradition process, Love said: “It is very difficult to defend against extradition because you are never able to speak to the charges or the legitimacy of the charges or the factuality of the charges because they are all treated hypothetically. The only thing that we could speak to is my health, physically and mentally, and the conditions that I would be facing in detention in the United States.”

“We had several expert witnesses speak to just how horrific—I think most people imagine jail and prison to be un-nice places, but they are not really capable of imagining just how bad it can be—in terms of someone who might be suffering from depression and potentially suicidal ideation. The ‘solution’ to this in US detention is to be put in effectively a form of solitary confinement. It’s called suicide watch.

“You are removed from society, you have another person watching you in the cell, they’re usually not a trained medical professional or even a member of staff, they’re often another prisoner who is doing it for extra merits. And you can be put into horrific clothing called a suicide-smock which is kind of like a straight-jacket. It’s special clothing to make it more difficult to affect a suicide. It’s been ruled by expert people including from the United Nations that extended solitary confinement, even solitary confinement for brief periods, is tantamount to torture.”

Moderator Gosztola then asked Pollack about the jurisdiction that the US has claimed over Julian Assange. This aspect of Assange’s persecution was “unprecedented” and “really frightening,” Pollock said. “You’re talking about someone who is not a US citizen, who has no ties to the US government—has never entered any kind of employment agreement or nondisclosure agreement with the US government—who is not in the US, he is in the UK, an Australian citizen in the UK, and yet, the United States claims jurisdiction over him.”

Pollack explained the global implications of Assange’s case: “That means, literally, the United States can and would claim jurisdiction over any journalist, anywhere in the world. And the basis for that is that if you are publishing US classified information, in the US’s mind, you have committed offenses in the United States and the United States has jurisdiction over you. You have published their documents. And so, under that theory, every journalist in the world is at risk if they publish something that the US considers national defense information, meaning contrary to the interests of the United States.”

Responding to the question of jurisdiction, Jeffrey Sterling said: “I think it speaks to the overbroad nature of how the Espionage Act is being used. My case for instance, with regard to jurisdiction, the government did not, throughout the entire trial, establish when, where or how I supposedly—I was innocent of the charges—leaked this classified information. Part of their effort to

claim jurisdiction was the book, the infamous book that was at the basis of the trial against me.

“It is ridiculous, it’s overbroad. As I have said on Twitter many times, their use of the Espionage Act is perverse... If the US is successful in extraditing Julian Assange, any journalist is going to be subject to that sort of retaliation by the US government.”

If Assange were extradited and put on trial for violating the Espionage Act, there would no public interest defense available to him. As Pollack explained, “you either published national defense information or you didn’t and why you did it doesn’t matter. And so, I have no doubt that the US government will take the position that ... Julian shouldn’t even be allowed to describe why he published what he published, and we shouldn’t even be able to show that what he published was newsworthy.”

Pollack then addressed how the US will seek to deny Assange his fundamental rights, “We would certainly argue that the statute, if it does not have a public interest defense, has to be a violation of the First Amendment as applied to a publisher.

“The US will take the position that Julian Assange doesn’t have any First Amendment rights. Their view will be because he is not a US citizen, he doesn’t have any rights. Just think about the irony there. They can prosecute an Australian citizen publishing in the UK, haul him back to the United States and then say because you’re not a US citizen you don’t have the First Amendment rights that a US citizen would have.”

In further discussion, Lauri Love said: “An occupying force in a voluntary war of aggression had military personnel who committed war crimes, murdered journalists in cold blood, and then publishers revealed those war crimes to the world. And now, the UK judiciary is being asked whether the publisher should be served up to the very regime which was ultimately responsible for the commission of those war crimes. To establish a precedent that this is a bad thing to do.

“I don’t think I can imagine a more serious threat to the transparency which underpins freedom and democracy in the world.”

The Courage Foundation online meeting raised many of the fundamental and serious problems confronting Assange, his legal team and his friends and family in the coming weeks and months as the US presses forward with its vendetta against the WikiLeaks journalist. The discussion deserves a wide audience.

As the *World Socialist Web Site* has repeatedly emphasized, the demand for the freedom of Julian Assange and the defense of the fundamental democratic rights that are under attack by US imperialism must be taken up by the working class and made a central part of the struggle for socialism on a world scale.

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