TOPIC:

WIKILEAKS: TREASURE TROVE OR MINEFIELD?

INTRODUCTION:

On October 22, 2010, the website “WikiLeaks” published 391,832 confidential United States defense documents detailing matters relating to the wars in Afghanistan and Iraq during the time period 2004 to 2009. Then on November 28, 2010, WikiLeaks published the initial batch of what the website promises will be over 250,000 confidential United States diplomatic cables detailing communications between 274 United States embassies in countries throughout the world and the State Department in Washington, D.C. As of the date of this article, WikiLeaks has published over 5,000 confidential diplomatic cables [1].

From a research and scholarship perspective, the WikiLeaks documents provide university faculty and students unfiltered access to hundreds of thousands of original source documents relating to some of the most important geopolitical events of the 21st century. Similar to the Pentagon Papers in the Vietnam War era, the WikiLeaks documents may prove to be a treasure trove of information for research and scholarship in political science, history, and other social sciences. Moreover, the documents are easily accessible from any computer connected to the Internet and are searchable through the WikiLeaks search engine. Faculty and students may seek to republish copies of documents they find on WikiLeaks or perhaps set up websites to “mirror” the entire WikiLeaks site [2].

The release of confidential government documents does, of course, raise significant legal questions. A United States soldier is already under arrest for allegedly disclosing these documents to WikiLeaks, and news reports indicate that the Department of Justice may indict Julian Assange, the editor in chief of WikiLeaks. Do statutes prohibiting unauthorized receipt or transmission of confidential government information – punishable by hefty fines, prison time, or even the death penalty in certain circumstances – extend to professors and students accessing or republishing documents from WikiLeaks as well? Would it be constitutionally permissible under the First Amendment for the government to prosecute a professor or student who accessed, possessed or retransmitted documents obtained from WikiLeaks? Whose interest predominates in this situation, a professor’s or student’s right to research and communicate information about the government under the First Amendment, or the government’s interest in national security? Legal concerns aside, should professors or students be worried about the ethical or professional ramifications of their use of WikiLeaks documents?

This NACUANOTE explores these issues regarding faculty and students accessing, possessing, or retransmitting confidential defense documents and diplomatic cables from WikiLeaks. In short, the risk of criminal prosecution is very low. However, questions remain
about the scope and constitutionality of statutes governing the disclosure of classified information, and it would be prudent for professors and students to consider whether security threats may arise from releasing details about ongoing or planned military operations, individual agents, and the like. Lastly, the risk of prosecution could increase with changes in administration or legislation, so it would be prudent to continue monitoring the government’s reactions to WikiLeaks.

DISCUSSION:

1. Potential Federal Crimes

The following is an overview of the federal statutes that possibly apply to the use or republication of materials already made public by WikiLeaks or similar means.

a. 18 U.S.C. § 793 et seq. – The Espionage Act of 1917

The Espionage Act of 1917 ("Act") refers to a series of statutes that were initially enacted in 1917, and have been amended over time. The Act is currently codified at 18 U.S.C. §§ 793 – 798. The most relevant provision of the Act for present purposes is 18 U.S.C. § 793(e), which implicates the possession of documents or information related to “national defense.” Read literally, there are two elements the prosecution must prove for a violation:

i. The defendant had unauthorized possession of a document relating to the national defense; and

ii. The defendant willfully transmitted that document to a person not entitled to receive it, or the defendant willfully retained that document and failed to deliver it to the government.

When the defendant is charged with possessing orally transmitted “information” rather than a tangible document, the prosecution must prove the additional element that “the possessor has reason to believe [the information] could be used to the injury of the United States or to the advantage of any foreign nation.”

Violators can be fined and/or imprisoned for up to ten years. Importantly, courts have held that classified information can remain subject to the Act even if information contained therein is made public by an unauthorized leak. However, in the history of the Act, the government has prosecuted only one case under section 793(e) (outside the classic spy scenario) involving non-governmental employees disclosing classified national security information. In that case, United States v. Rosen, employees of the lobbying organization American Israel Public Affairs Committee ("AIPAC") were prosecuted for conspiring to transmit national defense information, which they had received through conversations with government officials, to persons not entitled to receive it, including employees of the government of Israel and the Washington Post. The district court denied the defendants’ pre-trial motion to dismiss the indictment, but in so doing enunciated various limits on the scope of section 793(e), especially in interpreting the terms “national defense” and “willfully.” The court explained that “national defense” information had been broadly interpreted by courts “to include information dealing with military matters and more generally with matters relating to United States foreign policy and intelligence capabilities.” However, the government is required to prove that the information is (i)
“closely held by the government;” and (ii) “the type of information that, if disclosed, could harm the United States.” [11] The court also interpreted the term “willfully” to include both the knowledge of the nature of the information being disclosed and “that the person with whom they were communicating was not entitled to the information,” as well as the specific intent to disobey or disregard the law [12].

After the court issued its decision, the government dismissed the charges, apparently due to the enhanced burden of proof outlined in the decision and concerns about the disclosure of classified information at trial [13]. Despite the dismissal in Rosen, it is worth considering whether a professor’s re-publication or classroom use of classified WikiLeaks documents could be prosecuted under the standards outlined in that case. Open questions remain as to whether classified documents that have been publicized widely but without the government’s authorization are still “closely held” by the government and as to what information, if any, in the disclosed documents can harm the United States. If the government had additional evidence in a particular situation that the documents were used with intent to disobey or disregard the law, it seems that faculty or student use of WikiLeaks documents could be prosecuted under the Rosen standard. Whether the government would choose to prosecute such a case – in light of the history of prosecutions under the Act and significant First Amendment issues raised – is less clear.

There are also specific provisions of the Act prohibiting disclosure of particular kinds of information. Section 797 prohibits the publication of photographs of certain defense installations [14]. Section 798 prohibits disclosure of classified information related to codes, ciphers, “cryptographic systems,” or “communication intelligence.” [15]

It is worth noting that current interest exists in Congress to amend section 798 in light of the recent WikiLeaks publications. The Securing Human Intelligence and Enforcing Lawful Dissemination (or “SHIELD”) Act was originally introduced in December 2010 and reintroduced in both the House and Senate in February 2011. Among other things, the SHIELD Act would amend section 798 to prohibit disclosure of “the identity of a classified source or informant of an element of the intelligence community of the United States.” [16]

b. 18 U.S.C. § 641 – Receipt of Stolen Federal Documents

Section 641 prohibits both the theft of federal property (including documents) and receipt of the same [17]. To prove a violation of this statute based on the receipt of stolen documents, the government must show:

i. The defendant knowingly retained government records;

ii. The defendant knew that the records had been embezzled, stolen, or converted from the government; and

iii. The defendant intended to convert the records to his/her own use or gain [18].

While the statute clearly covers knowing receipt or retention of stolen or converted documents, the statute has thus far only been used to prosecute the “leakers” of information – there have been no prosecutions of those who merely received or retained classified information under this section [19]. Thus, while the text of section 641 would appear to apply to a professor or student who receives and uses WikiLeaks documents,
history suggests the statute would more likely be used to prosecute those who originally leaked the documents.

c. 50 U.S.C. § 421 – Protection of Covert Agents

Federal law prohibits persons “in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States” from disclosing the identity of covert agents to unauthorized persons [20]. According to the Congressional Research Service, there are no reported cases interpreting this statute, though there is at least one instance of a conviction through a guilty plea [21].

d. Other Theories

As stated above, this NACUANOTE focuses on the mere use or republication of information that some other party has already made publicly available. It is worth noting, however, that more active participation in obtaining the classified information in the first instance (e.g., directly contacting government agents, etc.) could implicate other theories of liability, such as conspiracy, aiding and abetting, and accessory after the fact [22]. Each of these theories requires some additional action by the defendant, such as an agreement to violate the law or intentional aid in committing the crime or escaping detection.

2. First Amendment Issues

Assuming statutory authority exists for prosecuting the use or republication of WikiLeaks material, the next question is whether such a prosecution would be constitutionally permissible. On the one hand, the First Amendment clearly protects public discussion of governmental affairs [23]. Indeed, the Supreme Court has noted that “state action to punish the publication of truthful information seldom can satisfy constitutional standards” and that “if a newspaper lawfully obtains truthful information about a matter of public significance then state officials may not constitutionally punish publication of the information absent a need . . . of the highest order.” [24] On the other hand, it is equally clear that the government has a compelling interest to protect national security, and that it can restrict even protected speech to promote such a compelling interest, so long as it uses the least restrictive means possible [25]. Thus, for example, the Supreme Court has previously noted (albeit in dicta), that even in the context of highly disfavored prior restraints, “[n]o one would question but that a government might prevent actual obstruction to its recruiting service or the publication of the sailing dates of transports or the number and location of troops.” [26]

The court in Rosen directly addressed the First Amendment issues in prosecuting individuals – in particular those who are not employed by the government or otherwise “in a position of trust with the government” – for unauthorized possession and retransmission of information under 18 U.S.C. § 793(e) [27]. Acknowledging the compelling interests on each side – the defendants’ right to collect and discuss information about the government, and the government’s interest in national security – the court found that there are times when the right to free speech must yield to the government’s interest in security [28]. Specifically, the court rejected the defendants’ argument that “once a government secret has been leaked to the general public and the first line of defense thereby breached, the government has no recourse but to sit back and watch as the threat to the national security caused by
the first disclosure multiplies with every subsequent disclosure." [29]

The court also noted that while the U.S. Supreme Court, by a 6-3 vote, had previously rejected a prior restraint on certain newspapers to publish a classified historical study of U.S. policy towards Vietnam (the “Pentagon Papers” case), a reading of the nine separate concurring and dissenting opinions indicates “the result may have been different had the government sought to prosecute the newspapers under § 793(e) subsequent to the publication.” [30]

Thus, the Rosen court concluded, “Congress’s attempt to provide for the nation’s security by extending punishment for the disclosure of national security secrets beyond the first category of persons within its trust to the general populace is a reasonable, and therefore constitutional exercise of its power.” [31]

However, this finding depended on limiting section 793(e)’s application to only those instances in which the government’s need for secrecy is “legitimate,” specifically when “national security is genuinely at risk.” [32] Interpreting section 793(e) as discussed supra to cover only information or records that can be damaging to the country avoids “the possibility that the broad language of this statute would ever be used as a means of [punishing] mere criticism of incompetence in and corruption in the government” or information leaks that only “embarrass one or another high government official.” [33] The statute’s scienter requirements further prevent an overbroad application of the statute to protected speech [34].

At least one commentator has criticized the Rosen decision for writing new language into the statute, but acknowledged that the court was forced to do this to overcome the significant First Amendment challenges [35].

CONCLUSION AND PRACTICAL TIPS:

As noted above, there appears to be low legal risk to universities for faculty or students accessing or republishing classified diplomatic cables and defense documents obtained from the WikiLeaks website. Prosecutions against non-government employees under the Espionage Act and other relevant statutes are exceedingly rare. In addition, the government would have to prove individuals acted with the requisite intent and would likely also have to show the information disclosed was not simply embarrassing but rather genuinely put national security at risk. Prosecution also seems unlikely given that numerous media sources in the United States and around the world have published WikiLeaks documents, but to date the U.S. government has not suggested that this conduct violates the law. Even Mr. Assange himself – despite much discussion – has not been indicted to date.

However, many questions still remain regarding the scope of the Espionage Act and related statutes governing unauthorized access and transmission of confidential government information. For example, it is far from clear how a court would determine whether any particular document presents a genuine national security threat or is merely embarrassing. Therefore, it would be prudent for faculty and students to avoid publishing names or identities of informants and operatives, or any information relating to ongoing military or
antiterrorist operations. This more detailed and current information (as opposed to more
general or historical information) not only involves more significant issues of national
security that a court may find outweighs any First Amendment interest, but may also
implicate more specific prohibitions such as sections 797 and 798 of the Espionage Act and
prohibitions against revealing the identities of covert agents. This limitation is also
consistent with the practices of the New York Times and WikiLeaks itself [36].

“Mirroring” the entire WikiLeaks site as opposed to using only selected documents from the
site also presents additional challenges. Independent review of posted documents may be
difficult, if not impossible, and there may also be practical resource constraints. And as
noted, there are proposed legislative changes pending, and administrative priorities can
shift as well, so further monitoring of the government’s reactions to WikiLeaks is advisable.

Finally, beyond legalities, some have expressed concerns regarding the ethical or
professional implications of students and professors using WikiLeaks documents. Indeed,
in December 2010, officials at Michigan State University and Columbia University’s School
of International and Public Affairs cautioned their students that linking to or discussing
WikiLeaks documents could hurt their career prospects in government service [37]. Former
State Department spokesperson P.J. Crowley has denied the existence of a formal policy
against students reading, linking or discussing WikiLeaks documents, and Columbia
University later clarified that its students “have a right to discuss and debate any
information in the public arena that they deem relevant to their studies or to their roles as
global citizens, and to do so without fear of adverse consequences.” [38] Nonetheless, it is
worth noting the government’s strong condemnation of the website and strict policies
against its own employees accessing the site [39].

It may also be worth considering the ethical implications of a professor’s assigning
WikiLeaks documents to students, as opposed to merely using them for the professor’s
own research purposes. While faculty members are in a position to consider the relevant
statutes, prosecution history and legislation, and make their own judgments as to whether
to access WikiLeaks documents, students who are assigned WikiLeaks material as class
reading do not have this choice. Under these circumstances, and considering the
somewhat uncertain legal status of the documents, faculty may wish to consider whether it
is ethically appropriate to make such reading assignments mandatory.

As can be seen, the legal landscape surrounding the use of classified WikiLeaks
documents is complex, but the statutes, case law and practical considerations above
provide a framework for determining how to manage the use of such documents on
campus.

FOOTNOTES:

FN1. WikiLeaks describes itself as “a not-for-profit media organization” that
publishes “original source material” alongside articles. It claims that it does
not “solicit” material, but does “accept leaked material in person and via
postal drops” and through its recommended “anonymous electronic drop box
as the preferred method of submitting any material.” WikiLeaks personnel
review the material before it is posted. WikiLeaks states that it has developed “a harm minimisation procedure” whereby it “may remove or significantly delay the publication of some identifying details from original documents to protect life and limb of innocent people.” See http://wikileaks.ch/About.html.

FN2. A “mirror” is an exact copy of the original internet site that is hosted on a different server. Mirror sites are used to provide multiple sources of the same information, allowing reliable access to a website that might be overcrowded with hits or that might be shut down due to a denial of service. A live mirror is automatically updated as soon as the original website is changed. There are presently thousands of sites that serve as WikiLeaks mirrors.

FN3. This note addresses only the use and republication of information already publicly available through WikiLeaks or similar means. It does not address additional issues involved with individuals engaged in a “classic espionage” scenario of providing information to a foreign government or agent or who obtain classified documents or information directly from the government or another non-public source. Note also that contractors with federal security clearances are subject to stringent restrictions on accessing classified information, “whether or not already posted on public websites or disclosed to the media.” See Defense Security Service, Notice to Contractors Cleared Under the National Industrial Security Program (February 11, 2011). For a more detailed overview of the protection of classified information, see Jennifer K. Elsea, Criminal Prohibitions on the Publication of Classified Defense Information, Congressional Research Service Report for Congress (January 10, 2011).

FN4. Section 793(e) provides:

Whoever having unauthorized possession of . . . any document, writing, . . . or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it . . . [shall be fined under this title or imprisoned not more than ten years, or both].

FN5. In his concurring opinion in New York Times Co. v. United States, 403 U.S. 713 (1971), Justice Douglas opined that while section 793(e) penalizes an individual who “communicates, delivers, [or] transmits” information, it does not extend to “publication” of such information. See id. at 720-22 (Douglas J., concurring); see also United States v. Rosen, 445 F. Supp. 2d 602, 638 (E.D. Va. 2006); Elsea, supra, at 11. Justice Douglas noted that other sections of the Espionage Act specifically mention “publishing” and that a rejected version of section 793 also used the word “publishing.” 403 U.S. at 721. It is
not clear, however, Congress intended to make this distinction.


FN10. Id. at 620.

FN11. Id. at 618; see also id. at 620-22.

FN12. Id. at 625, 643. Thus, the court summarized the statutory elements of section 793(e) as follows:

To prove that the information is related to the national defense, the government must prove: (1) that the information relates to the nation’s military activities, intelligence gathering or foreign policy; (2) that the information is closely held by the government, in that it does not exist in the public domain; and (3) that the information is such that its disclosure could cause injury to the nation’s security. To prove that the information was transmitted to one not entitled to receive it, the government must prove that a validly promulgated executive branch regulation or order restricted the disclosure of information to a certain set of identifiable people, and that the defendant delivered the information to a person outside this set. In addition, the government must also prove that the person alleged to have violated these provisions knew the nature of the information, knew that the person with whom they were communicating was not entitled to the information, and knew that such communication was illegal, but proceeded nonetheless. Finally, with respect only to intangible information, the government must prove that the defendant had a reason to believe that the disclosure of the information could harm the United States or aid a foreign nation, which the Supreme Court has interpreted as a requirement of bad faith.


FN14. 18 U.S.C. § 797 provides:

On and after thirty days from the date upon which the President defines any vital military or naval installation or equipment as being within the category contemplated under section 795 of this title, whoever reproduces, publishes, sells, or gives away any photograph, sketch, picture, drawing, map, or graphical representation of the vital military or naval installations or equipment so defined, without first obtaining permission of the commanding
officer of the military or naval post, camp, or station concerned, or higher
authority, unless such photograph, sketch, picture, drawing, map, or
graphical representation has clearly indicated thereon that it has been
censored by the proper military or naval authority, shall be fined under this
title or imprisoned not more than one year, or both.

FN15. 18 U.S.C. § 798(a) provides:

Whoever knowingly and willfully communicates, furnishes, transmits, or
otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

(1) concerning the nature, preparation, or use of any code, cipher, or
cryptographic system of the United States or any foreign government; or

(2) concerning the design, construction, use, maintenance, or repair
of any device, apparatus, or appliance used or prepared or planned
for use by the United States or any foreign government for
cryptographic or communication intelligence purposes; or

(3) concerning the communication intelligence activities of the United States or any foreign government; or

(4) obtained by the processes of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes—

Shall be fined under this title or imprisoned not more than ten years, or both.

The statute defines "communication intelligence" as "all procedures and
methods used in the interception of communications and the obtaining of
information from such communications by other than the intended recipients."


FN17. 18 U.S.C. § 641 provides:

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted—
Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of $1,000, he shall be fined under this title or imprisoned not more than one year, or both.

The word “value” means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.


FN20.  50 U.S.C. § 421 provides:

Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual’s classified intelligence relationship to the United States, shall be fined under title 18 or imprisoned not more than three years, or both.


FN22.  See 18 U.S.C. § 371 (conspiracy); Ninth Circuit Model Criminal Jury Instructions, No. 5.1 (aiding and abetting); Ninth Circuit Model Criminal Jury Instructions, No. 5.2 (accessory after the fact).


FN24.  Bartnicki v. Vopper, 532 U.S. 514, 528 (2001) (citations and internal quotation marks omitted). The Court held in Bartnicki that “a stranger’s illegal conduct does not suffice to remove the First Amendment shield from speech about a matter of public concern.” Id. at 535. In that case, an unknown person illegally intercepted a cellphone conversation between union leaders concerning a contentious and publicized labor dispute. The recording was eventually delivered to the defendant, who played it on his radio show. The union leaders claimed the defendant violated their rights under federal and state anti-wiretapping statutes, but the Court held that the defendant’s broadcast was protected by the First Amendment. However, that case did not involve sensitive information about national security, and the Court also specifically noted that the statutes at issue there did not prohibit the receipt of illegally intercepted communications. In contrast, section 793(e) does explicitly prohibit receipt of certain types of information.

FN26. Near v. Minn., 283 U.S. 697, 716 (1931); see also Rosen, 445 F. Supp. 2d at 637 (noting instances where “the government’s interest is so compelling, and the defendant’s purpose so patently unrelated to the values of the First Amendment, that a constitutional challenge is easily dismissed,” such as “the unauthorized disclosure of troop movements or military technology to hostile foreign powers”).

FN27. 445 F. Supp. 2d at 635, 637. In contrast, the free speech rights of persons with an “employment or contractual relationship with the government” are much more limited with regard to the disclosure of information entrusted to them. Id. at 635.

FN28. Id. at 633-34.

FN29. Id. at 637.

FN30. Id. at 638 (citing New York Times Co. v. United States, 403 U.S. 713 (1971) (per curiam) (emphasis added)). The district court summarized the opinions as follows:

Of the six Justices concurring in the result, three – Justices Stewart, White and Marshall – explicitly acknowledged the possibility of a prosecution of the newspapers under § 793(e). And, with the exception of Justice Black, whose First Amendment absolutism has never commanded a majority of the Supreme Court, the opinions of the other concurring justices arguably support, or at least do not contradict, the view that the application of § 793(e) to the instant facts would be constitutional. Justice Douglas’s rejection of the potential applicability of § 793(e) to that case rested on his view that Congress specifically excluded “publication” from its prohibited acts. See id. at 720-22 (Douglas J., concurring). The obvious implication of Justice Douglas’s opinion is that the communication – as opposed to publication – of information relating to the national defense could be prosecuted under § 793(e). Likewise, while Justice Brennan did not specifically address the espionage statutes, his concurrence was based on the heavy presumption against the constitutionality of prior restraints. See id. at 725-27 (Brennan, J., concurring). Thus, among the concurring justices, only Justice Black seemed to favor a categorical rule preventing the government from enjoining the publication of information to the detriment of the nation’s security, and even he relied on the absence of congressional authority as a basis for denying the requested injunction. See id. at 718 (Black, J., concurring). Furthermore, while the dissenting justices chiefly objected to the feverish manner of the Supreme Court’s review of the case, a survey of their opinions indicates the likelihood that they would have upheld a criminal prosecution of the newspapers as well. See id. at 752 (Burger, C. J., dissenting); id. at 757 (Harlan, J., dissenting); id. at 761 (Blackmun, J., dissenting).
FN31.  Id. at 639.

FN32.  Id. at 634, 639 (citing United States v. Morison, 844 F.2d 1057, 1084 (4th Cir.1988) (Wilkinson, J., concurring) and id. at 1086 (Phillips, J., concurring)).

FN33.  Id. at 639 (internal quotation marks and citations omitted; alteration added to change typographical error in original from “publishing” to “punishing”).

FN34.  See id. at 643.


FN36.  From A Note to Readers: The Decision to Publish Diplomatic Documents, N.Y. TIMES, November 28, 2010:

   “The question of dealing with classified information is rarely easy, and never to be taken lightly. Editors try to balance the value of the material to public understanding against potential dangers to the national interest. As a general rule we withhold secret information that would expose confidential sources to reprisals or that would reveal operational intelligence that might be useful to adversaries in war. We excise material that might lead terrorists to unsecured weapons material, compromise intelligence-gathering programs aimed at hostile countries, or disclose information about the capabilities of American weapons that could be helpful to an enemy. On the other hand, we are less likely to censor candid remarks simply because they might cause a diplomatic controversy or embarrass officials.”

See n. 1 regarding the WikiLeaks policy.


FN38.  Fishman, supra, n. 37.

FN39.  See, e.g., Secretary of State Hillary Clinton, Remarks on November 29, 2010 ("The United States strongly condemns the illegal disclosure of classified information. It puts people’s lives in danger, threatens our national security, and undermines our efforts to work with other countries to solve shared
problems”); see also CNN Wire Staff, *State Department says new WikiLeaks document dump would risk lives* (including comments by U.S. State Department’s Legal Adviser, Harold Koh, that WikiLeaks was engaging in “illegal dissemination of classified documents” that would “place at risk the lives of countless individuals”); Ed O’Keefe, *WikiLeaks off-limits to federal workers without clearance, memo says*, WASH. POST, December 5, 2010; Defense Security Service, *Notice to Contractors Cleared Under the National Industrial Security Program*, (February 11, 2011).

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