POLITICS

Unpatriotic? Whistleblowers are ‘as American as apple pie’

Whistleblower Daniel Ellsberg, a former U.S. military analyst who brought the Pentagon Papers to light. (Associated Press)

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OCT. 8, 2019
4 AM

WASHINGTON — It was 1777. The Revolutionary War was raging, and a small band of officers and seamen in the Continental Navy faced a dangerous dilemma.

Their commodore was one of the most powerful men in colonial America. But his subordinates had seen him engage in “barbarous” mistreatment — torture, in their eyes — of captured British sailors.

Eleven years before the U.S. Constitution was ratified, the 10 worried sailors became the new republic’s first whistleblowers, reporting what they had witnessed to the Continental Congress — and getting legal protection to shield them from retribution.

Column One

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“Whistleblowing is really in America’s DNA — it’s as American as apple pie,” said Allison Stanger, a political scientist at Middlebury College whose book on the subject was published the same day last month that House Speaker Nancy Pelosi, spurred by a whistleblower’s complaint, announced the impeachment inquiry into President Trump.

The lonely individual speaking truth to power is an enduring American archetype.

Whistleblowing — when an “insider” in government or a private company or organization draws attention to illegal or unethical activity — is codified in law, enshrined in history, immortalized in Hollywood movies and popular culture.

Whether celebrated or controversial, the recent roll call is long: from Karen Silkwood on nuclear power to “Deep Throat” in Watergate; from Frank Serpico in the New York Police Department to Erin Brockovich and water pollution in California; from Daniel Ellsberg in the Pentagon Papers to, his supporters maintain, Edward Snowden and government surveillance.

Edward Snowden, a former National Security Agency contractor, revealed what he characterized as the NSA's widespread abuses of its authority. He lives in exile and would face trial if he returns to the United States. (Jorg Carstensen / AFP-Getty Images)

But a decision to come forward with damaging information can carry enormous personal costs. Virtually every whistleblower, according to those who study the phenomenon, is forced to confront the ugly flip side of a heroic image: Stool pigeon. Tattletale. Snitch. Rat.

Job loss and ruptured relationships are common consequences; so is grief over the loss of a once-shared identity. Whistleblowing can end with ignominy, imprisonment or exile. Sometimes it is a secret carried to the grave, or nearly so.

"I didn't, I couldn't, even use that word about myself — whistleblower," said Jacqueline Garrick, 56, the founding director of a Department of Defense suicide prevention program who said she

ran afoul of Pentagon officials when she raised still-contested allegations, first internally and then publicly, of fraud and abuse.

A former Army officer, Garrick likened her experience in the three years since she came forward to the post-traumatic stress sometimes suffered by combat veterans — sleeplessness and anxiety, isolation and despair. She went on to found a peer-support group, Whistleblowers of America, to help others deal with the psychological and practical consequences of making accusations of workplace wrongdoing.

“You just don’t realize at first,” she said, “that your life is never going to be the same.”

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The whistleblower at the center of the Trump impeachment inquiry, reportedly a CIA analyst temporarily assigned to the White House, probably had a better sense than most of what might lie ahead.

The individual’s complaint, filed Aug. 12, landed like a bombshell in official Washington when the House Intelligence Committee made it public on Sept. 26.

Except for two blacked-out paragraphs in a classified appendix, the nine-page document spelled out in crisp, measured prose the writer’s belief that Trump was “using the power of his office to solicit interference from a foreign country in the 2020 U.S. election.”

Acting Director of National Intelligence Joseph Maguire said the whistleblower who came forward in August with a complaint about President Trump's dealings with Ukraine followed the required steps in reporting such concerns. (Kirk McKoy / Los Angeles Times)

The acting director of national intelligence, Joseph Maguire, told lawmakers that the whistleblower had followed the law "every step of the way" in submitting it to the intelligence community's inspector general.

Disclosure of the complaint prompted a response familiar in the annals of whistleblowing: attack the messenger.

The president denounced the whistleblower as a "partisan hack," a "Deep State" operative, "close to a spy," a betrayer of trust. Trump said the whistleblower should be unmasked — contrary to legal guarantees of anonymity — and demanded to personally confront his accuser.

Although federal rules do not require a whistleblower's information be firsthand, the president seized on the fact that the complainant acknowledged not having heard Trump's crucial July 25 telephone call with Ukrainian President Volodymyr Zelensky, when Trump pressured the new leader to investigate his political rival, Joe Biden.

But the declassified White House memorandum of the call, essentially a rough transcript, appeared to confirm large parts of the whistleblower's complaint.

President Trump has attacked the Ukraine whistleblower allegations. (Win McNamee / Getty Images)

Lawyers representing the whistleblower said over the weekend that a second individual had come forward, also from the intelligence community. That is also a well-worn whistleblower

scenario — especially if the second individual brings firsthand knowledge that could bolster the original complaint.

On Sunday, 90 former national security officials — with service under both Republican and Democratic presidents — released an open letter calling for privacy and protection from retaliation for the person whose complaint set the impeachment inquiry in motion.

“A responsible whistleblower makes all Americans safer,” they wrote.

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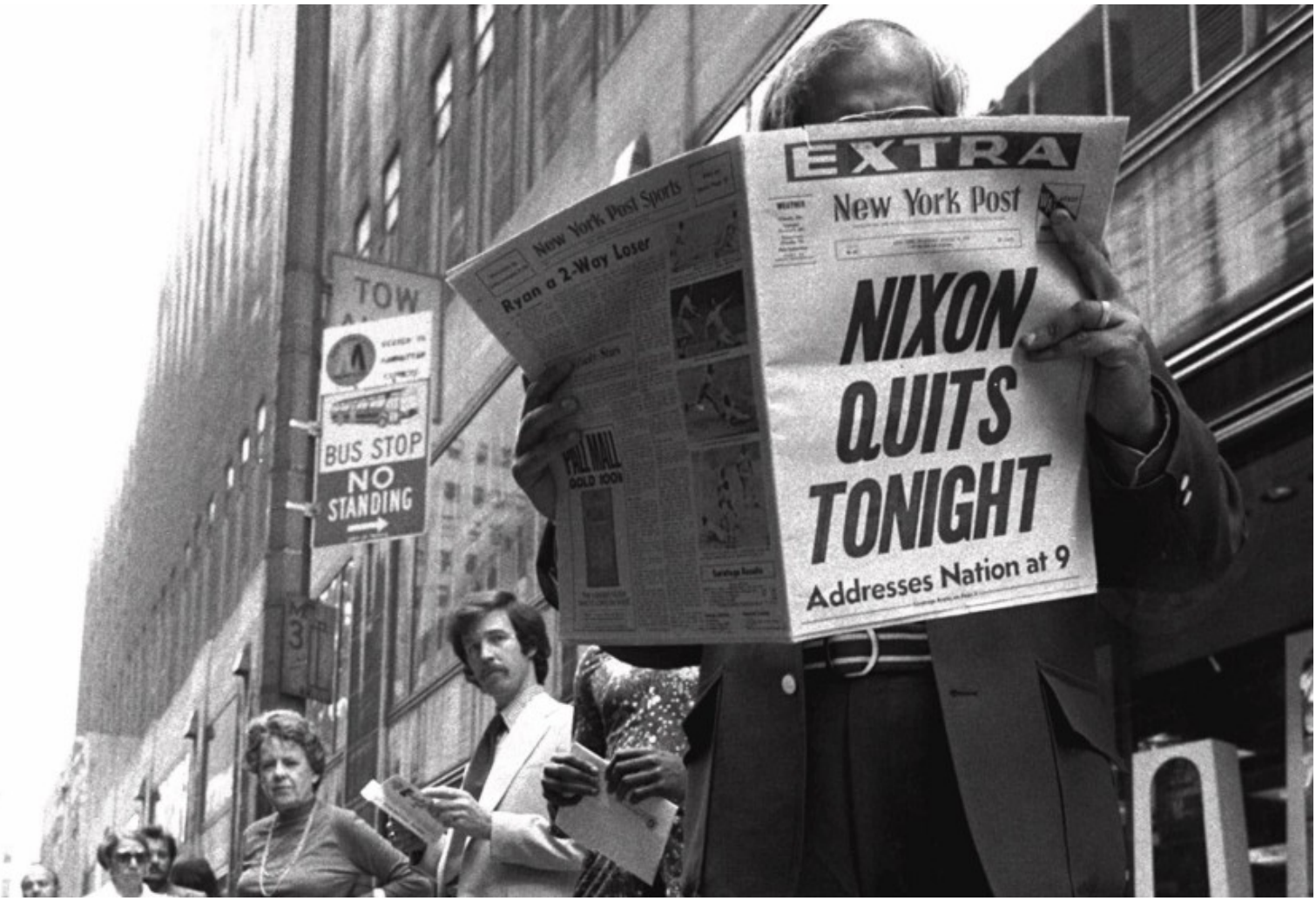
The term “whistleblower” is of uncertain origin, thought to refer to a police officer’s response when spotting a criminal, or to a sports referee calling out a foul.

But most researchers say its animating principle dates to medieval times, with recognition of the right of individuals, not only officialdom, to sound the alarm about wrongdoing.

In English common law, the writ of *qui tam* meant a private individual who assisted in an official prosecution was entitled to a share of the penalty paid. So it carried a connotation of bounty hunting, when a person was acting “for the king as well as for self.”



Richard Nixon resigned as president in 1974 amid the Watergate investigation, which was fed in part by a whistleblower then known as "Deep Throat." (Associated Press)

In the United States, the term "whistleblower" only came into wide use around 1975, with headline-grabbing cases such as the Pentagon Papers, which exposed White House deceit in the Vietnam War, the Watergate scandal that brought down President Nixon, and the work of crusading of consumer advocate Ralph Nader.

Stanger's book, "Whistleblowers: Honesty in America From Washington to Trump," details the case of the Revolutionary War seamen who won the legal protection of the Continental Congress when their wealthy and well-connected commodore, Esek Hopkins, sought to retaliate against them for reporting him.

The Civil War ushered in incentives for exposing graft associated with the procurement of military supplies. In modern times, landmark legislation included the Whistleblower Protection Act of 1989 and several major updates in the following three decades.

But advocates say federal workers, and especially members of the intelligence community, still lack sufficient protections if they expose wrongdoing.

“To truly protect whistleblowers, there’s a lot of unfinished business,” said David Colapinto, general counsel for the National Whistleblower Center.

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Al Pacino portrays Frank Serpico in the 1973 movie “Serpico.” The New York police officer exposed corruption in the NYPD.

The real Frank Serpico, right, with his attorney, Ramsey Clark, testifies before the Knapp Commission investigating police corruption in 1971. Serpico, who helped clean up the NYPD, became a pariah among his former co-workers. (Associated Press)

The Hollywood image of a feisty firebrand spoiling for a fight is rarely reflected in reality, according to Tom Mueller, who said he interviewed 200 whistleblowers for his book on the subject.

Many whistleblowers believe their own organization will fix whatever wrong they brought to light, and are shocked and disillusioned when that doesn't happen.

And although a few may be disgruntled employees — another popular assumption that clings to whistleblowers — many more are motivated by personal values, Mueller said.

Elin Baklid-Kunz said her upbringing in Norway, with its societal emphasis on equality and the

common interest, led her to complain of serious financial misconduct at the Florida hospital where she worked, including overbilling Medicare and paying kickbacks.

“I just wasn’t raised to think I was better than anyone else, or to think it was all right to take advantage of others,” said Baklid-Kunz, who appeared with Mueller at a recent panel on whistleblowing at a Washington bookstore.

The crowd groaned at the description of hospital officials performing a bizarre “money dance,” with rap lyrics and costumes festooned with dollar signs, to convey the message that extracting cash, not patient care, was the top priority.

Mueller’s book, “Crisis of Conscience: Whistleblowing in an Age of Fraud,” takes a Martin Luther King Jr. quotation as its epigraph — reflecting, he said, a worldview that many who blow the whistle finally, reluctantly, take to heart.

“A time comes,” the civil rights icon told a New York City congregation in 1967, the year before his assassination in Memphis, “when silence is betrayal.”

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