Case Study #3: Aristotle & Whistleblowing

Read the assigned section in our text on Aristotle, the section from *Nicomachean Ethics* for which there is a link provided on the syllabus, and the attached Case #12 from the Association for Practical and Professional Ethics National Championship Cases for 2017, and then answer the following five questions. The completed assignment should be two pages long, (approximately 1400 words) using 12 pt. fonts and single spacing with one inch margins. Please follow the assigned format as exemplified at the end of your first case study assignment. Each answer should be separated, numbered and proportionate to the number of points possible. This study is worth a total of 60 points.

Your completed assignment is due on the 3rd (M/W)/4th (T/Th) of May. Please refer to the first assignment for general suggestions, grading rubrics, and a sample completed assignment!

1. **Identify the key relevant moral issues associated with this case** (2-3 questions). The core moral issue for this case is, “Should the law protect whistleblowers from criminal prosecution when exposing government information?” However, there are several sub-issues that must be identified in order to respond to this larger issue. Remember that a moral issue is normative – these are to be expressed as questions using normative terms (e.g. using terms such as “should” and “ought,” and concerning issues of right and wrong regarding moral rights & obligations, etc.). (5 points)

2. **Asking the right questions:** What facts would you need to know about this case to make a reasonably informed judgment? In this section, note that you should be raising questions such as the definition and incidence of whistleblowing in America, the laws regarding the protection of whistleblowers, etc., but not questions about Aristotle. Provide as a bulleted list and pose in question form. For this assignment, you do not have to do all the research but you need to raise the kind of questions that would drive such a project. These should be research questions and as such should be concrete and answerable with reference to assessable data and reliable sources. No bias or prejudice should be evident and the questions should be non-normative (no “ought” or “should” questions). Think about facts that, if known might help determine how one should or could respond to the case. (15 pts.)

3. **Aristotle’s Position:** How do you think Aristotle would respond to this case; should the law protect whistleblowers from criminal prosecution when exposing government information? Be sure to provide properly cited quotations from Aristotle (primary source = Aristotle’s writings and does not include secondary commentary from Rosenstand or from me) to support your answer. Note that this question carries the highest weight in points. (25 points)

4. **Critical Objection:** Identify one key problem with Aristotle’s theory of ethics as it applies to this particular case. Hint: begin with one of the objections to Aretaic Ethics as a moral theory and then determine if that problem is illustrated by the case. (10 points)
5. **Conclusion:** Where do you personally stand on this question; should the law protect whistleblowers from criminal prosecution when exposing government information? Defend your answer without resorting to a repetition of points made in previous sections. (5 points)

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**Background¹: Case Study #3**

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**Case 12: To Leak or Not to Leak**

Exposing government information, secret or otherwise, through leaks to the news media or other channels, goes back to the birth of the United States. Whistleblowers usually act out of a sense of duty to their conscience and to the American public. The reward for their efforts, however, is seldom positive. A whistleblower often risks losing a job, financial ruin, or being labeled a traitor to his or her country.

Samuel Shaw and Richard Marven were America’s first whistleblowers. In 1777, during the American Revolution, Ensign Shaw and Lieutenant Marven accused the Continental Navy’s commander-in-chief of ordering the torture of British prisoners of war. They were discharged and then sued for libel by Commodore Esek Hopkins. Luckily for Shaw and Marven, the scandal prompted the Continental Congress to pass the first whistleblower protection law and to pay for the men’s legal expenses. Commodore Hopkins was stripped of his command and his commission.

Had Shaw and Marven miraculously lived another 238 years, they would have, no doubt, been pleased when the US Congress dedicated the first National Whistleblower Appreciation Day, July 30, 2015, in their honor.

Ironically, the US government was, at the same time, conducting the most aggressive prosecution of whistleblowers since the administration of President Richard Nixon. The Department of Justice, using the 1917 Espionage Act, prosecuted six government employees and two contractors for leaking classified information to the news media. That surpassed the

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¹ Please note that you are not limited to the background offered. It is expected that you will do a bit more in-depth reading to develop your thesis. You may feel free to use any credible/reliable source as evidence for your arguments. Additionally you may use additional material from Aristotle to defend your answers. Please provide full citation for all research.
The total number of all such cases going back to the Warren Harding administration.

The most prominent of those being prosecuted were, like Shaw and Marven, serving in national defense related roles when they became whistleblowers. One, Chelsea Manning, was enlisted in the US Army and the other, Edward Snowden, worked as a contractor with the National Security Agency. Unlike Shaw and Marven, they are unlikely to receive any declaration of praise on National Whistleblower Appreciation Day, at least not anytime soon.

Private Chelsea Manning released thousands of secret documents related to the US war in Iraq to the news media through the Wikileaks website. In a 35-page statement she read at her trial, she says she did what she did because she saw the US military committing illegal and unconscionable acts in Iraq and in the war in Afghanistan. Among the material she uncovered was a video of a US Army helicopter gunship firing on an Al Jazeera TV news crew and other reporters who were clearly not a threat to American forces on the ground.

Manning pleaded guilty to a number of the charges against her and received a 35-year sentence with the possibility of parole after eight years. Meanwhile, the US Department of Justice is pursuing an active and long-term investigation of WikiLeaks.

Edward Snowden, now living in exile in Russia, stunned the world when he released over a million documents revealing the vast extent of Internet and telephone surveillance being conducted by the US government, not only on people in other countries but also illegally on American citizens. Snowden said he was disturbed by the brazen disregard for privacy and the law. The US government responded by indicting Snowden on numerous counts of espionage.

Without the information leaked by Manning and Snowden to the news media, it is unlikely the American public would have found out about the issues they raised or, at least, not in as timely a fashion. And yet, there are those who call both traitors to their country. The US government certainly seems to think so.

One wonders what Samuel Shaw and Richard Marven would have to say about these modern-day whistleblowers.