



THE JACOB RADER MARCUS CENTER OF THE
AMERICAN JEWISH ARCHIVES
A DIVISION OF HEBREW UNION COLLEGE – JEWISH INSTITUTE OF RELIGION

MS-630: Rabbi Alexander M. Schindler Digital Collection, 1953-1996.
Series A: Union of American Hebrew Congregations, 1961-1996.

Box
12

Folder
6

Pollard, Jonathan, 1990-1994.

For more information on this collection, please see the finding aid on the
American Jewish Archives website.

*For
DS/PAC*

THE WHITE HOUSE
WASHINGTON

*CC: E.Y.H. sent 9/21
also to [unclear]*

September 13, 1994

Pollard

Rabbi Alexander M. Schindler
Union of American Hebrew Congregations
838 Fifth Avenue
New York, New York 10021

Dear Rabbi Schindler:

Thank you for taking time to share your thoughts with me concerning Jonathan Pollard's petition for commutation of his sentence.

After personally reviewing the matter, I decided to deny Jonathan Pollard's application for executive clemency. I made this decision after taking into account the recommendation of the Attorney General and the unanimous views of law enforcement and national security agencies. I also considered Mr. Pollard's argument that he is deserving of a shorter prison sentence because he spied for a friendly nation. However, I believe that the enormity of his crime, the harm his actions caused to our country, and the need to deter those who might consider taking similar actions warrant his continued incarceration.

I appreciate your concern about this serious matter.

Sincerely,

Bill Clinton

Pollard



BCC: RABBI YOFFE
RABBI SAPERSTEIN
CAROL POLLARD

✓

COPY

RABBI ALEXANDER M. SCHINDLER • UNION OF AMERICAN HEBREW CONGREGATIONS
PRESIDENT 838 FIFTH AVENUE NEW YORK, NY 10021-7064 (212)249-0100

August 19, 1994
12 Elul 5754

President William J. Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

With the matter of Jonathan Pollard's clemency petition soon to be brought to your attention once more, and knowing that he will be eligible for parole next year, I write once again to urge your serious review of his situation.

The November 1993 Biennial Assembly of the Union of American Hebrew Congregations, at which delegates of our more than 850 Reform synagogues and 1.3 million Reform Jews of the United States and Canada, overwhelmingly passed a resolution urging that Jonathan Pollard's sentence be commuted to time already served. At that time, I wrote to you and requested your serious consideration of his case. Jonathan has already been incarcerated for a much longer period of time than would represent a typical sentence for an offense comparable to his.

Once again, I implore you to contemplate the Pollard case with great care and compassion. As a matter of fact, you might wish to consider endorsing the granting of parole when he becomes eligible for such action next year.

With kindest greetings, I am

Sincerely,

Alexander M. Schindler

August 18, 1994
11 Elul 5754

The President
Washington, DC

Dear Mr. President:

With the matter of Jonathan Pollard's clemency petition soon to be brought to your attention once more, and knowing that he will be eligible for parole next year, I write once again to urge your serious review of his situation.

The November 1993 Biennial Assembly of the Union of American Hebrew Congregations, at which delegates of our more than 850 Reform synagogues and 1.3 million Reform Jews of the United States and Canada, overwhelming passed a resolution urging that Jonathan Pollard's sentence be commuted to time already served. At that time I wrote to you and requested your serious consideration of his case. Jonathan has already been incarcerated for a much longer period of time than would represent a typical sentence for an offense comparable to his.

Once again, I implore you to contemplate the Pollard case with great care and compassion. As a matter of fact, you might wish to consider endorsing the granting of parole when he becomes eligible for such action next year.

With kindest greetings, am

Sincerely,

Alexander M. Schindler

August 18, 1994
11 Elul 5754

The President
Washington, DC

Dear Mr. President:

With the matter of Jonathan Pollard's clemency petition soon to be brought to your attention once more, and knowing that he will be eligible for parole next year, I write once again to urge your serious review of his situation.

The November 1993 Biennial Assembly of the Union of American Hebrew Congregations, at which delegates of our more than 850 Reform synagogues and 1.3 million Reform Jews of the United States and Canada, overwhelming passed a resolution urging that Jonathan Pollard's sentence be commuted to time already served. At that time I wrote to you and requested your serious consideration of his case. Jonathan has already been incarcerated for a much longer period of time than would represent a typical sentence for an offense comparable to his.

Once again, I implore you to contemplate the Pollard case with great care and compassion. As a matter of fact, you might wish to consider endorsing the granting of parole when he becomes eligible for such action next year.

With kindest greetings, am

Sincerely,

Alexander M. Schindler

August 18, 1994
11 Elul 5754

The President
Washington, DC

Dear Mr. President:

With the matter of Jonathan Pollard's clemency petition soon to be brought to your attention once more, and knowing that next year he will be eligible for parole, I write once again to urge your serious review of his situation.

The November 1993 Biennial Assembly of the Union of American Hebrew Congregations, at which delegates of our more than 850 Reform synagogues and 1.3 million Reform Jews of the United States and Canada, overwhelming passed a resolution urging that Jonathan Pollard's sentence be commuted to time already served. At that time I wrote to you and requested your serious consideration of his case. Jonathan had already been incarcerated for a much longer period of time than would represent a typical sentence for an offense comparable to his.

Once again, I implore you to contemplate the Pollard case with great care. As a matter of fact, you might wish to consider endorsing the granting of parole when he becomes eligible for such action next year.

blah blah blah...

Please deliver to: Rabbi Eric Yoffie

August 18, 1994
11 Elul 5754

The President
Washington, DC

Dear Mr. President:

With the matter of Jonathan Pollard's clemency petition soon to be brought to your attention once more, and knowing that next year he will be eligible for parole, I write once again to urge your serious review of his situation.

The November 1993 Biennial Assembly of the Union of American Hebrew Congregations, at which delegates of our more than 850 Reform synagogues and 1.3 million Reform Jews of the United States and Canada, overwhelming passed a resolution urging that Jonathan Pollard's sentence be commuted to time already served. At that time I wrote to you and requested your serious consideration of his case. Jonathan had already been incarcerated for a much longer period of time than would represent a typical sentence for an offense comparable to his.

Once again, I implore you to contemplate the Pollard case with great care. As a matter of fact, you might wish to consider endorsing the granting of parole when he becomes eligible for such action next year.

blah blah blah...



ADOPTED BY THE GENERAL ASSEMBLY
UNION OF AMERICAN HEBREW CONGREGATIONS
October 21 - October 25, 1993 - San Francisco

AN APPEAL TO PRESIDENT CLINTON TO
COMMUTE JONATHAN POLLARD'S SENTENCE TO TIME SERVED

Background:

Jonathan J. Pollard was sentenced to life in prison after pleading guilty to one count of delivering classified information to a foreign government, Israel. Mr. Pollard has served over seven years in solitary confinement.

In no way do we condone breaking the law and we do not claim that Jonathan Pollard is innocent of the crime he was charged with. However, his sentence is grossly disproportionate to sentences that others have received for comparable espionage offenses. Only those who spied for enemy nations have received life sentences. No other individual convicted of disclosing information to an ally has received such a sentence. A more typical sentence for an offense comparable to Pollard's is considerably less than the seven and a half years he has already served.

Many religious and community leaders and organizations have supported the reduction of commutation of Jonathan Pollard's sentence, including the Central Conference of American Rabbis.

THEREFORE, the Union of American Hebrew Congregations resolves to:

1. Ask President Clinton to commute Jonathan Pollard's sentence to time served.



RABBI ALEXANDER M. SCHINDLER • UNION OF AMERICAN HEBREW CONGREGATIONS
PRESIDENT 838 FIFTH AVENUE NEW YORK, NY 10021-7064 (212)249-0100

One Page Fax

August 18, 1994
11 Elul 5754

To: Carol Pollard

From: Rabbi Alexander M. Schindler

By all means, you have permission to use the UAHC letter to President Clinton. We will also send another letter to him and once it is prepared we'll share a copy with you.

Unfortunately, our ties to South Africa are not that close. The Union represents Reform congregations of the United States and Canada and contact with South Africa is somewhat peripheral, thus I don't believe we can be helpful in this area.

Warm good wishes.

MEMORANDUM

Date: August 18, 1994
From: Rabbi Eric Yoffie *EY*
To: Rabbi Alexander M. Schindler
Re: Carol Pollard's letter

1. I see no reason why she should not use our letter. We have shared it with other people, and therefore it is in effect a public document. ✓
2. I see no reason why we should not write another letter. We have a Biennial resolution on this matter. My own inclination would be not to focus solely on commutation, but also to ask the President to consider recommending parole when it comes up next year. Most Jewish organizations will take this approach. ✓
3. I am reluctant to make any promises regarding South Africa, unless you have personal relations with Reform leaders there, or unless Cliff Kulwin would be willing to undertake this on our behalf. I know very little about our ties to Reform congregations there, but I do not believe that they are particularly close. ✓
4. I am not an expert on the Aldrich Ames case, but this was discussed on a recent NJCRAC conference call, and most people felt that the argument being made linking the Pollard and Ames cases was very weak.



Union of American Hebrew Congregations

SERVING REFORM JUDAISM IN NORTH AMERICA

838 FIFTH AVENUE, NEW YORK, NY 10021-7064 (212) 249-0100

Carol Pollard
86 Federal Street
Hamden, CT 06514
(203) 281-3373/ (203) 281-4220 (Fax)
August 16, 199

*Eric
Let me know
your judgment*

Memorandum

From: Carol Pollard *CP*

To: Rabbi Alexander M. Schindler

Thank you for faxing your letters and memorandum to me. I will make them part of our file. Can the "official" UAHC letter be used as part of our submission for Clinton's reconsideration of the Jonathan's clemency petition?

I talked with Jonathan last night, and he asked about two matters: (1) Can the UAHC officially, on letterhead, again write to President Clinton asking that he re-examine the case. (If you mention the size of the organization in this new letter it would be most beneficial.); and (2) Can you contact your groups in South Africa to ask that they initiate a resolution on the Pollard case from the South African Board of Deputies, and, if successful, initiate a letter sent from that body to President Mandela urging him to write a letter to President Clinton seeking commutation of Jonathan's sentence. The Wiesenthal Center letter, which is attached, could be used as a sample letter.

I am also attaching the latest materials for your perusal. The article entitled "Stop Punishing Jonathan Pollard for the Crimes of Aldrich Ames" has been submitted for publication, so for the present, this article is just for your information. The letter to President Clinton from Hollywood personalities is not yet complete and should not be distributed to anyone.

Thank you for your help, and I await your response!

/cp
Attachments



Rabbi Marvin Hiet
Founder and Dean

BOARD OF TRUSTEES

Samuel DeLabsberg
Chairman

Alan Casden
Co-Chairman

Nelson Felix
Co-Chairman

Rabbi Abraham Cooper
Associate Dean

Dr. Gerald Margolis
Director

Rabbi Meyer H. May
Executive Director

Susan Burden
Director, Administration
and Finance

Marlene F. Hiet
Director, Membership
Development

Avra Shapiro
Director, Public Relations

Richard Frank
Director, Media Projects

Rabbi Daniel Landes
Director, National
Education Projects

Janice Prager
Director, Development
Western Region

REGIONAL OFFICES

Rhonda Barad
Eastern Director

Ellen Gold
Midwestern Director

Robert L. Novak
Southern Director

Snedee Perren
Canadian Director
for Developing Areas

Sol Littman
Canadian Representation

Paris
Shimon Samuels
European Director

Jerusalem
Efraim Zoroff
Director

July 26, 1994

Bill Clinton
President of The United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

On behalf of our 385,000 constituent U.S. families, the Simon Wiesenthal Center joins with all Americans in expressing its gratitude for your administration's role in helping to bring together Israel's Prime Minister Rabin and Jordan's King Hussein at the White House. The Washington Declaration clearly signals that the next step on the long road to Middle East peace has been taken.

In this new era, it is therefore wholly appropriate that the leadership of the Jewish community once again reiterates its call to you to reevaluate the case of Jonathan Pollard. This young man violated U.S. law because he thought by doing so he would serve the cause of peace. He is not currently a threat to the security of the United States. Further, he has admitted his guilt and taken full responsibility for his misdeeds.

The Simon Wiesenthal Center therefore asks you on the eve of his 40th birthday to give Jonathan Pollard a chance to have a meaningful life outside of prison. Whatever signals were meant to be conveyed to Israel and to other potential American spies, we believe they have already been delivered. Now is a time for you to exercise a measure of compassion for this young man, a measure which will be welcomed by the entire American Jewish community.

Sincerely,

Rabbi Abraham Cooper
Associate Dean

RAC:sg

Post-It™ brand fax transmittal memo 7671		of pages 1	
*CAROL POLLARD		From RABBI Cooper	
Co.		Co.	
Dept.		Phone #	
Fax # 203-281-4220		Fax #	

Stop Punishing Jonathan Pollard for the Crimes of Aldrich Ames

The case of Aldrich Ames - the Soviet mole working as the chief of one of the C.I.A.'s Soviet counter-intelligence units - reads like a spy novel. It is therefore not surprising that Ames has been the subject of tremendous media coverage, including two recent front page stories in the New York Times and an article in the New York Times magazine section. Unfortunately, a fascinating and critically important aspect of the Ames case has largely been overlooked by the media. It concerns a campaign of disinformation that, for years, was aimed at shifting the blame away from Ames for the arrest and execution of at least a dozen U.S. informants in the Soviet Union. Although Ames was eventually caught, the person rumored to be responsible for the deaths is still paying the consequences.

In November of 1985, Jonathan Pollard was arrested for passing to Israel classified materials concerning various Arab states, such as Iraq, Syria and Libya. In March of 1987 Pollard became the only American ever to be sentenced to life for spying for an ally. Just a few months before Pollard's arrest, Ames has now admitted that he transmitted to the Soviet Union the names of virtually every American and foreign operative in the Soviet Union known to him. The consequences of this treacherous act only recently became known to the general public. But the tragic results of Ames's betrayal were already being felt by the intelligence community at the time of Pollard's arrest.

As Ames told the New York Times, "In '85, '86 as a result of the information I sold to the Soviets, it was as if neon lights and search lights lit up all over the Kremlin, shown all the way across the Atlantic Ocean, saying, 'There is a penetration.' No reasonable counter-intelligence officer, FBI or the CIA, was under any doubt by the spring of '86 that a penetration of S/E [the CIA's Soviet/Eastern Europe operations division headed by Ames] was the single, most logical reason for the disaster that had occurred."

In this type of atmosphere, with the intelligence community in a panic over their inability to locate the source of the penetration, and with Ames clearly quite interested in deflecting attention away from himself and focused elsewhere, the arrest of Jonathan Pollard must have been for Ames and others in the CIA like manna from heaven. Somebody made sure to capitalize on the opportunity.

There was never any evidence linking Pollard, in any way, with the deaths of U.S. informants. Pollard, after all, passed defensive information to an ally, Israel, about third party Arab states. Accordingly, the U.S. government did not even allege that Pollard or anyone else in his position, having all the information Pollard had at his disposal, would have had any reason to believe that any of the information transmitted by Pollard to Israel would or could cause injury to the United States. Indeed, nine years after Pollard's arrest, nobody has yet to cite one credible example of how Pollard actually hurt this country. But those who needed or found it convenient to place the blame on Pollard for our intelligence failures in the Soviet Union were not going to let the facts get in their way.

What followed was a campaign of rumors, planted stories and outright lies accusing Pollard, without any evidence, of crimes he was not charged with and did not commit. This disinformation is typified by the chapter on Pollard in Seymour Hersh's error filled book, "The Sampson Option." Hersh cites an anonymous "senior American intelligence official" who "confirmed" that there have been distinct losses of human and technical intelligence

-2-

collection ability inside the Soviet Union that have been attributed, after extensive analysis, to Pollard." Hersch quotes another former CIA official as saying, "Where it hurts us is our agents being rolled up and our ability to collect technical intelligence being shut down." When the Soviets found out what Pollard was passing to the Israelis, "they shut down the source."

The disinformation intensified at the end of last year just when it appeared that President Clinton was about to respond favorably to Pollard's petition. The President had stated publicly last November 12th that he was waiting for the recommendation of the Justice Department, but then added that, "I do not have to follow that recommendation." An obviously planted and well timed story in the December 6 issue of Time magazine soon followed.

Time's "Inside Washington" column that week reported that, "As Israel presses the Clinton administration to free Jonathan Pollard..., Time has learned that one document Pollard is believed to have slipped to the Israelis - thought to have landed in Soviet hands, albeit unintentionally - was a huge national security agency compendium of frequencies used by foreign military and intelligence services... Officials fear that data in this book was so specific that its discovery may have cost informants their lives" (*Italics added*). It would, of course, be interesting to know from whom Time learned this, and on the basis of what evidence was it "thought" by their source that this compendium, "believed" to have been passed to the Israelis, unintentionally ended up in Soviet hands. And, finally what was the logical rationale that would explain their "fear" of a linkage between Soviet knowledge of U.S. awareness of these frequencies and the deaths of informants?

After all, frequencies used by intelligence services are changed on a regular basis since it is generally assumed that it is only a matter of time before the frequencies they are transmitting on will be discovered. Moreover, not only would it not have come as any surprise to the Soviets that the United States was aware of radio frequencies used by other intelligence services. The Soviets actually already knew from John Walker the very technology used by the United States to break codes once the frequencies were discovered.

It is noteworthy that these rumors and the accusations made against Pollard all suffer from fatal flaws. Not only was there never even a shred of evidence ever produced to support the suggestion that the Soviets somehow got their hands on the information Pollard gave to Israel. But no reasonable explanation has ever been provided that could connect this information to the deaths of U.S. informants or that logically explained how the theoretical compromise of this information actually resulted in any harm to the United States.

As Jerry Agee, Pollard's superior in Naval Intelligence, told Wolf Blitzer, Agee and another colleague at Naval Intelligence were each suspicious of the number of classified documents Pollard was taking home with him. Eventually they concluded that the information was almost certainly going to Israel. They reasoned that in light of the materials involved, it was not something the Soviets would be interested in. As Agee put it to Blitzer, "It didn't take a fool to find out that the Soviets were not buying back all their own information."

-3-

Unfortunately, the absence of any foundation or credible evidence to support the suggestion that Pollard was responsible for the deaths of informants did not hinder the effectiveness of the vicious out of court accusations leveled against him. One reason for this is the tendency among many to unquestionably accept whatever information is supplied by the intelligence community. And, from the standpoint of some in the media, the more sensational the accusation, the better.

In considering who was behind this disinformation campaign, there are at least three possibilities:

1. Ames was directly and primarily responsible.
2. Ames had one or more collaborators who either knowingly acted on his behalf or were unwittingly being maneuvered by him.
3. The campaign was a group effort within the CIA designed to either slander the reputation of Israeli intelligence and/or take the heat off U.S. intelligence for the series of unexplained intelligence mishaps which had been occurring in the Soviet Union.

Aldrich Ames will continue to be questioned during the next few weeks in advance of his wife's August 26 sentencing. This would be an especially appropriate time for the Senate and House Intelligence Committees to investigate not only why it took nine years to uncover Ames's activities, but who was involved in setting up Pollard as the fall guy for Ames's crimes.

It may be that much time will pass before we find out the answers to these questions. But whatever the explanation and whoever the culprit, Pollard continues to pay a terrible and undeserved price. Pollard has expressed remorse for his actions and has acknowledged that, notwithstanding his motives of trying to protect an ally from dire dangers, his actions could not go unpunished. But Pollard has already served far longer than any other American who passed classified data to an ally or a neutral country, and longer than many spies for enemies of the United States. His continued incarceration for crimes he did not commit and was not charged with is a travesty of justice that is exacerbated with each additional day that Pollard is forced to remain in prison.

David Kirshenbaum, Esq.
3308 Fourth Street
Oceanside, NY 11572
(212) 782-2139 (Phone)
(212) 782-2141 (Fax)

David Kirshenbaum, Esq.
3308 Fourth Street
Oceanside, NY 11572
(212) 782-2139 (Phone)
(212) 782-2141 (Fax)

August 4, 1994

VIA MAIL AND FAX (202) 456-2883

Lloyd N. Cutler, Esq.
Special Counsel to the President
The White House
Washington, D.C. 20500

Subject: Jonathan J. Pollard

Dear Mr. Cutler:

Thank you very much for taking the time to respond to my letter regarding Jonathan Pollard. While I very much appreciate your response, I have a difficult time reconciling your explanation of the President's decision, not only with the particular facts of the Pollard case, but more so with the original statement made by the President in rejecting Pollard's petition.

The Pollard case is surely not typical of the "hundreds of petitions for executive clemency" which have been submitted to the President during the past eighteen months. The Pollard affair is not, as you seem to suggest, simply a case of someone who has received a disproportionately harsh sentence. Clearly, for example, there are many individuals who commit drug offenses who receive punishments far more severe than the average penalty imposed for such a crime. And there are a good number of drug offenders who have received, and will continue to receive, penalties more severe than that imposed in certain cases of murder. But one of the many distinguishing factors in the Pollard case is that Pollard is in a party of one. Nobody sentenced before or after Pollard who spied for an ally or even a neutral country received a sentence even remotely close to life.

In addition to the fact that Pollard has been singled out from all others who have committed similar offenses, what has added to the widespread anger and great consternation about Pollard's life sentence are the following factors:

(i) The breach by the government of its written plea agreement with Pollard and prosecutorial malfeasance by government lawyers which, in the opinion of Judge Stephen Williams, resulted in "a fundamental miscarriage of justice."

(ii) Strong suspicions about the veracity of the classified damage assessment of former Defense Secretary Caspar Weinberger, who we know grossly misstated the facts in the redacted non-classified memorandum to the sentencing judge in the Pollard case, and who later perjured himself in testimony before Congress.

-2-

(iii) The confirmation earlier this year by Bobby Ray Inman of Pollard's long-held contention that the United States withheld critically important information from Israel following Israel's bombing of Iraq's nuclear reactor.

(iv) The walls of classifications erected by the government to shield facts not only from the public, but also from Pollard and his counsel. In addition to the Weinberger memorandum, the government refuses to release the following documents or information:

(a) Les Aspin's letter to the President making the preposterous charge that Pollard tried to transmit classified information in 14 letters from prison;

(b) the 14 letters referred to by Aspin, even in redacted form;

(c) the recommendations to the President concerning Pollard's petition from Attorney General Reno and former Deputy Attorney General Heymann; and

(d) the role played by Aldrich Ames and other officials in the intelligence establishment in the disinformation campaign to place the blame on Pollard for the crimes committed by Ames.

These are some of the reasons why Pollard's petition, unlike the others before the President, enjoys the support of both U.S. Catholic Cardinals and Israel's Chief Rabbis, the European Parliament and members of the U.S. Congress, Nobel Peace Prize Laureate Elie Weisel and former Soviet Refuseniks, U.S. city councils and state legislatures, Hollywood personalities such as Gregory Peck, Jack Lemon and Jon Voight, liberal Democrats such as Robert Drinan and Benjamin Hooks and conservative Republicans such as Pat Robertson.

Given all the national and international opprobrium surrounding the Pollard case, Prime Minister Rabin's public request that Pollard's life sentence be commuted to time served, the lingering distracting influence of Pollard's continued imprisonment on U.S. Israel relations, the gross disproportionality of Pollard's draconian sentence and suggestions of government misconduct in the Pollard affair, one would have thought and expected that the President would act to bring this sorry chapter to a close. But the President did not simply passively fail to right a wrong. He became an active participant in the perpetuation of this injustice.

Notwithstanding the explanation you gave for the President's decision, Mr. Clinton's denial of Pollard's petition was not, in fact, originally presented in terms of the President's exercise of self restraint in handling appeals for clemency. If we can analogize to petitions to the Supreme Court, this was not simply a case of the denial of certiorari in which the Court's denial has no precedential value.

In considering Pollard's petition, the President had a number of options. The President could have granted Pollard's

-3-

petition. He could have denied the petition on the kinds of philosophical grounds suggested in your letter, but have still passed the word, either explicitly or implicitly, that he recognized the merit in Pollard's petition. Or the President could have denied Pollard's petition without comment.

The President, however, not only denied Pollard's petition, but he then proceeded to explain his rejection based, not on philosophical grounds having to do with self-imposed restraints on the exercise of executive clemency, but on the merits of Pollard's case. By so doing, the President placed his imprimatur on Pollard's clearly aberrant life sentence.

In speaking of the harm Pollard's action purportedly caused, the President ignored the fact that Pollard was never accused of acting to injure the United States. Indeed, nine years after Pollard's arrest, nobody has yet to explain or cite one example of how Pollard actually hurt this country, certainly not in any way that would begin to justify a life sentence.

And the President's statement on March 23 took no cognizance of the fact that even the out of court leaks and accusations leveled against Pollard, accusing him of somehow being inadvertently responsible for the deaths of U.S. agents, were wholly contrived and without foundation. We now, of course, know that the deaths of U.S. informants in the Soviet Union and the associated intelligence disasters suffered by the United States were directly attributable to the treachery of Aldrich Ames.

The President's suggestion that he rejected Pollard's petition because of the need for deterrence puts the Presidential seal of approval on a system of justice that, as I mentioned in my earlier letter, very wrongly singles out one and only one individual out of many for particularly harsh treatment.

In immediately accepting the recommendation of Janet Reno over that of Philip Heymann, and in rubberstamping the opinions of a highly discredited intelligence community in announcing the rejection of Pollard's petition, the President not only failed to do justice in 1994. He also severely hurt Pollard's chances even for parole in November 1995.

You asked that I judge the President on his entire record. Yet as one who had such high hopes for this President, his handling of the Pollard case is a watershed event. He dealt with a critically important issue in the worst possible way. I very much want to feel again the way I used to about Bill Clinton. But unless the President takes the necessary action, be it publicly or quietly, to bring the Pollard case to an end in the very near future, his mishandling of this affair will remain, for me, and for so many others across this country, the defining moment of his presidency.

Very truly yours,



David Kirshenbaum

Pollard: the US's Dreyfus

AS Jonathan Pollard celebrates his 40th birthday today, his supporters wonder if history may record his case as America's Dreyfus affair.

The two cases are, of course, different in at least one respect. Dreyfus was innocent and Pollard has admitted his guilt. But guilty of what? Unfortunately, with government officials falsely condemning Pollard of treason and other crimes he was never even accused of, the comparison to the Dreyfus case cannot be readily dismissed.

The tragedy of former defense secretary Les Aspin's flawed understanding of the Pollard case is that Aspin was one of the key people advising President Clinton on Pollard's petition for commutation. It was Aspin who made the outrageous charge, in a letter to the president, that Pollard tried to leak classified information in 14 letters from prison. (The Pentagon refused to show that letter to Pollard's counsel, or any of the letters allegedly containing classified information, so that the preposterous charges could be refuted.)

Aspin's recent comments at the Hebrew University, accusing Pollard of being "a traitor to his country" expose his ignorance of fundamental facts. Treason is clearly restricted to aiding the government or citizenry of a foreign country that is involved in an armed conflict with the US.

That Israel is not an enemy of the US but one of its closest allies was also not understood by Bobby Inman, Clinton's first choice to succeed Aspin as defense secretary. In his bizarre announcement withdrawing his nomination, Inman confirmed Pollard's long-held contention that the US had

ARNOLD FORSTER

withheld vital intelligence information from Israel.

Inman acknowledged, without apology, that he was so outraged that Israel had the temerity to take out Iraq's Osirak nuclear reactor in June 1981, that he ordered re-

**Any fair appraisal
will lead to the
conclusion that
he has paid his
debt and ought to
be released**

strictions on intelligence-sharing with the Israelis.

The moral dilemma Pollard faced in his work in Naval Intelligence was thus a direct consequence of Inman's attempt at reshaping US policy toward Israel.

GIVEN THE nature of the special US-Israel relationship and the fact that all the information supplied by Pollard related to third-party Arab states, the government did not accuse Pollard of acting with intent to injure the US. Nor was there any evidence by which the government could show that someone in Pollard's position would have had any reason to believe that the information he transmitted to Israel could cause injury to the US.

Indeed, nine years after Pollard's arrest, nobody, including Aspin, has given one specific ex-

ample of how Pollard hurt the US.

But those in the defense and intelligence communities who wanted to put the squeeze on Pollard were not going to let the facts get in their way. And so he was made the fall guy, perhaps by recently convicted Soviet master spy Aldrich Ames himself, for somehow being responsible for the previously unexplainable series of US intelligence mishaps in the Soviet Union in the mid- and late 1980s.

Of course, we now know that it was Ames who was responsible for, among other disasters, the collapse of the US intelligence apparatus and the compromising of all US informants in the Soviet Union. But instead of acknowledging that they either spread or were fooled by misinformation, government officials like Aspin continue to make damning accusations about Pollard that fly in the face of the truth.

Aspin is also entirely off base when he mangles the facts about Pollard's motive. The record shows that Pollard never asked for money in exchange for the information he believed Israel needed for its defense. In fact, for the first six months, Pollard did not receive a cent for his services. The idea of payment came from the Israelis.

Aspin's diatribe confirms what Pollard's supporters have long been arguing. The president relied on advisers who were grossly misinformed. Justice demands that the president immediately reconsider the facts of the Pollard case. Any fair appraisal will lead to the conclusion that Pollard has already paid his debt and that the time has come for his release.

The writer is a New York-based attorney.

Jerusalem Post, Aug. 7, 1994

EMANUEL RACKMAN

A Plea For Pollard

Jewish Week
June 10 '94

*An open letter to President Clinton
seeking clemency in this 'miscarriage of justice.'*

I am a rabbi and I pray often. More often than not my prayers are answered. Perhaps my words are more effective on some days than on others. Perhaps I will learn to accept the will of the One whose reasons are beyond my fathoming. But when I plead with a fellow human being and am denied what I seek, I cannot reconcile myself to the surrender of my reason or my sense of justice.

Please believe me that I write not in anger but in anguish.

Twice I sent you messages that I believe [former White House Counsel] Bernard Nussbaum delivered to you. And now I resume my praying for the life and freedom of Jonathan Pollard, not next year, or 10 years hence, but now — for his sake and yours, and for the sake of our country's honor.

First, I beg of you to bear in mind what our country's founding fathers had in mind when they granted you as president of "the last best hope of the earth" the power to exercise clemency, a power that could not be delegated. It was a power given precisely to avoid reliance upon subordinates who to begin with were instrumental in the "miscarriage of justice." It is precisely this that I seek of you. Please look at it from the perspective of millions of American Jews whose view I know that I express.

American law generally tolerates no verdict of guilt to be sustained unless the jury is unanimous. Yet one judge out of three of the federal Court of Appeals described the Pollard case as a miscarriage of justice. And the two judges who disagreed are co-religionists of mine who appear to be victims of an un-American obsession that Jews must never tolerate their personal embarrassment or that of their fellow Jews because of the behavior of someone in their beloved country, and if they do so, the offenders should pay heavily for their behavior. Even

more significant, the two judges upheld the Pollard sentence only for reasons procedural rather than substantive.

I submit that you who are making so many of us rejoice that every American, rich or poor, black or white, will one day have good medical care will not permit two standards of justice in our country — one for non-Jews and a stricter one for Jews.

A man languishes in jail because of a combination of circumstances created by individuals on the propriety of whose role in this case you — in your constitutional role — must give your own independent personal judgment. And one must scream that those most responsible for his present status characterized what he did as treason when he was never even accused of it.



I wrote you once before that I am the rabbi who pleaded with Judge Irving Kaufman not to give the Rosenbergs the death sentence. He lived to regret his failure to heed my plea. In the Pollard case I cannot cease to plead.

I ask of you, please give million of American Jews — Jews committed to their heritage as Americans and as Jews — cause for thankfulness. I was a college student when Sacco and Vanzetti were executed, and I cannot forget how sick I was when the real murderer confessed. I was ashamed of my beloved USA. In the Pollard case, the issue is not guilt or innocence but unequal justice, which is worse than death for the victim. That he can still bear the strain is miraculous.

But many of us cannot bear the guilt of silence. And by commuting his sentence to time served, no one will be hurt. The punishment will have been suffered, and our pride in the equal justice of the American legal order will have been restored. And you will have proven yourself to be the man of courage we hold you to be. □

Rabbi Emanuel Rackman's column runs three times a month.

→ more names to
follow!
Do not publish yet!
(2)

July 11, 1994

President William Clinton
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20510

We, representing many people in the entertainment industry, were deeply disappointed by your recent decision not to grant clemency to Jonathan Pollard. The rejection of Mr. Pollard's petition undermines the fundamental principle of the American judicial system that people who commit similar crimes are supposed to receive reasonably similar punishments.

Jonathan Pollard has already served a longer sentence than any other American who passed classified data to an ally. Accordingly, every additional day that Jonathan Pollard is forced to remain in prison exacerbates the already gross injustice in this case.

We urge to reconsider your decision and demonstrate your commitment to the application of equal justice under the law by commuting Jonathan Pollard's sentence to the eight and a half years he has already served.

Sincerely,

Jon Voight

Jack Lemmon

Whoopi Goldberg

Gregory Peck

Barbara Hershey

Kirk Douglas

Merv Adelson

Leonard Nimoy

Arthur Hiller

Karl Malden

Roddy McDowall

Haskell Wexler

Robert Wise

Jon Voight

Jack Lemmon

Whoopi Goldberg

Gregory Peck

Barbara Hershey

Kirk Douglas

Merv Adelson

Leonard Nimoy

Arthur Hiller

Karl Malden

Roddy McDowall

Haskell Wexler

Robert Wise

August 11, 1994 MW Jewish News

National/International

As Pollard turns 40, supporters revive efforts to win his freedom

By Larry Yudelson

Jewish Telegraphic Agency

NEW YORK— As Jonathan Pollard turned 40 on Sunday, Aug. 7, supporters of the American Jew who spied for Israel were gearing up for several more rounds in the struggle to release him from his life sentence.

To mark his birthday, the more than 350 chapters of Citizens for Justice for Jonathan Pollard held rallies and letter-writing campaigns across the country.

The calls for solidarity went as far as Israel where some 40 Women in Green, joined by New York rabbi and activist Avi Weiss and other supporters, held a solidarity rally across from the U.S. Consulate in Jerusalem.

"Jonathan has never been so psychologically down as he is now, even though he is in the [less restrictive] Butler facility," Weiss told the rally. "If anything can help him, perhaps it is the knowledge that he has supporters."

Weiss called on Prime Minister Yitzhak Rabin to continue to press "quietly" for Pollard's release, while a letter of support from 49 Knesset members from across the political spectrum was read out to the gathering.

What all the voices for Pollard across the political spectrum and the continent are seeking is clemency for the former Navy intelligence analyst who was arrested in 1985 and sentenced in 1987.

The campaign in the U.S. has recently garnered support from Hollywood celebrities, as well as from the leadership of the Conference of Presidents of Major American Jewish Organizations.

On the legal front, meanwhile,

Pollard's supporters are considering a new appeal. And they have just received what they are taking as a sign that President Bill Clinton may be open to reconsidering clemency for Pollard.

Clinton turned down a clemency request in March, saying his decision reflected "the grave nature" of Pollard's offense and



Pollard — will clemency come?

"the considerable damage that his actions caused our nation."

But Carol Pollard, who has been leading the fight for her brother's freedom as the head of Citizens for Justice, says a supporter recently received a letter from the White House that gave a glimmer of hope.

According to Carol Pollard, White House counsel Lloyd Cutler wrote that Clinton's denial of clemency was based on "the best information at that time."

In a telephone interview from

her home in Connecticut, Carol Pollard described the tone of the letter as much more positive than that found in previous letters from the White House.

She said she interpreted the letter as an indication that Clinton is open to reconsidering his decision.

She said the Cutler letter indicated that in order to review the decision, Pollard must submit a renewed clemency request. Carol Pollard said that she and her brother's lawyers plan to do so immediately.

While she would not disclose details, Carol Pollard said that Pollard's lawyers have "new material" that could provide grounds to reopen the case. A source close to the Pollard family said some of that evidence emerged from the case of former CIA employee and master spy Aldrich Ames. The case will also relate to allegations by former defense secretary Les Aspin that Pollard had sent 14 letters containing classified information from his prison cell.

Opponents of an early release for Pollard have contended that the information he gave Israel could have reached the KGB through Russian spies in Israel. But Ames, the highest ranking official to betray his country, was found guilty of selling information directly to the former Soviet Union, thus obviating the need for a Pollard link to Moscow. Ames is also serving a life sentence.

One of the central points raised by Jonathan Pollard's supporters has been that the classified information passed to Israel by the then-Navy analyst had, in fact, been promised to Israel, but was improperly held back.

See POLLARD page 19

POLLARD

Continued from page 16

This argument received new credence recently in the wake of the abortive nomination of former CIA chief Bobby Ray Inman to be Clinton's defense secretary earlier this year.

Inman soon withdrew his name from consideration, citing media conspiracies against him.

In discussing his refusal to accept the post, he admitted to having cut back on American intelligence satellite sharing with Israel when he was at the CIA.

New York Times columnist William Safire, who Inman cited as a reason for his withdrawal, charged that "Inman's animos also later contributed to the excessive sentencing of Jonathan Pollard."

Carol Pollard indicated that the information revealed by Inman also constitutes one of the pieces of new evidence she hopes will convince a court to re-hear the case.

The one topic Carol Pollard refuses to discuss is her new sister-in-law, Elaine Zeitz Pollard, who married Jonathan Pollard in prison earlier this year.

Carol Pollard is clearly not happy about the situation, but she will not say why.

Pollard's new wife is considered to be a member of the more extreme pro-Pollard camp.

But the Pollard campaign is garnering strength in other powerful circles. Among the latest to sign on to a request for commuting Pollard's sentence to time served are Jon Voight, Jack Lemmon, Whoopi Goldberg, Gregory Peck, Barbara Hershey, Merv Adelson and Roddy McDowell.

Also in Los Angeles, Rabbi Abraham Cooper, associate dean of the Simon Wiesenthal Center, has been active on Pollard's behalf.

Cooper recently wrote to Clinton, suggesting that the Washington Declaration of non-belligerency between Jordan and Israel signaled an occasion for "the leadership of the Jewish community" to reiterate its call "to re-evaluate the case of Jonathan Pollard."

Voight, the actor, recently wrote a letter to Pollard, describing how he had been in close touch with Cooper. He also said he had met Pollard's family.

Urging Pollard to maintain his "will to live," Voight wrote: "My dream is that your energy will be interwoven into the energy of men like Moses, and it would be like a ray of sunshine. When the sun shines, this energy will shine upon the new children of the universe."

Meanwhile, Lester Pollack and Malcolm Hoenlein, chair and executive vice chair, respectively, of the Conference of Presidents, last month visited Pollard at his Butler, NC, prison. It was the first visit by the Conference of Presidents.

Carol Pollard, who speaks often with her brother on the telephone, said he thought the visit went well.

For her part, Carol Pollard seems intent on healing the fissures that surfaced last year, just as Clinton was considering the commutation decision, between those who thought Jonathan Pollard acted properly and was wrongly imprisoned, and those who thought that although what he did was wrong, he had served enough time. □

Pollard



RABBI ALEXANDER M. SCHINDLER • UNION OF AMERICAN HEBREW CONGREGATIONS
PRESIDENT 838 FIFTH AVENUE NEW YORK, NY 10021-7064 (212)249-0100

4 Page Fax

August 15, 1994
8 Elul 5754

sent 8/15

From: Rabbi Alexander M. Schindler

To: Carol Pollard

The enclosed two letters, as promised, are for your files. The first dated September 28 was a personal letter from me to the President. I gave that to Seymour Reich but I did not make a public release of that statement because the leadership of our organization as not on board and I did want to be in a confrontational position with them in the public arena.

The second letter was sent immediately after our Biennial Assembly and was released to the press.

As far as the "Mandela letter" is concerned, as I told you we have no working relationship with him and while I met him together with a great many other people when he visited the United States, my name will mean nothing to him. For all I know it may well be counter productive for he might say "who are these American Jews to tell me what to do?"

I really feel that it is best left to the South African Jews and their Board of Deputies, of which our Progressive congregations are a part, and as could be expected in its liberal wing with the best contacts with the group around Mandela.



COPY

RABBI ALEXANDER M. SCHINDLER • UNION OF AMERICAN HEBREW CONGREGATIONS
PRESIDENT 838 FIFTH AVENUE NEW YORK, NY 10021-7064 (212)249-0100

November 11, 1993
27 Heshvan 5754

President William J. Clinton
The White House
Washington, DC

Dear Mr. President:

Last month, the Biennial Assembly of the Union of American Hebrew Congregations was held in San Francisco. Approximately 4000 delegates attended, representing 875 congregations and 1.25 million members. We were honored to welcome your wife as our guest, and to hear her address on the issue of health care.

Our delegates approved a number of resolutions, including an appeal that you commute the sentence of Jonathan Pollard to time served.

Our resolution noted that in no way do we condone breaking the law, and neither do we claim that Mr. Pollard is innocent of the crime with which he is charged. However, his sentence is grossly disproportionate to sentences that others have received for comparable espionage offenses. No other individual convicted of disclosing information to an ally has received such a sentence. A more typical sentence for an offense comparable to Pollard's is considerably less than the seven and a half years he has already served.

As you know, many religious and community leaders and organizations have supported the reduction or commutation of Jonathan Pollard's sentence, including the Central Conference of American Rabbis.

President William J. Clinton -2- November 11, 1993

Mr. President, I understand that you are to consider this matter in the near future. I urge you to show compassion for Mr. Pollard and to respond positively to our appeal.

Sincerely yours,

Alexander M. Schindler

09/28/93

11:19

3107884471

U A H C

001

ACTIVITY REPORT

TRANSMISSION OK

TRANSACTION #	3601
CONNECTION TEL	6612865
CONNECTION ID	G3
START TIME	09/28 11:18
USAGE TIME	00:36
PAGES	1



09/28/93


14:19

☎3107884471

U A H C

001

ACTIVITY REPORT



TRANSMISSION OK

TRANSACTION # 3617

CONNECTION TEL 6612865

CONNECTION ID G3

START TIME 09/28 14:19

USAGE TIME 00'35

PAGES 1



RABBI ALEXANDER M. SCHINDLER • UNION OF AMERICAN HEBREW CONGREGATIONS
PRESIDENT 838 FIFTH AVENUE NEW YORK, NY 10021-7064 (212)249-0100

September 28, 1993

Alex Schindler to Seymour Reich

Please don't make any public release of my letter, it was sent as a personal message and I do not want any distribution given to it.

The reason is simply: I do not want to get into a confrontational position with my leadership in the public arena.

Many thanks.

Fax CC To Seymour Reich

Seymour -- Just to remind you this letter was sent as a private individual and was not on the UAHC Letterhead...
AMS

September 28, 1993
13 Tishri 5753

The President
The White House
Washington, DC 20500

Dear Mr. President:

This sacred season for the Jewish people is a time of introspection and the situation of Jonathan Pollard has weighed heavily on my mind. He has been paying a rather high penalty for his acknowledged wrong-doing and I believe that it is time to offer him forgiveness and a new beginning.

I am writing to you as a private citizen and on a personal level to urge that his sentence be commuted to time already served.

It is my fond hope you will give serious thought to this request and find it in your heart to provide Jonathan Pollard with a chance to be renewed and restored to a productive life.

With warm good wishes, I am

Sincerely,

Alexander M. Schindler

DREYER AND TRAUB
101 Park Avenue
New York, New York 10178

TELECOPIER COVER SHEET

File No.: 9999 001 00

Date: September 22, 1993

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Rabbi Alex Schindler

TELECOPIER NO.: (212) ⁵⁷⁰~~507~~-0895

FROM: Seymour D. Reich

DIRECT DIAL NO.: (212) 984-6068

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If the reader of the message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the U.S. Postal Service. Thank you.

TOTAL NUMBER OF PAGES: 4 (INCLUDING THIS COVER SHEET)

**IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL OUR TELECOPY
OPERATOR AS SOON AS POSSIBLE AT (212) 661-8800, EXTENSION 5434.
WE ARE TRANSMITTING FROM A XEROX 1020 TELECOPIER.**

Speed Memorandum

As per our conversation.

Seymour

SENT BY:Xerox Telecopier 7021 ; 9-15-93 ; 11:36AM ;

212-

8512885# 2

*Personal
AM*

*com
no U*

ABRAHAM H. FOXMAN
822 UNITED NATIONS PLAZA
NEW YORK, NEW YORK 10017
(212) 480-2555

September 15, 1993

The President
The White House
Washington, DC 20500

Dear Mr. President:

Although I have written to you before in my capacity as National Director of the Anti-Defamation League, in this letter I speak not for ADL but only for myself. I believe the time has come for you to grant clemency to Jonathan Pollard and commute his sentence to the time already served, and I urge you to do so.

This week, as you know, marks the beginning of the Jewish New Year. As recent momentous events vividly demonstrated, it is a season of new beginnings around the world and an appropriate time to offer forgiveness to those who have transgressed.

There is no question that what Pollard did was wrong, and cannot be justified. However, he has acknowledged his transgressions, and he has paid a steep price for them. Pollard, too, deserves forgiveness, and a chance to turn the page and begin a new chapter in his life. I hope you will give him that chance.

Sincerely,

Abraham H. Foxman

AHF:saj

Melvin Salberg

Anderson, Kill, Olick & Oshinsky
666 Third Avenue
New York, NY 10017
(212) 850-0298

September 15, 1993

The President
The White House
Washington, DC 20500


Dear Mr. President:

On the eve of Rosh Hashanah and Yom Kippur, the holiest days in the Jewish calendar, I write to you as a private citizen with regard to Jonathan Pollard.

As you may know, the Anti-Defamation League, which I serve as National Chairman, determined sometime ago, as an institutional matter, not to involve itself in Pollard's case because it found no probative evidence of anti-Semitism in his sentencing. It now is my personal view that as serious as his crime was, Jonathan Pollard has paid his debt to society.

To say the world has changed profoundly in the years since Jonathan Pollard's arrest is an understatement. The Soviet Union no longer exists, the United States and Russia are working together, the Israelis and the PLO are now talking to each other and are committed to reconciliation. At this season of new beginnings and forgiveness for past transgressions and in your words on Monday of this week, "...let us go from this place to celebrate the dawn of a new era...", let Pollard's appeal for clemency receive your favorable consideration.

Sincerely,



Melvin Salberg

MS:ej

09 18 93 10:12 @200 368 2444

Cit. for Justice

@001 001

STEINLAUF-3-STEINLAUF TEL No.516-822-8665

Sep 18,93 10:24 No.001 P.02

DAILY NEWS

220 E. 42d St., New York, N.Y. 10017

MORTIMER B. ZUCKERMAN, Chairman & Co-Publisher

FRED DRASNER, Chief Executive Officer & Co-Publisher

MARTIN DUNN, Editor in Chief LOU COLASCONO, Editor

JAMES C. INCH, Executive Editor DEBBY KRENEK, Executive Editor

RICHARD ESPONTO, Metropolitan Editor ARTHUR BROWN, Editorial Page Editor

Time to free Jonathan Pollard

HE HAS BEEN IN PRISON nearly eight years. He has served much of his time in solitary confinement in the federal maximum-security pen at Marion, Ill. He shares his harsh home with the likes of John Gotti, former Libyan gun runner Edwin Wilson and Navy officer-turned-Soviet spy John Walker. Jonathan Pollard does not belong there. He doesn't belong behind bars anywhere.

A former civilian analyst for the U.S. Navy, Pollard pleaded guilty to giving classified information to Israel. He broke the law and deserved to be firmly punished. But the length of his sentence and the harsh conditions he has endured far outweigh his crime. Only notorious spies working for enemy nations — like John Walker and his brother, Arthur, who sold secrets to the Soviets for 17 years — usually receive life sentences. Pollard is the only person ever to receive a life sentence for helping an ally. The case ended his marriage and broke the health of his former wife, who also served time. Justice now calls on President Clinton to commute his penalty.

Pollard didn't spy for money, and certainly not for an enemy. He confessed and cooperated with the government in return for a reasonable sentence. But the government reneged on the deal. Just before sentencing, then-Defense Secretary Caspar Weinberger sent a note to the judge accusing Pollard of "treasonous" behavior and asking for the maximum sentence. Federal prosecutors, who had promised to request leniency, suddenly switched tunes and echoed Weinberger's refrain. The judge obliged — with a life sentence.

"Treason," of course, is a loaded word, and it had not before been used in the case for a very good reason: None of the intelligence Pollard disclosed compromised American security or personnel. The information he gave Israel dealt with the military might of Iraq and Syria. The disclosure did not hurt the U.S. but did help Israel prepare for possible gas attacks from Saddam's SCUDs during the Gulf War.

The Justice Department is now considering Pollard's petition for commutation, which has wide support in Congress and the American Jewish community. His supporters also include the Rev. Pat Robertson, Nobel laureate Elie Wiesel, Benjamin Hooks, former executive director of the NAACP, and the Rev. Theodore Hesburgh, former president of Notre Dame.

Oddly, the Mideast peace breakthrough gives the case a special resonance. Abandoned by the Israeli government and jailed by the U.S., Pollard is a man without a country. But so is Yasser Arafat. And if Arafat can shake hands with Yitzhak Rabin on the White House lawn and be toasted in Washington, certainly Jonathan Pollard deserves freedom.

He's a chump, not a champ

Mike Tyson, former boxer and convicted rapist, has gotten a promotion. No longer merely a celebrated athlete, he's suddenly a cultural icon. The proof? Men and women all over town are sporting shirts showing Tyson squeezing out of his jail cell above the caption "I'll be back."

YOU BROUGHT ME
SUBSECTION 4B
ON REINVENTING
GOVERNMENT.
I CLEARLY ASKED
FOR SUBSECTION 25B!



VOICE OF THE PEOPLE

Unworthy of salute

Hackensack, N.J.: I applaud the service to our country in time of war by Volcer Robert L. Reed and by his father and his grandfather — but I've got to clue him in that his Confederate ancestor was no United States of America hero. The Confederate flag was the symbol of traitors who sought to split the country and hold a people in bondage. The descendants of those oppressed people find that symbol as revolting as the survivors of Nazi horrors find the swastika.

Henri M. Truesdel

Just plain nuts

Hoboken, N.J.: Who, who, who okayed the entrance to the U.S. of 4,000 Iraq POWs captured in the Persian Gulf War? They are now being settled throughout the U.S., as they claim sanctuary. Each one is to receive \$7,000 and medical care! We have our own veterans from previous wars lying in our streets and getting no benefits. Have we all lost our minds?

Jack O'Brien

Glory day

Flushing: I would like to be one of the many thousands to congratulate Jim Abbott on his first no-hitter. It was the most exciting game I've seen since the first Yankee-Cleveland game my dad took me to see more than 50 years ago. Then it was Joe DiMaggio hitting against Rob Feller. Good luck, Jim. I'm sure this will not be your last no-hitter. Do it again!

Dorothy Cullen Daerhecker

ing about this important policy change. Had not the Legislature pressed the issue, the very test program that you cite as the basis for Kelly's decision might never have occurred.

Enmanuel R. Gold
Deputy Minority Leader

Indelicacy

Canandaigua, N.Y.: The American Society for the Prevention of Cruelty to Animals last year cited "intense suffering and frequently painful deaths" associated with the production of foie gras, a gourmet delicacy made from the fattened livers of ducks. Three times a day, the ducks have a metal pipe jammed down their throats. A pump drives large quantities of corn mixture into the stomach, eventually swelling the liver to eight times its normal size. Even though the district attorney of Sullivan County — where two of the country's three foie gras

COPY



April 23, 1993
2 Iyar 5753

Herbert M. Levetown
Bernel Chemical Co. Inc.
174 Grand Avenue
Englewood, NJ 07631

Dear Mr. Levetown:

Thank you for writing to share with me your disappointment on learning that the Union of American Hebrew Congregations has not joined other American Jewish organizations in seeking to gain a re-evaluation of Jonathan Pollard's sentencing. The matter was thoroughly discussed, and I want to share with you the reason for our position.

This matter was brought before the Commission on Social Action of Reform Judaism following an appearance by Carol Pollard with the Commission's Executive Committee. The Commission debated the matter for several hours, with the participation of many attorneys and two federal judges, who helped to clarify the legal issues involved. When a resolution which recommended commutation came to a vote, it was defeated by 26 to 4. In this connection, you should know that the Commission consists of lay leaders and rabbis, and representatives of all Reform affiliates as well as leaders from Reform communities around the country.

The debate was lengthy, serious, and thorough. The matter was considered from every perspective, and all points of view were discussed. The particular issue which your resolution mentions - - the matter of sentencing - - was also very carefully examined; the Commission took note of the fact that while some people accused of similar crimes have received lesser sentences, others accused of such crimes have received harsher sentences. It really isn't possible to summarize in a few words the full discussion at the Commission but if you wish, I would be happy to send you the minutes of the meeting.

This difficult case has elicited a great deal of emotion on both sides. Many leaders of the Jewish community support commutation at best, a lesser sentence at least. At the same time, most Jewish leaders and organization do not. The special committee established by NJCRAC - - the community relations umbrella body of the Jewish community - - has refrained from endorsing commutation or even a lesser sentence. They feel it best to hold off making any pleas in Pollard's behalf until such time as he is up for parole.

I firmly believe the Commission did everything possible to give this matter full and fair consideration. We do, of course, recognize that not everyone will agree with our course of action. Please don't hesitate to contact me if you have any questions to pose.

With every good wish, I am

Sincerely,

Alexander M. Schindler



April 8, 1993

Rabbi Alexander M. Schindler
President, U A H C
838 Fifth Avenue
New York, New York 10021

Dear Rabbi Schindler:

It was with regret and disappointment that the members, and the Board of Trustees of Beth Chavairuth learned of the U A H C's lack of public support for Jonathan Pollard.

We cannot understand the lack of compassion on the part of Reform Judaism's leading organization in not supporting the growing groundswell of Jewish organizations such as B'nai B'rith, The World Jewish Congress and the Central Conference of American Rabbi's in asking for a commutation of Pollard's life sentence. His crime being of a much lesser nature than those who committed treason against the United States. Why should we allow Chester Weinberger's vindictiveness against Pollard continue to silence our outcry against this injustice. We should be raising our voices to the entire American Population, making them aware of this outrageous sentence. Murderers and rapists are paroled after committing more heinous crimes. Pollard only gave to Israel what had been promised, and then withdrawn by the Weinbergers.

The facts should be published and the U A H C should be in the forefront. We at Beth Chavairuth hope you will take this initiative.

Sincerely,

Herbert M. Levetoan
Member, Board of Trustees
Beth Chavairuth

Pollard

January 5, 1993
12 Tevet 5753

Lawrence J. Elish, President
Central Synagogue of Nassau County
430 De Mott Avenue
Rockville Centre, NY 11570-1815

Dear Mr. Elish:

Thank you for sharing with me the unanimous Resolution of the Board of Trustees of Central Synagogue which calls upon the Union of American Hebrew Congregations to join other American Jewish organizations in seeking a re-evaluation of Jonathan Pollard's sentencing.

This matter was brought before the Commission on Social Action of Reform Judaism following an appearance by Carol Pollard with the Commission's Executive Committee. The Commission debated the matter for several hours, with the participation of many attorneys and two federal judges, who helped to clarify the legal issues involved. When a resolution which recommended commutation came to a vote it was defeated by 26 to 4. In this connection, you should know that the Commission consists of lay leaders and rabbis, and representatives of all Reform affiliates as well as leaders from Reform communities around the country.

The debate was lengthy, serious, and thorough. The matter was considered from every perspective, and all points of view were discussed. The particular issue which your resolution mentions -- the matter of sentencing -- was also very carefully examined; the Commission took note of the fact that while some people accused of similar crimes have received lesser sentences, others accused of such crimes have received harsher sentences. It really isn't possible to summarize in a few words the full discussion at the Commission but if you wish, I would be happy to send you the minutes of the meeting when they are ready in a few days.

Lawrence J. Elish
January 5, 1993
Page -2-

This difficult case has elicited a great deal of emotion on both sides. Many leaders of the Jewish community support commutation at best, a lesser sentence at least. At the same time, most Jewish leaders and organizations do not. The special committee established by NJCRAC -- the community relations umbrella body of the Jewish community -- has refrained from endorsing commutation or even a lesser sentence. They feel it best to hold off making any pleas in Pollard's behalf until such time as he up for parole.

I firmly believe the Commission did everything possible to give this matter full and fair consideration. We do, of course, recognize that not everyone will agree with our course of action. Please don't hesitate to contact me if you have any questions to pose.

With every good wish, I am

Sincerely,

Alexander M. Schindler

cc: Melvin Merians
NYFRS
Comm. on Social Action



Ask Eric How I should answer 12/29

CENTRAL SYNAGOGUE OF NASSAU COUNTY

430 DEMOTT AVENUE • ROCKVILLE CENTRE, NEW YORK 11570-1815 • (516) 766-4300

December 24, 1992

Rabbi Alexander Schindler, President
Union of American Hebrew Congregations
838 Fifth Avenue
New York, NY 10021-7064

Dear Rabbi Schindler:

By unanimous vote, the Board of Trustees of Central Synagogue of Nassau County approved the enclosed resolution calling upon the UAHC to join the more than two hundred North American Jewish organizations (including the Central Conference of American Rabbis) in endorsing efforts to make Jonathan Pollard's sentence commensurate with other sentences for those who have spied for friendly powers, or to reduce his sentence to time served, or at the very least, to call for a government reevaluation of the Pollard case.

Pursuant to the resolution, I have also requested President Bush to take such action. A copy of that letter is enclosed.

We are concerned that the Union has not taken a forthright and courageous stand on this issue of basic justice. We believe the injustice that continues to be inflicted by our government in this case demands that we speak out, even though we risk becoming targets of false accusations of "dual loyalty".

As Herschel Shanks has written, we believe that if Pollard had been a "WASP" spying for Great Britain, he would not have received a life sentence.

Sincerely,

Lawrence J. Elish
President

cc: Mr. Melvin Merians
Rabbi Allen Kaplan
Rabbi Eric Yoffie
Mr. John Stern

Rabbi David Saperstein
Ms. Evily Laser Schlensky
Mr. Melvin Greenberg



CENTRAL SYNAGOGUE OF NASSAU COUNTY

430 DEMOTT AVENUE • ROCKVILLE CENTRE, NEW YORK 11570-1815 • (516) 766-4300

December 24, 1992

President George Bush
The White House
Washington, DC

Dear Mr. President:

The Board of Trustees of Central Synagogue of Nassau County, by unanimous vote, has asked me to appeal to you to grant clemency to Jonathan Pollard by commuting his sentence to time served or, otherwise, to make to make his sentence commensurate with others who have been convicted of espionage for friendly nations. While there is no doubt that his crime was indeed serious, the life sentence he received is clearly excessive when compared with the sentences for other Americans who have spied for friendly governments, or even for our worst enemies. In addition, his particular treatment in solitary confinement constitutes cruel and unusual, if not inhuman, punishment.

We ask that, as you complete your term in office, you do so with this act of compassion.

Sincerely,

Lawrence J. Elish
President

CENTRAL SYNAGOGUE OF NASSAU COUNTY
ROCKVILLE CENTRE, NEW YORK

RESOLUTION ON JONATHAN POLLARD

In November, 1985, Jonathan Jay Pollard, an intelligence researcher and analyst for the U.S. Navy, was arrested and charged with spying on behalf of Israel, America's staunchest democratic ally in the Middle East. He had transferred documents to Israel that he believed to be beneficial to Israel's security needs, including material relating to Iraq's poison gas capabilities. It should be noted that President Ronald Reagan had signed an Executive Agreement in 1983, promising that the United States would relay all intelligence that was vital to Israel's survival.

Pollard's wife, Anne Henderson Pollard, was arrested the next day and charged with being an accessory after the fact to her husband's possession of classified national defense documents. Anne Pollard had developed a severely debilitating intestinal disease, causing her to lose over fifty pounds during her three months of incarceration. The Pollards were compelled to plead guilty, and Jonathan Pollard received a life sentence, though a grand jury declared that his actions in no way endangered the United States. Former Secretary of Defense Caspar Weinberger characterized Pollard as "the worst spy in American history," and asked that he never get parole.

Jonathan Pollard's story has been one of unrelenting woe. He

was held for ten months in a psychiatric ward for the criminally insane. For the past five years he has been in solitary confinement at the maximum security United States penitentiary at Marion Prison.

There is little question that Pollard broke the law. His actions, however well-intentioned and idealistically motivated, were wrong. Nevertheless, there is growing public outrage over the excessive nature of his sentence, which is much harsher than any meted out to other Americans convicted of spying for friendly governments or even our worst enemies. By way of contrast: John and Michael Walker were spied for the former Soviet Union over a period of seventeen years. They were indicted on five counts of treason each. John Walker will be eligible for parole within ten years. There is growing public sentiment, shared by both Jews and Christians, that Pollard's sentence violates the Constitutional stricture against "cruel and unusual punishment."

THEREFORE, be it resolved that the Board of Trustees of Central Synagogue of Nassau County:

1. Calls upon President George Bush (or, if he fails to act, President-elect Bill Clinton, when he takes office) to affirm Jonathan Pollard's basic civil rights by making his sentence commensurate with other sentences for espionage for friendly powers, or to reduce his sentence to time served.

2. Calls upon the Union of American Hebrew Congregations to join more than two hundred North American Jewish organizations in endorsing efforts to make Pollard's sentence commensurate with

other sentences for espionage for friendly powers, or to reduce his sentence to time served, or at the very least, to call for a government reevaluation of the Pollard case.

3. Directs that appropriate communications expressing the above views be sent by the President of Central Synagogue of Nassau County.

Adopted by unanimous approval of the Board of Trustees
Central Synagogue of Nassau County, Rockville Centre, New York
December 22, 1992

P

March 9, 1993
16 Adar 5753

Jonathan Pollard/09185-016
P O. Box 1000
Marion, Il 62959

Dear Jonathan:

My overseas travel schedule precluded an earlier response to your recent note and I hope you will understand the delay.

You should know that it was at my urging that the Commission on Social Action of Reform Judaism discussed your situation. There was a great deal of expressed concern and compassion regarding your personal situation during a lengthy discussion. Nonetheless, following extensive debate the decision was made not to do anything further at this time in terms of a formal appeal to the President.

The men and women who serve on the Commission come from varying backgrounds and they listened to all sides with open minds and each made their decision according to their personal principles. I am not in a position to dictate policy to our Board or, for that matter, any arm of our Union and I am bound by mandate to follow the will of the majority.

With every good wish, I am

Sincerely,

Alexander M. Schindler

MEMORANDUM

Date: March 4, 1993
From: Rabbi Eric Yoffie *EWY*
To: Rabbi Alexander Schindler

*Put H.O. item
in folder
Original*

1. The threat of the Christian right is real enough, although it is far more problematic in some places than in others. The Commission is now preparing a social action packet for distribution to our congregations on how to recognize and respond to the Christian right in your local community.

By the way, the Christian right is targeting local school board elections here in New York, and as you may know, ~~only~~ New York Federation is involved in the effort to combat them.

2. On Pollard: I would recommend a brief note, saying that the Commission on Social Action took up the subject of his case last October, that the members of the Commission expressed concern and compassion for his personal situation, but that the decision was made not to do anything further at this time in terms of a formal appeal to the President.

I would not suggest entering into any of the issues, and trying to explain why the Commission did what it did. Obviously, Pollard will not accept any of our reasoning, and there's no point debating with him.

As far as visiting Pollard with Reich, I mentioned this to Dick Cohen a while back, and he strongly advised against your going. I told him that I personally had no problem with this, but his reaction was that since the Commission -- in the name of the movement -- has taken a position against commutation of sentence, if you go this will lead to stories on divisions within the movement, etc. If you are planning to pursue this, I recommend that you talk to Dick.



3:00
February 9, 1993
Morris, IL

~~Handwritten
of me
a DP~~

Dear Rabbi Schindler,

In light of your belief that G-d doesn't want us to stand idly by in the face of injustice, will the VAHC be making any statements on my behalf? I didn't think so. I guess my sentence isn't covered by your organization's definition of injustice. So much for principle!

Jonathan

Push on Gay Ban Roils Religious Community

Clinton Move Seen as 'Godsend' for Foes

1/29/93

By Gustav Niebuhr
Washington Post Staff Writer

President Clinton's push to lift the ban on homosexuals in the military has struck America's religious community like a thunderclap, spurring conservatives to prepare for battle, prompting declarations of support from liberals and unnerving moderates.

Some on the religious right exult that the issue offers them a double-win, providing a recruiting poster for their causes and possible political damage for Clinton at the very dawn of his presidency.

"Clinton's decision to press this forward is a godsend to us," declared Randall Terry, an antiabortion activist and a leader in the Resistance, a group that sponsored rallies nationwide against homosexuals in the military this month.

"He is squandering political capital. . . . And now this coalition of evangelicals that he was able to build [before the election] is shattering before his eyes," said Terry, who likened Clinton to the biblical king Ahab (husband of Jezebel), who, acting on advice from false prophets, is destroyed in battle.

"Our phone lines have been practically jammed for the past few days, [with] people asking what they can do," said Gary Jarmin, legislative consultant for the Christian Voice, an Alexandria-based lobbying organization. "I haven't seen anything like this in the last 10 years."

This wave of conservative activism comes directly after another, triggered last week by Clinton's executive orders upholding abortion rights. At Operation Rescue National, spokeswoman Margeaux Farrar said local chapters of the antiabortion group have been flooded with calls. "People whom they haven't seen in a couple of years are coming back and saying, 'What can we do now?'" she said.

Yet Clinton's push to include homosexuals in the military has won its share of religious supporters, some of them nationally prominent.

"We just feel very strongly the attempt to include gay and lesbian people in the armed services is really an attempt to extend full civil rights and equal protection under the law to all people in American society," said the Rev. Paul Sherry, president of the 1.6 million-member United Church of Christ (UCC), a Protestant denomination that traces its historical roots to the New England Puritans.

On Wednesday, the church's Washington office waded into the fray, faxing top UCC ministers and social activists pleas to lobby Congress to end the gay ban, said Jay Lintner, the office's director.

Also outspoken for lifting the ban was Rabbi Alexander Schindler, president of the Union of American Hebrew Congregations, which represents 1.5 million Reform Jews. "I applaud President Clinton," he said. A decorated World War II veteran, Schindler said he recently wrote to a Jewish veterans group that opposed lifting the ban to say he was "ashamed of them."

But many religiously oriented persons feel caught uncomfortably in the middle on this issue—among them moderate evangelical Protestants, some of whom broke ranks with their conservative co-religionists to vote for Clinton, according to post-election surveys.

Numerically, they are a significant group, said Lyman "Bud" Kellstedt, a professor of political science at Wheaton College in Wheaton, Ill., and one of four scholars who surveyed the religious and political orientations of 4,001 American adults last year.

The survey found nearly 25 percent of adults identified themselves as belonging to evangelical denominations. Of that group, nearly a quarter placed themselves well within the moderate political camp—saying they would support federal action for comprehensive national health insurance, tax increases to fight poverty, and new taxes for environmental protection, he said. "If there are approximately 43 million evangelicals out there by denominations, we're talking



RANDALL TERRY

... sees Clinton coalition shattering

about 10 million people [with politically moderate views]," he said. "That's a chunk of folks."

For Clinton to begin his administration by pushing for homosexuals in the military risks alienating this group, Kellstedt said. "It puts the moderate evangelical on the defensive."

For many in this camp, it is impossible to discuss homosexuality, and any acceptance of it by civil authorities, without reference to a pair of Bible verses, Leviticus 18:22—"Thou shalt not lie with mankind as with womankind, it is abomination"—and Leviticus 20:13, which makes a similar statement.

"You can't violate the physical laws of the Creator with impunity and you can't violate the spiritual laws with impunity, either," said Robert P. Dugan Jr., spokesman for the National Association of Evangelicals, which represents nearly 50 denominations with a total of about 15 million members. "Because God does judge the nations—it's in the historical record."

But others say the passages must be read differently. "You can't take one text and say this is the totality," said Schindler. "Yes, there is the angry God who punished the men of Sodom, but there is the loving God who doesn't want us to stand idly by in the face of injustice, he said."

Sherry also rejected a literal approach. "Jesus Christ . . . helps me see the center of Scripture is the law of love—reach for the society of justice and mercy and peace for all people," he said.



הארגון הבינלאומי של עורכי־דין ומשפטנים יהודים
THE INTERNATIONAL ASSOCIATION OF JEWISH LAWYERS AND JURISTS

RESOLUTION RE JONATHAN POLLARD,
JANUARY 1, 1993, TIBERIAS, ISRAEL

HONORARY PRESIDENT:

Justice Haim Cohn, Israel

HONORARY DEPUTY PRESIDENTS:

F. Ashe-Lincoln, Q.C., England

Justice William Kaye, Australia

Justice Cecil S. Margo, South Africa

PRESIDENT

Judge Hadassa Ben-Itto, Israel

FIRST DEPUTY PRESIDENT

Itzhak Nener, Israel

DEPUTY PRESIDENTS

Baruch Geichman, Israel

Director General

Justice Jerome Hornblass, U.S.A.

Markus Pardes, Belgium

Joseph Roubache, France

Dr. Oreste Bisazza Terracini, Italy

MEMBERS OF PRESIDENCY

David Rotlevy, Israel

Vice President

Meir Gabay, Israel

President of the Council

Suzi Sadot, Israel

Hon. Secretary General

Haim Grossman, Israel

Treasurer

Jacob Rubin, Israel

Elyakim Rubinstein, Israel

Avraham Tory, Israel

SPECIAL COUNSEL

Professor Irwin Cotler, Canada

EXECUTIVE DIRECTOR

Ophra Kidron, Israel

Observing that Jonathan Pollard has been sentenced to life imprisonment in the U.S. for transmitting State secrets to Israel and considering that the sentence of Jonathan Pollard is grossly disproportionate in comparison with sentences of others convicted for similar crimes in the United States and even disproportionate in comparison with those sentenced for espionage against the United States and on behalf of enemy countries, The International Association of Jewish Lawyers and Jurists calls on the President of the United States to commute Jonathan Pollard's sentence to the time already served.

Dated at Tiberias, Israel, this 1st day of January, 1993.

The Board of Deputies of British Jews

Woburn House, Tavistock Square, London, WC1H 0BZ. Telephone: 071-387 3952, 071-388 7651.
Telex: 262666 BOD G. Fax: 071-383 5848.



8 December 1992

The Attorney General of the United States of America
Department of Justice
WASHINGTON DC
U.S.A.

RE: CASE OF JONATHAN POLLARD

I am writing to you on behalf of the Board of Deputies, which is the representative body for the Jewish community in Britain, regarding the case of Jonathan Pollard. Mr. Pollard was convicted in 1987 of spying for Israel and sentenced to life imprisonment. As you will know, the circumstances of Mr. Pollard's continuing imprisonment are causing grave disquiet among Jewish communities around the world.

It is no part of the Board's purpose to question the guilt of Mr. Pollard. He was convicted of serious crimes by a court of law in accordance with due judicial process, and various appeal processes upheld the conviction.

The Board is, however, concerned on grounds of equity and humanity over the circumstances of Mr. Pollard's imprisonment. Mr. Pollard has been sentenced to life imprisonment for spying for Israel. The material in question related to information which the US Government had formally undertaken to pass over to Israel but failed to do so. That information enabled Israel to prepare itself, as an ally of the United States, against Iraq during the Gulf War.

Mr. Pollard was not spying for an enemy country. No other US citizen spying for an allied country has ever received more than five years in prison. Even where US citizens have been sentenced to life imprisonment for spying for an enemy power, none has ever had to serve his or her sentence in full. Most have been released after a few years; whereas Mr. Pollard has already spent more than seven years in jail. He is serving his sentence in solitary confinement; we understand that he spends his entire life in an underground cell and is confined to his cell for 23 hours a day.

The Board of Deputies of British Jews would urge you to review the case of Mr. Pollard on humanitarian grounds. The conditions of Mr. Pollard's incarceration and their impact upon his health and sanity surely merit the exercise of clemency. We would very much hope that, given the nature of Mr. Pollard's offences and the circumstances of his detention, you would be prepared to consider commuting his sentence on humanitarian grounds. It goes without saying that there is no way in which he can ever reoffend in this way.

If you are unable to consider this matter personally in view of the imminent change of administration, we would ask that you be good enough to pass on this request to your successor once he or she has assumed office.

Neville Nagler
Chief Executive

President
His Honour Israel Fimstein, Q.C.

Vice President
Anthony Ross, O.B.E.
Rosalind Pinner

Treasurer
Ronald Shalvey, F.C.A.

Chief Executive
Neville Nagler, M.A.



CARDINAL'S RESIDENCE

2101 COMMONWEALTH AVENUE
BRIGHTON, MASSACHUSETTS 02135

May 5, 1992

George Bush
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

A few months ago, the Chief Rabbi of Jerusalem, Abraham Shapira, came to visit me. This was an important meeting for both of us in our mutual commitment to deepen relations between our two faiths.

One of the issues that concerns the Rabbi is the incarceration of Jonathon Pollard. The Chief Rabbi did not base his concern on the merits of the case, but rather in pursuit of mercy. Since that time, I have heard from a number of people in both the Jewish and Catholic communities expressing their desire that clemency be granted to Mr. Pollard.

After reflecting on this issue, I write to you to ask if consideration could be given to extending clemency to Mr. Pollard as a humanitarian gesture. Such an act would not call in question the judgment rendered by the court. Nor would it be in response to any charges that some have been making. Rather I am thinking of a humanitarian gesture of the President of the United States which then would allow Mr. Pollard to pick up his life again either here or in Israel.

Mr. President, I know you understand the spirit that motivates this request, a spirit that rests on the importance of forgiveness and reconciliation. In that spirit, I thank you for any consideration you might give to my thoughts.

With warm personal regards to you and Barbara, and asking God to bless you, I am

Sincerely yours in Christ,

Archbishop of Boston

Temple Beth-El of Patchogue

45 Oak Street
Patchogue, New York 11772
(516) 475-1882

Fax No. (516) 475-1928

PRESS RELEASE

RABBIS PETITION RABIN

Richard Thaler
Rabbi

Scott Simon
Cantor

Ellen Marcus
Principal

OFFICERS

David Glaser
President

David Stern
Exec. Vice President

Hyman Pryluck
First Vice President

Perry Switzen
Second Vice President

Joel Kessler
Third Vice President

Susan Grossman
Treasurer

Richard Siegel
Recording Secretary
Ellen Schuster
Corresponding Secretary

Susan Privler
Advisor to President

BOARD OF DIRECTORS

Allan Aronoff
Joseph Bamherger

Anne Benson
Frances Bernstein

Gail Braverman
Janice Campanella

Rachel Floch
Irwin Gerber

Jeffrey Koodin
Nat Mandel

Irvin Privler
Joan Rabin

Allen Robinson
Rita Robinson

Leonard Rosen
Will Ryder

Jerome Sadofsky
Stephen Siegel

Isidore Sohn
Sharon Sossin

Dr. Robert Starr
Sanford Stoll

Ted Zukerman

Over 100 American & Canadian rabbis, who participated in the Eighth Annual Conference of the Israel Bonds Rabbinic Cabinet recently held in Jerusalem, January 9-13, signed a petition thanking Prime Minister Rabin "for his efforts to prevail upon the Government of the United States to commute the life sentence imposed upon Jonathan Jay Pollard." The petition urged the Prime Minister to continue to work vigorously to win Pollard's freedom.

Rabbi Richard Thaler of Temple Beth-El in Patchogue, Long Island, who initiated the petition, observed that Prime Minister Rabin recently urged President Bush to avail himself of the waning days of his administration to commute Pollard's sentence.

Thaler, Rabbinic Chairman of the Long Island Cabinet of Israel Bonds, noted that the Pollards are grateful to Rabin for placing Jonathan at the top of the Israeli - American agenda. "Jonathan's sister Carol asked me to convey the Pollard family's appreciation to the Prime Minister for intervening with the American administration to secure his immediate release from Marion Federal Penitentiary." The petition, signed by rabbis representing all four movements of American Jewry, is the latest expression of broad based American Jewish support for Pollard, now in his seventh year of imprisonment.

Pollard's Term Is Too Long; It Should Match Other Spies'

By Barry Dov Schwartz

DREARY. DRIZZLY. Deep fog. The weather fit the occasion as we drove from the St. Louis airport to the federal penitentiary at Marion, Ill., to visit Jonathan Pollard. Seven years ago Pollard was sentenced to life imprisonment for giving top-secret documents to Israel.

We were three rabbis: Sholom Stern of Cedarhurst, Kenneth Hain of Lawrence and myself. Our mission was to share the pain of a fellow Jew, as required by Jewish law; to reduce by a few hours the isolation of a man confined to a cell for 23 hours a day; to publicize the disproportionate punishment imposed on Jonathan Pollard.

Those of us who advocate commutation of Pollard's sentence do not in any way condone his action. He is guilty. He should be punished. But he should be punished no more harshly than any other spy who has committed a similar crime. Those following the Pollard case must take into consideration that he cooperated with the government throughout the entire ordeal; that he spied for an ally in time of peace, not for an enemy of our country, and therefore the information he passed on, while helping Israel in her fight for survival, never once compromised the national security of the United States; that no similar spy accused of a similar offense ever received a life sentence; that he is remorseful and has stated so publicly on many occasions. Bearing in mind that his accusers stated for the official record, which is now in Pollard's parole jacket, that "Pollard should never again see the light of day," chances for parole are negligible. A presidential commutation of sentence is Pollard's only viable hope.

Jonathan Pollard is everything you would expect a spy not to be. He is sweet in his demeanor, naive in his thinking, idealistic in his philosophy. "I did what I had to do to warn Israel of impending disaster from Iraqi weapons. I was concerned about Israel's survival." But he was quick to add: "I now realize that I should have taken another course of action to help the Jewish state. I got in too deep, way over my head. I made a terrible mistake."

Our visit deep within the penitentiary walls, in the cellar K-unit, would have been overwhelming were it not for Jonathan's contagious optimism and faith. Against greater odds than are imaginable, he is an observant Jew trying to maintain a kosher diet. He spends his days studying religious, secular and scientific works. He yearns for the day when he will be able to make a scientific contribution to the welfare of society.

He is very grateful for human contact from the outside world. His "inside world" provides no comfort. It includes John Walker, who with his family gave secrets to the Soviet Union for more than a decade; Edward Wilson, who sold 20 tons of explosives to Libya's Moammar Gadhafi; Joseph Franklin, who shot Vernon Jordan, bombed three synagogues in Kentucky and went on a killing spree against interracial couples.

Among these resides Jonathan Pollard, who never killed anyone, nor caused the loss of life of any American or American agent, nor conspired with any enemy of the United States. These circumstances explain why Pollard was never indicted for treason. He was indicted on, and pleaded guilty to, a single count: delivering classified information to a foreign government, and that government, Israel, an ally.

Not that he is proud of what he did. By his own admission, he is no hero. He speaks of his crime: "God forbid that I should ever become a role model for anyone, young or old. Unbridled passion can be disastrous, as it was in my case."

We had entered the visitor's cell with a few gifts for Pollard: a prayer book, prayer shawl and phylacteries, study material, Chanukah cards from my Hebrew school children. Nothing could be kept by Pollard, who is strip-searched every time he re-enters private hell. He would return to his cell with no tangible evidence that we had been there. Our five-hour visit ended — but not our fight to commute his sentence to one proportionate to the punishments of others for comparable crimes.



Newsday / B

Barry Dov Schwartz is the rabbi of Temple B'nai Sholom of Rockville Centre.

Newsday

Founded in 1940 by
Alicia Patterson and
Harry F. Guggenheim

Robert M. Johnson
Publisher & C.E.O.

Steven L. Jacobson
Deputy Publisher

Senior V.P., Fin.
Administration

James Fitzgerald

Senior V.P., Legal,
Employee, Public
Affairs

Alberto Bergman

Editor and Senior V.P.
Anthony Marro

VICE PRESIDENTS

Human Resources
Elizabeth V. Dewey

New York Editor
Donald Post

Marketing
Christine Miller

Information Systems
Tom Becker

Community Affairs
Sara Rainey

Finance
Gerald H.L. Trybacz

Circulation
Harold P. Walsh Jr.

EDITORIAL

Managing Editors
Robert P. Brund
Howard Schneider

James Thodman

Editorial
Design Director
Robert Elmer

Photography Director
James C. Dooley

Associate Editor
Sydney H. Schenberg

Assistant Managing
Editors
Richard Olsent
Charlotte H. Hall

David C. Hamilton
Robert E. Keane

Leo Payne
Jim M. Pansh
Byetta Slager

Debra Whitefield

ADVERTISING

Director
John McKean

L.I. Manager
Patricia A. Burnagiel

N.Y. Manager
Cory Gates

National Manager
Raymond J.
McCutcheon

OPERATIONS

Director
Ed Hughes

Transportation
Director
Martin J. Bartow

Administrative
Director
John Wills

Manager
Ken Savicki

FINANCE
Director
Nancy J. Ito

CIRCULATION

Manager
Bruce Murray

L.I. Manager
Robert Brennan

N.Y. Manager
Fred Bellas

MARKETING
SERVICES
Promotion Director
Susan Fletcher

Research Manager
Edward Farrell

ADMINISTRATIVE

SERVICE
Director
Bernard B.

COMMUN.
AFFAIRS
L.I. Director
Reginald T.

N.Y. Director
Chitra Co.

TIMES MIRROR COMPANY

Robert F. Schure
Chairman
David L. Rosenfeld
President

CHARLES E. SCHUMER
10TH DISTRICT, NEW YORK

WASHINGTON OFFICE:
2412 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3210
(202) 225-6616
TELEFAX (202) 225-4183

BROOKLYN OFFICE:
1528 KINGS HIGHWAY
BROOKLYN, NY 11228
(718) 905-8400
TELEFAX (718) 905-5208

Congress of the United States
House of Representatives
Washington, DC 20515-3210

COMMITTEES:
JUDICIARY
CHAIRMAN
SUBCOMMITTEE ON
CRIME AND CRIMINAL JUSTICE
BANKING, FINANCE
AND URBAN AFFAIRS
INTERIOR AND
INSULAR AFFAIRS
NEW YORK STATE
DEMOCRATIC DELEGATION
TREASURER
WHIP-AT-LARGE

December 24, 1992

President George Bush
The White House
Washington, D.C. 20500

Dear Mr. President:

As a member of Congress dismayed by the disproportionate prison term received by Jonathan Pollard, I wish to voice my plea for justice. Pollard, convicted of one count of passing classified information to an ally, was sentenced to life in prison.

I in no way condone acts of espionage, nor do I underestimate the gravity of Jonathan Pollard's crime. Nonetheless, the lifetime sentence imposed on Mr. Pollard is unduly severe and inconsistent with the sentences awarded to other Americans convicted of similar offenses. Indeed, Mr. Pollard's sentence is harsher than the sentences meted out to individuals convicted of spying for enemy countries and is the harshest sentence in United States history for the crime of spying for an allied country.

Furthermore, in return for the government's promise to request a lesser term at sentencing, Pollard pled guilty and fully cooperated with prosecutors and security agency investigators. A prison term of life in prison with a recommendation of no parole -- the maximum sentence possible -- is excessive in this instance.

I therefore call on you to consider commutation of Jonathan Pollard's sentence to a term appropriate to the nature of the offense for which he was convicted and more accurately reflective of the consequences of his crime. Today you pardoned Caspar Weinberger, the man who requested the sentencing judge to award Pollard a lifetime sentence. It would only be proper to now address the question of Jonathan Pollard's fate.

Sincerely,



CHARLES E. SCHUMER
Member of Congress

Congress of the United States
House of Representatives
Washington, DC 20515-3203

January 21, 1993

Mr. David Kirshenbaum
3308 Fourth Street
Oceanside, New York 11572

Dear Mr. Kirshenbaum:

Thank you for contacting my office to express concern about the treatment of Jonathan Pollard. I certainly understand and appreciate the points you raised in this important matter.


I am pleased to report that on January 20th -- Inauguration Day -- I sent a letter to President Clinton to urge that he take immediate action to reduce Mr. Pollard's sentence. For your review, I have enclosed a copy of my letter.

It is my belief that Mr. Pollard's life sentence is unfairly harsh and should be reduced to reflect fairness and justice. Please be assured that I will be closely following the President's consideration of this issue.

Should you have any further questions or comments concerning the Pollard case, please do not hesitate to contact me. Once again, thank you for getting in touch.

With warm regards, I remain

Sincerely,



PETER T. KING
Member of Congress

PTK/jfh

Congress of the United States
House of Representatives
Washington, DC 20515-3203

January 20, 1993

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

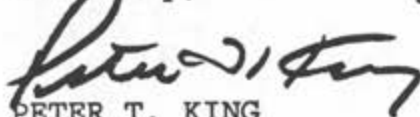
I am writing to relay the serious concerns I share with a great number of my constituents about the Jonathan Pollard case.

As you know, Mr. Pollard pled guilty to one count of passing classified information to a foreign government and was sentenced to life in prison. Since June 1988, he has been incarcerated in solitary confinement in the maximum security Federal prison in Marion, Illinois. The prison rules allow Mr. Pollard to exercise and have contact with a single inmate for only one hour per day. For the remaining 23-hours of each day, he must remain in his cell.

I condemn Jonathan Pollard's criminal acts and any acts of espionage against the United States. Mr. Pollard knows that his crimes cannot be excused and are deserving of punishment. Nevertheless, the sentence in this case is excessive and should not exceed the sentences of other individuals convicted of similar crimes.

Accordingly, it is with humanitarian concern that I call on you to favorably consider the request that Jonathan Pollard's sentence be reduced to better reflect fairness and justice.

Sincerely,



PETER T. KING
Member of Congress



PERSPECTIVE

Is the Pollard Case A Jewish Issue?



The American Jewish community should have no special interest in the Jonathan Pollard case, argues a *MOMENT* reader (Matthew E. Lieff, see page 74). Pollard

admittedly violated United States law by spying for Israel: "[He] made his own bed and now he must lie in it."

Some mainstream Jewish organizations, such as affiliates of the National Jewish Community Relations Advisory Council, have taken this same position: It isn't a Jewish issue. They concede, like reader Lieff, that Pollard's life sentence is unfair and grossly disproportionate. Pollard received the maximum sentence (life imprisonment) despite pleading guilty (saving the government the expense of a trial and the exposure of classified material), despite spying for an ally (not an enemy), and despite cooperating with the government after apprehension. The severity of his sentence, they argue, is just one of the breaks of the game. The trial judge in our justice system decides the sentence; that's the chance you take when you commit a crime. This is the way it works for Jews and non-Jews alike. Although no one defends Pollard's sentence as fair or just, this isn't an issue that should engage the American Jewish community.

What if, instead of spying for Israel, Pollard had robbed a bank (no one got hurt, the amount taken was not large and he needed the money for medical attention for his wife); and what if, instead of getting the usual ten-year sentence, he got life? Would this be a Jewish issue? Clearly not.

Well, I'm not so sure. What if, instead of a Jewish Pollard who robbed

the bank in these circumstances and got a life sentence, it were a middle-class black? I suspect the black community—and many whites—would be up in arms. The system was discriminating against blacks, they would argue. The proof of this would be the sentence itself, which discriminated against a black person by imposing a patently unjust life sentence, despite the defendant's guilt.

In Pollard's case, we certainly cannot prove the sentence was the result of antisemitism. Many people can't avoid feeling, however, that this disproportionate sentence had something to do with the fact that an American Jew was caught spying for Israel. Maybe it wasn't antisemitism. Maybe the trial judge thought spying for Israel was especially bad because the region was so volatile. Or maybe he thought that for a Jew to do this—in America yet—was especially bad given Jewish values. As it says in the Bible, God has singled us out for punishment *because we are a special people*:

You only have I known
Of all the families of the earth.
Therefore will I punish you
For all your iniquities (Amos 3:2).

Or maybe former Defense Secretary Caspar Weinberger's secret memo to the trial judge convinced him that such irreparable damage occurred (Weinberger clearly harbored a harsh view of Israel) that the book should be thrown at Pollard.

It may not be antisemitism, but most of us have the nagging feeling that if Pollard had been a WASP spying for Great Britain, he would not have received a life sentence.

That alone may make Pollard's case a Jewish issue. But there is more.

Pollard was involved in our enterprise. He was a rogue doing what we would have condemned and do condemn; his is not the way to support

Israel. He deserves to be punished but, still, not unfairly. If his spying for Israel and his unfair sentence doesn't make his case a Jewish issue, then his engagement by Israel—and his abandonment by her—makes it a Jewish issue.

It is embarrassing for American Jews to stick up for Pollard, a confessed spy who sullied our image and acted disloyally to the country we love. We may even feel we are proving our loyalty by remaining silent, by affirming that this is not a Jewish issue. But that, it seems to me, is not the courageous way. We can in one breath—as Jews—both condemn what Pollard did and object to his unfair sentence. In this great country, we can be loyal American citizens and still recognize that Pollard was trying to help Israel and, although we condemn how he sought to do this, we as a community can still decry his unfair sentence.

The Pollard case is not an easy one. It requires us as a community to walk a fine line. We don't want Pollard's crime to rub off on us as a community. We can't prove his unfair sentence resulted from antisemitism. Yet he is a Jew engaged by Israel who has been unfairly treated—not unfairly convicted but unfairly sentenced. Moreover, he has been forsaken by Israel. As a community, it takes some backbone to take the risks involved in inveighing against Pollard's unfair sentence. But it is the right thing to do.

Responsibilities Of a Jewish Journalist

At the annual meeting of the American Jewish Press Association this summer, Jewish journalists struggled with an age-old question: Are we journalists who happen to be Jewish or are we Jews who happen to be journalists? Do we write regardless of the effect on the

continued on page 6

HADASSAH
THE WOMEN'S
ZIONIST
ORGANIZATION
OF AMERICA, INC.

NEWS

HADASSAH
THE WOMEN'S
ZIONIST
ORGANIZATION
OF AMERICA, INC.

80 WEST 58 STREET
NEW YORK CITY
NEW YORK
10019
212.353.7900 PHONE

NATIONAL
DEPARTMENT OF
PUBLIC AFFAIRS
212.303.8155 PHONE
212.303.4525 FAX

TOBEY R. OLKEN, ESQ.
CHAIRMAN
WENDY HIRSCHHORN
DIRECTOR

FOR IMMEDIATE RELEASE

Contact: Wendy Hirschhorn (212) 303-8153

HADASSAH VOTES TO SUPPORT COMMUTATION

FOR JONATHAN POLLARD

NEWARK, N.J. (January 27, 1993) — The National Board of Hadassah, the Women's Zionist Organization of America, adopted the following statement at its Mid-Winter Meetings here:

WHEREAS, Jonathan Pollard pleaded guilty to the charge of Conspiracy to Deliver National Defense Information to a Foreign Government, and

WHEREAS, Jonathan Pollard has already served seven years,

NOW THEREFORE, BE IT RESOLVED, that on humanitarian grounds, Hadassah calls on the President of the United States to commute Jonathan Pollard's sentence to time already served.

"We urge President Clinton to understand the humanitarian motivation which compelled our Board members to take this action and to give this matter his serious consideration," said Deborah Kaplan, National President of Hadassah.

FOREIGN AFFAIRS COMMITTEE

SUBCOMMITTEES

EUROPE AND MIDDLE EAST

(RANKING MINORITY MEMBER)

INTERNATIONAL OPERATIONS

Congress of the United States

House of Representatives

Washington, DC 20515-3222

December 7, 1992

SERVICE COMMITTEE
(RANKING MINORITY MEMBER)

SUBCOMMITTEE:
INVESTIGATIONS

SELECT COMMITTEE ON
NARCOTICS ABUSE AND
CONTROL

SELECT COMMITTEE ON
HUNGER

VICE CHAIRMAN,
TASK FORCE ON
AMERICAN PRISONERS AND
MISSING IN SOUTHEAST ASIA

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I deeply regret that current events will preclude our continuing to work together. The past twelve years have brought about many changes, most particularly the end of the Cold War. Your foresight and leadership over these years are greatly appreciated, and your substantial contributions have helped change history forever.

During these final weeks of your administration, I would like to bring to your attention a serious matter which I believe deserves your personal consideration and action. After carefully reviewing the facts in the case of Jonathan Pollard, I believe that a commutation of his sentence is in order. It is my understanding that you have been contacted about this by many individuals, among them Elie Wiesel and Pat Robertson.

While Jonathan Pollard committed serious violations, I believe that our justice system should be uniformly fair. Jonathan Pollard was sentenced to life imprisonment without parole, while others, sentenced on similar charges, have received less severe sentences, with eligibility for parole. Therefore, I am enclosing some information for your review.

Jonathan Pollard's conviction may be justified, but his sentence is not. Accordingly, I urge you to use your authority to commute Jonathan Pollard's sentence to time served by granting him a presidential pardon.

With best wishes,

Sincerely,

BENJAMIN A. GILMAN
Member of Congress

BAG/deb
Enclosure

PLEASE REPLY TO:

WASHINGTON OFFICE
2185 RAYBURN BUILDING
WASHINGTON, DC 20515-3222
TELEPHONE: (202) 225-3776

DISTRICT OFFICE
24 EAST AVENUE
P.O. BOX 358

MIDDLETOWN, NY 10940-0358
TELEPHONE: (914) 243-6686

DISTRICT OFFICE:
220 ROUTE 58
MONSIEY, NY 10952-2498
TELEPHONE: (914) 367-9000

DISTRICT OFFICE:
32 MAIN STREET
HASTINGS-ON-HUDSON,
NY 10705-1602

TELEPHONE: (914) 478-2550

MEMORANDUM

March 2, 1993

FROM: Rabbi Alexander M. Schindler
TO: Rabbi Eric H. Yoffie

In the JTA Daily News Bulletin of February 26th, page 4, there is an article relating to the "Christian Right Poses Serious Threat in Local Elections."

Is this threat real? Ought we to be concerned? What can we do about it? Please let me have your assessment.



Union of American Hebrew Congregations

SERVING REFORM JUDAISM IN NORTH AMERICA

838 FIFTH AVENUE, NEW YORK, NY 10021-7064 (212) 249-0100

9

September 21, 1990
2 Tishri 5751

Jonathan Pollard/09185-016
P.O. Box 1000
Marion, IL 62959

Dear Jonathan:

I reciprocate your good wishes for a healthy year.

Needless to say, I was deeply touched by your accounting of the problems you have had with Ann. Would that there was something that I could do to be of help. Hopefully you will have the strength you must have for this travail as well.

I share your hope that the changing situation in the Middle-East will ultimately have its effect on your future as well. It does lend a new perspective to what transpired - now that the fearsome weaponry concerning which you warned is turned against America's own soldiers. Certainly the severity of your sentence merits a re-examination.

SP We are all quite ~~worried~~ about the future. More than Iraq's withdrawal is at stake here, or even Saddam Hussein's personal status. Somehow this mighty arsenal of conventional and non-conventional weaponry has to be neutralized and that will be difficult, though not impossible, to achieve by diplomatic means.

Israel is at military and diplomatic risk --at least from a long time perspective, although I still cling to the hope that out of the present chaos a new regional security arrangement can be forged which will help to secure Israel's future.

Every good wish.

Sincerely,

Alexander M. Schindler



COPY

RABBI ALEXANDER M. SCHINDLER • UNION OF AMERICAN HEBREW CONGREGATIONS
PRESIDENT 838 FIFTH AVENUE NEW YORK, NY 10021-7064 (212)249-0100

May 27, 1992
24 Iyar 5752

Jonathan Pollard/09185-016
P.O. Box 1000
Marion, IL 62959

Dear Jonathan:

As you know, Rabbi Schindler has been out of the city for an extended period of time. He has still not returned, but I did have an opportunity to read your letter of May 2nd to him. He asked me to let you know that he will not be back in the office until June and he will try to be in touch with you on his return, albeit he is scheduled to leave for Israel a week or two after he gets back to his desk.

Be that as it may, Rabbi Schindler has asked me to convey to you his warm good wishes.

With kindest greetings, I am

Sincerely,

Edith J. Miller
Assistant to the President

COPY

*Edie -
Tell him I won't
be back till June -
You read me his letter -
I. Send him my good
wishes -*

May 14, 1992
11 Iyar 5752

Jonathan Pollard/09185-016
P.O. Box 1000
Marion, IL 62959

Dear Mr. Pollard:

Your correspondence to Rabbi Schindler arrived, unfortunately, after he left the city for engagements that will keep him from his desk for an extended period of time.

I will, of course, hold your letter for his return in June and I write to inform you of the reason for the delay in his response to you.

With all best wishes, I am

Sincerely,

Marian Brewer
Rabbi Schindler's office

*I think I will want
to visit him
find out how
about it - I go
from Westport
maybe
Alice's wife
Reich
he'll know
Iat don't promise
Pollard that I'll
come.*

307
May 2, 1992
Marion, IL

Dear Rabbi Schindler,

Many thanks for your letter of April 20th. Needless to say, I was extremely happy to learn that the UAHC's Commission on Social Action is intending to meet with my sister, Carol. I'm confident, Rabbi, that positive things will flow from this meeting. I'm only sorry that I won't be able to address the Commission in person!

On a private note, I had a wonderful visit with Rabbi Emanuel Rackman several weeks ago. Without doubt, he has got to be one of the nicest individuals I've ever been privileged to meet. The fact that I was able to do some learning with him only made the visit all that more memorable for me. You know, Rabbi, I really think that if I'd been able to study with a man like Rabbi Rackman earlier in my life, I just might have entered the rabbinate. There was one rather disagreeable aspect of the visit, though, that I had not anticipated: namely, the presence of a DOD monitor. While Rabbi Rackman didn't say anything about this at the time, I understand that he was incensed by the government's implied distrust of him. What is it, Rabbi, that the administration is so afraid of I'm going to reveal? The Iraq had a secret poison gas program? My Lord, most of the facilities associated with that enterprise are now nothing more than piles of rubble. It's all rather confusing, to say the least.

Speaking of Iraq, please be sure, Rabbi, to pay particular attention to the enclosed letter Congressman Lee Hamilton recently sent my father. I nearly had a stroke when I saw how a U.S. soldier who'd been convicted of spying for Iraq during the Gulf War had had his 35 year sentence reduced on appeal to 19 years. Given the new parole guidelines, Rabbi, this means he'll be released after serving only 13 years. And I received a life sentence for helping Israel? What in the world is going on here, Rabbi?

Well, as usual, the local authorities managed to make Perach as miserable as possible for me. For the first time in 6 years, Rabbi, the BOP prevented several synagogues from sending me the special provisions I needed to make a Seder. In spite of this, though, I still managed to put something together out of paper facsimiles. It may not have been very "aesthetic", but it was the best I could do under the circumstances. Luckily, though, one

of my lawyers in Washington, Judith Barnett, came through for me on the second night. During the course of a legal call, Judith and Michael Berenbaum, who is one of the directors of The U.S. Holocaust Memorial Museum, put on a special 10 minute Seder for me. Can you believe I had to go through all this? Some times, Rabbi, I really wonder where I am.

About an hour after the "Seder" with my friends I decided to turn on PBS and watch a documentary on the Lodz Ghetto. What a mistake. I don't know whether or not you've ever seen this documentary, Rabbi, but I, for one, was absolutely devastated after viewing it. I just sat in my chair for what seemed to be an eternity trying to sort out all ^{of} my emotions - rage, hate, fear, and most of all, profound sadness. And then, just when I thought that I'd gotten control of myself, my next door neighbor, John Walker, yelled out to me: "Hey, Pollard, your people sure do die like dogs." What could I say? I just turned out the lights and prayed that I would never ^{again} spend another Pesach like this one, surrounded by animals like Walker and alone with my thoughts of vengeance. This kind of emotional mix is not healthy, Rabbi - it's not healthy at all. Well, I suppose that this, too, will pass.

At any rate, let me just tell you, Rabbi, how much I deeply, deeply appreciate your continued support. And if your travels ever take you out this way, please know that I would be honored to meet with you.

Stay well,

Amos Pollard



Religious Zionists of America

מזרחי • הפועל המזרחי • MIZRACHI - HAPOEL HAMIZRACHI

April 1, 1992

Honorary Presidents

Rabbi Dr. Joseph B. Soloveitchik
Rabbi Dr. Norman Lamm
Hermann Merkin

President

Rabbi Dr. Sol Roth

Chairman of the Board

Rabbi Dr. Louis Bernstein

Chairman of

Administrative Committee

Rabbi Solomon Trau

Executive Vice President

Israel Friedman

First Vice President

Shragai Cohen

Vice Presidents

Marvin Bienenfeld
Abe Butler
Marty Cohen
Rabbi Joseph Ehrenkranz
Rabbi Ezra Gellman
Mrs. Jean Goldrich
Rabbi Sidney Goldstein
Rabbi Rafael Grossman
Arie Halpern
Rabbi Emanuel Holzer
Rabbi Dr. Leon Katz
Rabbi Simcha Krauss
Dr. Manfred R. Lehmann
Jack Nagel
Joel H. Paul
Rabbi Milton H. Pollin
Rabbi Marc Schneier
Noah Stomowitz

Treasurer

David Yagoda

Secretary

Dr. Chanania Gang

Financial Secretary

Max Lewko

Executive Director

Cantor Moshe Ehrlich

Vaad LeHizuk Hatorah

Rabbi Zevulun Charlop

Bet Din Hakavod

Rabbi Shimon Romm

Vaad Chinuch Hatorani

Rabbi Max Schreier
Rabbi Abraham Avrech

RESOLUTION ON THE CASE OF JONATHAN POLLARD

The Religious Zionists of America emphasizes that persons convicted of espionage under the laws of this country should expect to be punished under its laws and condemns all crimes of espionage against the United States.

In the case of Jonathan Pollard, the Religious Zionists of America notes the findings of the International Association of Jewish Lawyers and Jurists that

1. "Jonathan Pollard's sentence is far harsher than those meted out to many persons convicted of spying for the Soviet Union and other Soviet-bloc countries even where such espionage activities endangered the lives of U.S. agents and the loss of critical strategic and technical data to the Soviets."
2. "Jonathan Pollard's sentence is grossly inconsistent with, and far harsher than the treatment received by other Americans accused or convicted of spying for friendly third parties of governments."

Accordingly, the Religious Zionists of America calls for the commutation of Jonathan Pollard's sentence, to time served.

Cordially yours,

Rabbi Dr. Sol Roth
President

SR:rc

DANTE B. FASCELL, Florida
Chairman

LEE H. HAMILTON, Indiana
GUS YATRON, Pennsylvania
STEPHEN J. SOLARZ, New York
HOWARD WOLPE, Michigan
SAM GEJDENSON, Connecticut
MERVYN M. DYMALLY, California
TOM LANTOS, California
ROBERT G. TORRICELLI, New Jersey
HOWARD L. Berman, California
MEL LEVINE, California
EDWARD F. FEIGHAN, Ohio
TED WEISS, New York
GARY L. ACKERMAN, New York
JAIME B. FUSTER, Puerto Rico
WAYNE OWENS, Utah
HARRY JOHNSTON, Florida
ELIOT L. ENGEL, New York
ENI F.H. FALEOMAVAEGA, American Samoa
GERRY E. STUDDS, Massachusetts
AUSTIN J. MURPHY, Pennsylvania
PETER H. KOSTMAYER, Pennsylvania
THOMAS M. FOGUETTA, Pennsylvania
FRANK McCLOSKEY, Indiana
THOMAS C. SAWYER, Ohio
DONALD M. PAYNE, New Jersey
BILL ORTON, Utah
(VACANCY)

JOHN J. BRADY, Jr.
Chief of Staff

One Hundred Second Congress

Congress of the United States

Committee on Foreign Affairs

House of Representatives

Washington, DC 20515

WILLIAM S. BROOMFIELD, Michigan
Ranking Minority Member

BENJAMIN A. GILMAN, New York
ROBERT J. LAGOMARSINO, California
WILLIAM F. GOODLING, Pennsylvania
JIM LEACH, Iowa
TOBY ROTH, Wisconsin
OLYMPIA J. SNOWE, Maine
HENRY J. HYDE, Illinois
DOUG BEREUTER, Nebraska
CHRISTOPHER H. SMITH, New Jersey
DAN BURTON, Indiana
JAN MEYERS, Kansas
JOHN MILLER, Washington
BEN BLAZ, Guam
ELTON GALLEGLY, California
AMO HOUGHTON, New York
PORTER J. GOSS, Florida
ILEANA ROS-LENTINEN, Florida

JOHN R. SINCLAIR
Minority Chief of Staff

March 31, 1992

Dr. Morris Pollard
Lobund Laboratory
University of Notre Dame
Notre Dame, IN 46556

Dear Morris,

I wanted to follow up on your letter of February 26th regarding the case of Specialist Albert Sombolay. I regret the delay in getting this information, but it took time to find the right people to talk to.

Mr. Sombolay was convicted in Germany in July, 1991 on five counts: two counts of espionage; two counts of attempted espionage; and one count of communicating directly with the enemy. In this case, the enemy was an Iraqi Government official in Germany. It is my understanding that he pleaded guilty to these counts, and that he also pleaded not guilty to other counts involving larceny and other violations. He was sentenced to dishonorable discharge and 35 years. The case is still in process and will be taken up by the Court of Military Review sometime in the next six months. In one step in the process, his sentence was already reduced to 19 years, I understand.*

The Court-appointed attorney for Mr. Sombolay is Capt. Robin Slope (703) 756-0592. She is understandably quite knowledgeable about the case. It is not yet clear who will be the Government's attorney in the case, so I could not talk to her or him, but at this point the case is under the purview of Lt. Col. Dell'Orto (703) 756-8367. When Capt. Slope files an appeal in roughly two months, an attorney for the Government's side in the case will be assigned, I am told.

I hope this information is helpful. A transcript of the proceedings in Germany was made available to Mr. Sombolay. I do not know if it is available to others.

It was good to see you recently. I trust you will stay in touch on all issues of mutual interest.

With best regards,

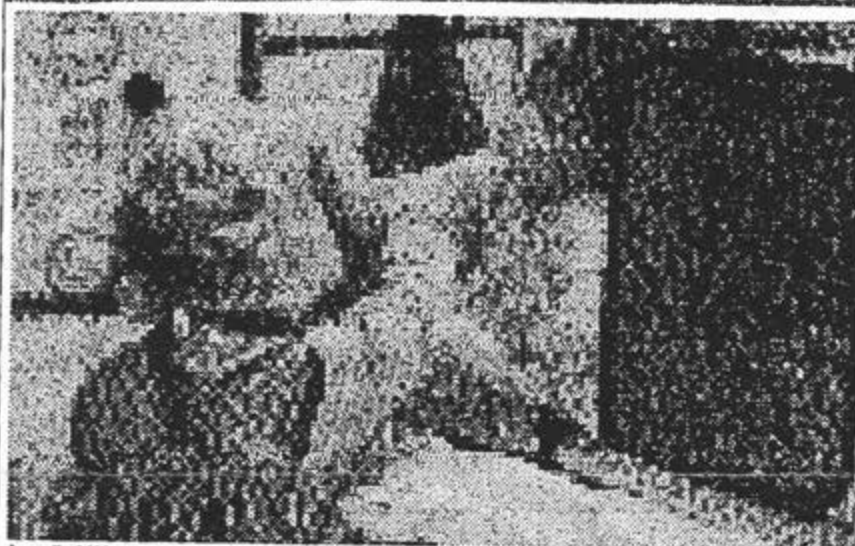
Sincerely,



Lee H. Hamilton
Chairman
Subcommittee on Europe
and the Middle East

* This means he'll be out in 13 years!

THE INSIDE STORY



Israeli children prepare for chemical weapons attack during Gulf War

"The Ghost of Israel's Sealed Rooms"

The man who helped Israel to be prepared for the Gulf War is languishing in a U.S. maximum security prison. Why?

It was not long after he ordered his "Republican Guard" to ravish Kuwait that Saddam Hussein turned his attention to Israel, threatening to destroy the tiny Jewish State with poison gas. But due to the actions of one man, Israeli citizens were prepared for such an occurrence. Today, Israelis call this individual "the ghost of the sealed rooms," for it was largely due to his efforts and sacrifice that they were prepared when Saddam launched "El-Abed," the Iraqi missile, at Israel in January of 1991.

It had long been a standard practice in Israel to include a bomb shelter in each new building. But in 1985, the Israelis suddenly changed their approach to civilian defense. Bomb shelters were still built, but the emphasis was shifted to a new concept—the "sealed room." Every building, house, and apartment would contain a room that would be sealed with plastic and therefore capable of protecting its occupants from poison gas. Five years later, when the Iraqi Scuds rained down on Tel Aviv, the poignant and bizarre specter of thousands of men, women, and children donning gas masks and retreating to their "sealed rooms" became one of the most enduring images of the Gulf war.

The mass protection provided by the nation's "sealed rooms" intrigued outside observers previously unaware of Israel's comprehensive preparations for a chemical weapons attack. Dr. Peter Hutchinson, the noted British expert on mass crisis intervention, stated to *The Jerusalem Post* that "there is nowhere else on

earth as prepared as Israel" for a chemical attack against her population. The fact that Saddam Hussein proved unable or unwilling to use his poison gas on the Israelis is beside the point. The Gulf war saw almost fifty ballistic missiles fall on the Jewish State. Had they carried the promised chemical warheads, Israel would have been ready.

How, then, did Israel come to be prepared, while all of the other Middle East nations, and even some of the coalition armies arrayed against the Iraqis, were not? Herein lies our "ghost story." Like many stories dealing with Israeli security, it is one of Byzantine intrigues, admirable farsightedness, and great sacrifice. It is the story of how the Israelis, haunted by the memory of their slaughtered millions, burned political bridges, broke all the rules, and sacrificed the lives of one Jewish family in order to prevent a potential second Holocaust. The Israelis suffered consequences for their actions; of that there can be no doubt. But they were prepared when Saddam's missiles flew.

Still, the fate of the man who warned them of Saddam's chemical weapons capability weighs heavily on Israelis, who feel he stood between them and their worst nightmare.

"Why such information, some of it vital to Israel's very survival, was being officially withheld from Israel by the U.S. remains a mystery."

"Every day," wrote one Israeli journalist, "we fight the Arabs and win. But every night, we fight the Nazis and lose."

The defense of Israel's civilian population is charged to a special unit within the Israel Defense Forces known as Hago. It is to this unit that the older men and those generally unfit for combat duty are sent. In an army whose components are mostly combat units, Hago has been the butt of some pretty mean jokes over the years. The Gulf war proved, however, to be their war, for it was the soldiers of the Hago units who found themselves on the "front lines," while the combat units cooled their heels on the borders or remained at home, unmobilized.

It was Hago that introduced the "sealed room" doctrine in 1985 and placed the orders for gas mask design and production. The now-famous Protective Infant Carrier or "cocoon" (see photo) was designed and produced during this period, as were smaller, blower-driven gas masks for older children. When the British refused to sell Israel a blower-driven gas hood for younger children, Hago ordered the design copied and rushed into production. Millions of doses of the nerve gas antidote, Atropine, in automatic injectors were also ordered, as well as decontamination powder, extra gas mask filters, blower batteries, and the like. Movies, lectures, and pamphlets were prepared to educate the population to use the protective equipment and prepare their sealed rooms. Finally, Hago drew up a plan to rapidly distribute protective kits to every man, woman, and child—Jewish and Arab—inside the Israeli borders, including the West Bank and the Gaza Strip, should the need arise.

Hago had a little more than five years to prepare, but the day finally arrived in the fall of 1990 when the population of Israel was ordered to prepare their sealed rooms and take out their protective equipment. Kuwait had been invaded, and "the Butcher of Baghdad" was openly threatening Israel.

At a little past two in the morning, on Friday, January 18, 1991, the time for preparations ended, and Hago's foresight was tested. A salvo of eight Iraqi Scuds landed in Israel's population centers, but, prepared for the worst, the Israelis withstood the tense hours of high explosives and fear. Throughout the Gulf war, with repeated Scud attacks on the Jewish State, Israelis found refuge within their sealed rooms from the promised Iraqi gas attacks.

Still the question remains: How did the Israelis know the danger in 1985, with time enough to prepare? How could they have known back then, when the Iran-Iraq War was in a lull, before any missiles had been launched at any cities, before the Iranian troops had been gassed in the Fao Peninsula, and even before the Kurdish villages had perished in the lethal vapors? It was, of course, the work

of Israeli Intelligence, the Jewish State's first line of defense.

The gathering, analysis, and dissemination of the critical information rank this coup high among the legendary successes of Israel's Secret Services. There was, however, the cumbersome, untidy problem of the Jewish family this intelligence coup destroyed. That is the story of the convicted Israeli spy, Jonathan Jay Pollard.

Then a bright, young U.S. Naval Intelligence officer, Pollard betrayed the trust of the U.S. Government, destroyed his family, and sacrificed his freedom in order to pass on certain intelligence information to the Israelis. What sort of information? Details of Iraqi and Syrian gas, chemical, and biological warfare capabilities; Soviet arms shipments to Arab countries; Pakistan's efforts to build an atom bomb; U.S. Intelligence assessments of PLO-planned activities; Libyan air defenses, and more.

Why such information, some of it vital to Israel's very survival, was being officially withheld from Israel by the U.S.—despite the "U.S.-Israel Exchange of Intelligence Agreement" the two nations had signed just two years earlier—remains a mystery. To Pollard it was more than a mystery; it was an outrage. (When Pollard asked his superiors in the U.S. Defense Department why information about the poison gas capabilities of Israel's sworn enemies was being withheld from Israel, he was reportedly told: "Jews are too sensitive about gas.") Pollard responded by breaking the rules—big time.

For his sins, Jonathan Jay Pollard is currently and perhaps permanently sealed in a different kind of room—three stories underground, at the federal maximum security prison in Marion, Illinois. It is a place where they lock you in a room and throw away the room. He may remain there, in solitary confinement, for the rest of his life—even though, as a result of the Gulf war, many now believe he was astride the moral high ground.

And while the U.S. Government remains angry and defensive, or at the very least perplexed, over the Pollard affair, Israelis hold him in a special place in their hearts. "You know how we feel," said one Tel Aviv attorney. "Every time we put the baby into her (gas) crib, every time my son pulled on his gas hood, I thought of Pollard. Every time my family went into our sealed room, Jay Pollard went with us." ■

—William Northrop
Israel Bureau Chief

COMING NEXT MONTH: *New Dimensions'* in-depth investigative report on the Jonathan Pollard affair. Our story explodes the official U.S. version of what happened, and shows how the U.S. and Israeli governments crushed one family in a game of political hardball. More ominously, close examination of the Pollard affair reveals a secret change in U.S. policy toward Israel, a drastic shift from the traditional and supportive "special relationship" Israel has relied upon for decades.

NEW DIMENSIONS: The Psychology Behind the News, JUNE 1991

COPYRIGHT 1992 NEV

David Kirshenbaum
3308 Fourth Street
Oceanside, NY 11572
(212) 830-2651 (B)
(516) 764-6945 (H)

April 13, 1992

Mr. Robert K. Lifton
President
American Jewish Congress
Steven Weiss Congress House
15 East 84th Street
New York, NY 10028

Dear Mr. Lifton:

I am an attorney in New York who has been involved in the Jonathan Pollard case for a number of years. I have, for example, visited with Jonathan on two occasions at the Federal Prison in Marion, Illinois and have spoken and written about the case. During the course of my activities, I've had the pleasure of getting to meet a wonderful group of dedicated people - Jews and non-Jews - who are justifiably outraged at the unprecedented and draconian like sentence imposed on Jonathan Pollard. One such person, Albert Kaplan, shared with me your letter to him dated March 30, 1992 (copy enclosed).

I have long been aware of the decision of the American Jewish Congress to turn a deaf ear to Jonathan Pollard's desperate plea for help and to ignore the growing sentiment among the "AMCHA" of American Jewry to positively respond to that cry for assistance. Nevertheless, it still pains me to read a letter like the one you wrote to Al Kaplan in which you try to articulate the grounds for non-involvement. What is especially frustrating is your reliance on the findings of the NACRAC Ad Hoc Committee on the Pollard case. That report is so filled with inaccuracies that I can only respectfully suggest that if you are truly interested in fulfilling your mandate as President of the AJC, you have an obligation to look beyond the NACRAC Ad Hoc Report for your facts. It is a tragedy that this report, as replete as it is with distortions and half-truths, continues to be the source of information for responsible organizations.

Last October, I had the occasion to debate the merits of the Pollard case with Jerome Chanes of NACRAC before a UJA Lawyers meeting. I can only tell you that the NACRAC position, faithfully articulated by Mr. Chanes, met not only with disfavor and disbelief, but with outright hostility from the group of about sixty lawyers and guests present, all UJA contributors, but otherwise of diverse affiliations and backgrounds.

I would truly welcome the opportunity to sit down with you and talk about the NACRAC report and the Pollard case in general, but for the time being, let me simply offer some reactions to the specific points raised in your letter.

For the record, contrary to your suggestion, Ted Olson, Pollard's lawyer, has not even once made any "effort to formulate a case which demonstrates discrimination against [Pollard] based on his Jewishness and the fact that he acted for Israel." Nevertheless, many people, within and outside the Jewish community, find this conclusion inescapable. Quite frankly, Mr. Lifton, if you are looking for a "smoking gun" evidencing anti-Semitism in this case, I cannot produce one. There does not exist any written or any legally admissible oral statement by any of the principals responsible for Pollard's life sentence - the prosecutor, Joseph DiGenova, Caspar Weinberger or Judge Aubrey Robinson - to the effect that they acted as they did because Pollard was a Jew spying for Israel. If it would require a smoking gun to bring groups like the American Jewish Congress to join with grassroots Jewry, numerous Jewish organizations such as the Simon Wiesenthal Center and virtually the entire rabbinical organizational structure in this country, then perhaps all of us who urgently look to you to join with us, ought to stop wasting our time. But, as you know, Mr. Lifton, the U.S. Congress and the courts of this country understand that smoking guns usually are non-existent and, accordingly, the law provides that smoking guns need not be produced when remedies are sought for alleged past or present discrimination. Appropriate inferences can be drawn and circumstantial evidence is acceptable.

This is not simply a case of someone who received a sentence that was, as you put it, "very harsh", and it will not due to casually and facilely reduce the arguments of advocates for Jonathan Pollard to one that "constantly restate(s) the thesis that [Pollard] has been sentenced unduly harshly..." If the typical sentence for a spy for an allied country was 25 or 30 years, and only on very rare occasions would such a spy receive a life sentence, one might in that case describe a life sentence as simply "very harsh" or "unduly harsh". But Pollard's case is far different. He is in a group of one who has been singled out for a life sentence when no other spy for an allied country has received anything even remotely comparable.

It is not life imprisonment, as opposed to 30 years; it is life versus the four years or less received by every other spy for an allied country. It is a life sentence versus the 20 years given to Richard Miller, the first FBI agent to spy for the Soviet Union (who, by the way, is expected to be paroled next year after serving six years). It is life versus the 48 months received by Abdulkedar Helmy, who passed U.S. stealth technology to Egypt for use in a joint weapons project with Iraq. I know you have heard this all before, Mr. Lifton, but if an argument is never refuted

or satisfactorily answered in any manner, it does not become stale, weak or outdated, no matter how often it is, as you put it, "constantly restated". Given the unexplainable gross disparity in Pollard's sentence, your apparent insistence on finding a smoking gun proving that Pollard was treated differently because he was a Jew spying for Israel is hard to understand.

Consider a situation where nine whites and one black commit the same crime but while all the whites get jail terms of four years or less, the black person gets life in prison with a recommendation against parole and is sent to the most notorious prison in the United States. How much credibility would you attach in such a case to government assertions that race did not play a role in the sentencing? Would you insist on a smoking gun proving discrimination? I think not.

Finally, I do not agree with your rejection and dismissal of the thesis that concerted action by the Jewish community could have a positive effect on the Jonathan Pollard case. As only one example of the importance of the position adopted by groups like the American Jewish Congress, one need only look to the editorial written by The Washington Post following the adoption of a resolution by the American Section of the World Jewish Congress supporting commutation of Pollard's sentence to time already served. In expressing its opposition to the resolution, The Washington Post, in the very first paragraph, cited the lack of support of major Jewish groups, like the American Jewish Committee, the American Jewish Congress and the Anti-Defamation League. You must know that your refusal to speak out on this issue sends a message to the non-Jewish world which, not knowing any better, still looks at American Jewry through the prism of the major Jewish defense organizations. Moreover, I never knew that it was part of our Jewish heritage to support just causes only when we can be sure that we will succeed in our efforts.

A victim of anti-Semitism is no less deserving of the assistance of the Jewish community simply because he is unpopular with the government or has been victimized by respected government persons and institutions. It is easy for Jewish organizations to protest the blatant anti-Semitism of a David Duke. It takes some backbone, however, to protest the more subtle but nevertheless real, manifestations of anti-Semitism in the case of Jonathan Pollard.

If you do the crime you do the time, but under our judicial system, the time is supposed to be proportionate to the crime. When punishment is selective and terribly excessive, as it so obviously is in the Pollard case, it is a perversion of justice. Thus, even if Jewish groups choose to ignore the anti-Semitism in the Pollard case, they are not absolved from the responsibility to pursue justice in the Pollard case on humanitarian grounds and

they may not shirk from the paramount Jewish duty of aiding in the redemption of wrongfully imprisoned captives. The argument that the AJC must restrict its activities to cases where there is clear evidence of anti-Semitism and that it cannot become involved simply on a humanitarian basis is totally transparent in view of the positions Jewish defense groups correctly take on purely humanitarian issues, of no direct relation to Jews, such as the current debate concerning Haitian refugees.

If the status quo is not changed, Jonathan Pollard will remain in jail until the day he dies. Those Jewish groups which have thus far stayed on the sidelines, and in some cases, even undermined efforts to help Jonathan Pollard must finally join with grassroots American Jewish community to help change that status quo.

When we sit down later this week at the Seder we will all begin by inviting all who are hungry to come eat with us. If we cannot actually have needy people at our tables, we are obligated to at least have made contributions to the poor prior to the Seder. Our rabbis tell us that we have no right to sit down to our Seder and our festive meal unless we have provided in some way for others less fortunate. In the same spirit, our celebration of freedom is meaningless if we allow a Jew like Jonathan Pollard to rot in the most notorious prison in this country. Jonathan Pollard is a dedicated Jew who has already paid the price many times over for his actions and we must not acquiesce in the unjustified prolongation of his imprisonment. I therefore implore you to make the decision to lead the American Jewish Congress in helping to secure Pollard's long delayed freedom. I promise you it will add true meaning to your Seder celebration.

Very truly yours,



David Kirshenbaum, Esq.

DK:jb
cc: Mr. Albert J. Kaplan

* * *

AJ Congress

* * *

American Jewish Congress
Stephen Wise Congress House
15 East 84th Street
New York, NY 10028
212 879 4500 • Fax 212 249 3672

Office of the President

March 30, 1992

Mr. Albert J. Kaplan
187-Byrd Street
Oceanside, N.Y. 11572

Dear Al:

I am delighted to have the opportunity to hear from you a third time in our lives since our days at the Yeshiva together on a very difficult topic, namely the Pollard situation.

On the last occasion that you wrote me, I sent you the material that we made public with respect to our position on Pollard. In case that got lost, I am herewith sending you another copy.

The reason the situation is so difficult is that every organization including our own feels that the sentencing of Pollard was very harsh, and sincerely wants to see that sentence reduced. Unfortunately, with all the best will and desire that the organized Jewish community can muster, it has not been presented with a case strong enough to present it with the opportunity to take the kind of action that would impact on the length of the sentence. I note that Mr. Pollard's counsel has made and is continuing to make every effort to formulate a case which demonstrates discrimination against him, based on his Jewishness and the fact that he acted for Israel. However, until such a case is presented, which frankly requires more than constantly restating the thesis that he has been sentenced unduly harshly, we have no hard basis on which to act. As painful as it is to recognize that, that is the reality. The thesis that if only the American Jewish community would speak out publicly on the matter, it would change the course of events for Pollard is totally without foundation and reality.


I am sorry to be so blunt with you, but I think it is better that you understand the situation and that the real frustration lies in the case being made for Pollard and not in the lack of activity on his behalf by the organized Jewish community.

I hope this letter finds you in good health.

Warmest personal regards.

RKL:ilb
enc.

Sincerely,



Robert K. Lifton

April 20, 1992
17 Nisan 5752

Jonathan Pollard/09185-016
P.O. Box 1000
Marion, Illinois 62959

Dear Jonathan:

Your letter of March 31 has just arrived at my office. I hope that my response to you will reach you with a lesser delay.

Our Commission on Social Action-- which met some weeks ago - considered the various issues which you had raised in your earlier correspondence with me. They, too, were perturbed, as am I, by the length of your sentence and by the severity of its application. They reacted with particular sympathy to the arguments advanced by the dissenting judge ruling on your appeal who felt that your plea bargaining agreement had in fact been violated.

Our Rabbinic association, the CCAR, had added its name as amicus curiae to this appeal. Our Commission also determined to invite your sister Carol to the upcoming meeting of its executive committee in order to determine what further steps we might be able to take.

With warm good wishes, I am

Sincerely,

Alexander M. Schindler

302
March 31, 1992
Marian, IL

Dear Rabbi Schindler,

I've attached a letter that was recently issued by the OU, which I think you'll find rather interesting. Given my current predicament, Rabbi, would it be possible for the VAHC to send a comparable appeal to Attorney General Barr? Believe me, Rabbi, at this point in time such a gesture would be greatly appreciated.

Alternatively, a simple, straight forward endorsement of the attached World Jewish Congress' call for the commutation of my sentence would probably be just as effective. While I realize that your organization is an affiliate of the WJC, many people still seem to be unsure as to whether or not the VAHC agrees with the WJC's stand on the case. I can only hope and pray, Rabbi, that it does.

Please, Rabbi, I really need the VAHC's help right now.

Stay well,
Jonathan



Orthodox Union

ORTHODOX
JEWISH
CONGREGATIONS
OF AMERICA
א.ת.ת.י.ת.ת.ת.
קהילות
האורתודוקסיות
באמריקה

333 SEVENTH AVENUE • NEW YORK, NY 10001 • (212) 683-4000 • FAX (212) 684-0068

כ"ח

President
SHELDON RUDOFF

Chairman, Board of Directors
SIDNEY WESTER

Chairman, Board of Governors
MARCOE KATZ

Honorary Presidents
JULIUS BERMAN
HAROLD M. JACOBS
JOSEPH KAHN
MOSES I. FEVERSTEIN

Honorary Chairman of the Board
SAMUEL L. BERNHARDT
IRVING J. STONE

Honorary Vice Presidents
DR. BERNARD LAMBER
MARCUS ROSENTHAL
DONALD B. DUBOIS
JACK H. HADLEY
BERNARD W. LEVINSKY
MARVIN J. MARGOLITZ
DR. JOSE B. PALL
DR. NATHANIEL PUTERBA
ELLIOTT STAVISKY

Senior Vice Presidents
FRED EHRMAN
DAVID FINE
MARCEL WEISS
SAMUEL DEUTSCH
JOEL H. SCHREIBER
ROBERT I. SANDROW, M.D.

Vice Presidents
MICHAEL C. WIMPHREY
DR. DAVID LUCHINS
LARRY BROWN
OFALD E. FELDMAN
DAVID H. HARRISON
DAVID L. LUBIN
HOWARD J. HARRIS
MURRAY WEISS
DAVID J. LUBIN
DAVID J. HARRIS

Treasurer
MARVY BLITZ

Financial Secretary
AVERY Y. MARK

Publicity Secretary
DAVID BARK

Honorary Members
DR. J. J. FUCHS
JERRY GONTOWNIK
DR. SAMUEL LUBIN
MORTON LANDOWNE
DONALD PRESS
HENRY ROYMAN

Vice Presidents for Regions
SWARTZ, FRANK
LAWRENCE CHERMAN
GARY TORCOW
OSCAR L. FIDMAN
DAVID PEPPER
AL. H. FAGIN
DR. ROY ZEPHRA
JOSEPH MACY
MARTIN BNECHY
LARRY RUBIN
TANLEY FROHLINGER
STEVEN ROSENBERG
DR. RONALD BEGER
LARRY TANNENBAUM
H. PINCHAS STOLPER

February 20, 1992


Honorable William Barr
Attorney General of the United States
Department of Justice
Constitution Avenue & 10th Street, N.W.
Washington, D.C. 20530

Dear Attorney-General Barr:

The Orthodox Union, which represents close to one thousand synagogues across America, expresses to you its deep concern with the humanitarian dimension of the Jonathan Pollard case. We strongly favor commutation of Mr. Pollard's life sentence on humanitarian grounds. Furthermore, we call for an investigation of the conditions of his incarceration with the aim of improving the treatment in a manner consistent with those governing the treatment of other prisoners.

Our position is not meant to be taken as a judgment on the particulars of the case, the severity of the offense, or as support for those who advocate a new trial. It is the humanitarian aspects of this case which motivate us to urge you to commute Mr. Pollard's sentence to time served.

Respectfully,


Sheldon Rudoff
President

SR:mmr

WORLD JEWISH CONGRESS



American Section

501 MADISON AVENUE • NEW YORK, N.Y. 10022

4/28/91

Chairman
EVELYN SOMMER

Honorary Chairmen
RABBI JOSEPH KARASICK
JACOB KATZMAN
FRIEDA LEWIS
RABBI ARTHUR SCHNEIER
JACQUES TORCZYNER

Co-Chairmen, Executive Committee
CHARLOTTE JACOBSON
MOSHE KAGAN

Vice Chairman, Executive Committee
RABBI FABIAN SCHONFELD

Treasurer
LEON LEVY

Secretary
RABBI MARC SCHNEIER

Executive Members
RABBI LOUIS BERNSTEIN
SAM BLOCH
JACOB DAVIDSON
RABBI ALFRED GOTTSCHALK
HAROLD OSTROFF

Executive Director
ELAN STEINBERG

Resolution on the Case of Jonathan Pollard

The World Jewish Congress American Section emphasizes that persons convicted of espionage under the laws of this country should expect to be punished under its laws and the Section condemns all crimes of espionage against the United States.

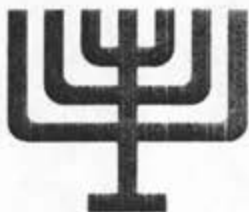
In the case of Jonathan Pollard, the World Jewish Congress American Section notes the findings of the International Association of Jewish Lawyers and Jurists that

1. "Jonathan Pollard's sentence is far harsher than those meted out to many persons convicted of spying for the Soviet Union and other Soviet-bloc countries even where such espionage activities endangered the lives of U.S. agents and the loss of critical strategic and technical data to the Soviets;"
2. "Jonathan Pollard's sentence is grossly inconsistent with, and far harsher than the treatment received by other Americans accused or convicted of spying for friendly third parties or governments."

Accordingly, the World Jewish Congress American Section calls for the commutation of Jonathan Pollard's sentence to time served.

Member Organizations of the American Section:

AMERICAN GATHERING OF JEWISH HOLOCAUST SURVIVORS; AMERICAN JEWISH CONGRESS; AMERICAN JEWISH LEAGUE FOR ISRAEL; AMERICAN SEPHARDI FEDERATION; AMERICANS FOR PROGRESSIVE ISRAEL; AMIT WOMEN; ASSOCIATION OF REFORM ZIONISTS OF AMERICA; B'NAI ZION; CENTRAL CONFERENCE OF AMERICAN RABBIS; EMUNAH WOMEN OF AMERICA; FEDERATION OF POLISH JEWS; FEDERATION OF RECONSTRUCTIONIST CONGREGATIONS AND HAVUROT; HADASSAH; HERUT ZIONISTS OF AMERICA; HIAS; INTERNATIONAL NETWORK OF CHILDREN OF JEWISH HOLOCAUST SURVIVORS; JEWISH NATIONAL FUND; LABOR ZIONIST ALLIANCE; MERCAZ; NATIONAL COUNCIL OF YOUNG ISRAEL; NATIONAL FEDERATION OF TEMPLE SISTERHOODS; NORTH AMERICAN JEWISH STUDENTS' NETWORK; PIONEER WOMEN/NA'AMAT; POALE AGUDATH ISRAEL OF AMERICA; RABBINICAL ASSEMBLY; RELIGIOUS ZIONISTS OF AMERICA; UNION OF AMERICAN HEBREW CONGREGATIONS; UNION OF ORTHODOX JEWISH CONGREGATIONS OF AMERICA; UNITED SYNAGOGUE OF AMERICA; WIZO-USA; WOMEN'S LEAGUE FOR CONSERVATIVE JUDAISM; WORKMEN'S CIRCLE; WORLD FEDERATION OF HUNGARIAN JEWS, U.S.A. DIVISION; ZIONIST ORGANIZATION OF AMERICA



B'NAI
BRITH
CANADA

February 10, 1992

Ms. Elaine Zeitz,
Canadian Spokesperson
for the Pollard Case,
120 Shelborne Avenue, #1510,
Toronto, Ontario. M6B 2M6

Dear Ms. Zeitz:

The following resolution was passed at a District Administrative Board (Board of Directors) meeting of B'nai Brith Canada:

"Be it resolved that B'nai Brith Canada authorize a delegation to make representations to the Ambassador of the U.S. government to commute the sentence of Jonathan Pollard to time already served".

In accordance with this resolution, on February 4 a senior delegation from B'nai Brith Canada's Institute for International Affairs met with officials at the U.S. Embassy in Ottawa. Enclosed is a press release providing information on this meeting.

We hope that these steps will be helpful to you in your efforts on behalf of Jonathan Pollard.

Please feel free to contact Paul Marcus of our office if you require any further information.

Yours very truly,

Marilyn Wainberg
Marilyn Wainberg,
National President

Frank Dimant

Frank Dimant,
Executive Vice President

/gr

cc: Brian Morris,
National Chairman Institute
for International Affairs
Paul Marcus,
National Director Institute
for International Affairs

President/Président
Marilyn Wainberg

Executive Vice-President
Vice-Président Exécutif
Frank Dimant

Vice-Presidents/Vice-Présidents
Harry Bloomfield Jack Feingold
Tom Gussman

David Lerner
Ben Libman
Jay Mandelker
Lyle Smordin
Steve Zatzman

President-Elect
Président Designé
Gabriel Nachman

Treasurer
Trésorier
Michael Rosenberg

Immediate Past President
Président Sortant
Moishe Smith

NATIONAL OFFICE

15 Hove Street 15 rue Hove, Downsview, Ontario M3H 4Y8 (416) 633-6224 Fax (416) 630-2159

MAX GLICKSMAN
MORRIS GLICK / CENTRE

KADIMA



CANADIAN COUNCIL OF REFORM ZIONISTS

אחדות לציונות מתקדמת בקנדה

LE CONSEIL CANADIEN DU SIONISME LIBÉRAL

February 14, 1992

President:
RABBI DOW MARMUR

Vice-President:
DR. LEWIS POCH

Officers:
DR. JOEL FAGAN
ARNOLD FRADKIN
ERNEST NEUBURGER
DR. HARVEY ZIMMERMAN

Immediate Past-President:
RABBI MICHAEL S. STROH

Honorary Counsel:
JOHN A. GELLER, Q.C.

Arzenu Chairman:
RABBI MICHAEL S. STROH

*Canadian Council of
Liberal Congregations
President:*
STAN SANDLER

Ms. Carol Pollard,
Executive Director,
Citizens for Justice for Jonathan Pollard,
80 Fowler Street, #2L,
New Haven, CT.
06515. U.S.A.

Dear Ms. Pollard,

Although Kadima is a member of The Canadian Zionist Federation and thus associated with its statement of July 18, 1991, I am pleased to re-iterate the support of our members of all those who urge a review of the harsh sentence imposed on Jonathan Pollard, and that he be granted executive clemency.

Wishing you success in your endeavours, I am,

Yours sincerely,

Rabbi Dow Marmur
President

*A Constituent of
THE CANADIAN
ZIONIST FEDERATION*

*A Constituent of
ARZENU - The International
Reform Zionist Movement*

*An Affiliate of
THE UNION OF AMERICAN
HEBREW CONGREGATIONS*

Pollard and the Zionist Left

It is time for the Zionist left, in Israel and in the Diaspora, to speak out on behalf of Jonathan Pollard.

In Israel the leading figure in the Knesset multi-party Pollard lobby has been right-wing MK Geula Cohen. In the United States, the organizations which have signed on their support for Pollard include Agudath Israel, the Central Conference of American Rabbis and the American Section of the World Jewish Congress. Though there are Labor MKs in the Pollard lobby in Israel, and probably some left-wing supporters of Pollard among American Jews, the Pollard case has been adopted largely by the right.

I think there are two reasons for this, one tactical and one strategic.

The tactical reason is that the chairman of the Labor Party (and leader of Israel's left), Shimon Peres, was Prime Minister at the time of Pollard's arrest. Yitzhak Rabin was Defense Minister. The Labor leadership immediately offered its support to the American investigators who came to Israel, returned all the Pollard documents to the American government, and turned its back on the Pollards. Peres and Rabin bore responsibility for Pollard at the time he was caught; they were running the country when he was betrayed. In the Knesset investigation of the case, headed by MK Abba Eban, the Labor representatives led the way in support of the government decision to cooperate with the Americans, while it was the right wing which criticized that cooperation.

The strategic reason runs a little deeper. The Israeli left has, for several years now, been increasingly pro-American. As the left weakened from one Knesset election campaign to the next, disillusioned leaders of the peace camp began to talk openly of American pressure on the Likud government being the only way to push the peace process forward. Often it seemed as if the Labor leadership in Tel Aviv and the Republican leadership in Wash-

ington were singing a well-orchestrated duet. The revelation that Israel had recruited an American Jewish spy came as a severe blow to all those who were counting on Americans to replace the Israeli electorate as the driving force for peace in the Middle East.

Many Israelis argued — and I was one of them, in a column for the *Jerusalem Post* — that the Pollard operation was, from its inception, a stupid risk. The risk of being caught, we felt, was far greater than the possible rewards of the intelligence he provided.

We also argued that, in spite of the stupidity of the whole operation, it was Israel's responsibility to the Pollards to help get them out. Ann Pollard's appearance on *60 Minutes*, with her re-enactment of how they were denied the safety of the Israeli Embassy in Washington, touched the hearts of many here in the Jewish state.

Looking back on the case six years later, it has now become clear that the Pollard operation may not have been the stupid risk we thought it was. One result of the Gulf war was the revelation that Israel was prepared for chemical warfare because of the documents Jay Pollard was able to provide. The Reagan administration would not tell us what Iraq's chemical and nuclear capabilities were. Jay Pollard told us that. Thanks to his information, millions of gas masks and atropin needles were distributed in time. As one Israeli writing during the SCUD attacks put it, every time he went into the sealed room, Jay Pollard was there with him.

But even if one cannot condone the employment of an American Jew like Pollard, or thinks that this particular case was a stupid, unnecessary risk, the fact remains that Pollard was an Israeli agent risking his life and his freedom for the Jewish people. To make the point clearer, I think we can look at the issue of POWs and MIAs.

Americans were deeply divided over the Vietnam war. But when the war

ended, and for the past 16 years, they have been united in their hope that any living POWs and MIAs who are still in Southeast Asia will be returned home. They all want the bodies of MIAs returned to the States. There is widespread sympathy for the families of MIAs. That sympathy extends to the most vigorous opponents of the Vietnam war.

Israel also has its own POW and MIA problem — the seven Israelis who didn't return from Lebanon. Israel was also deeply divided over the Lebanon war. But all Israelis, left- and right-wing, Peace Now and Gush Emunim alike, support our government's efforts to get our POWs and MIAs back alive. There is widespread sympathy for the families of those men.

The same logic applies to the Pollards. Even if one doesn't support or condone the employment of American Jews by Israeli intelligence to spy from within the intelligence community in the U.S. — even if one thinks that Israel's actions were criminal, stupid, or just plain wrong — the fact remains that Jay Pollard is sitting in an isolation cell deep underground in the K-block of the federal maximum security facility in Marion, Illinois. He has been in solitary confinement for more than four years. He has not seen the sun.

His wife, Ann Henderson Pollard, was treated brutally during her stay in American prisons and emerged, according to some press reports, a drug addict. She has been in and out of Israeli hospitals, her life and her health permanently destroyed. A Jewish family has been destroyed, and the Israeli government does nothing. Meanwhile, Jay Pollard's jailors continue to ask him to provide the names of other American Jews who were involved in espionage on behalf of Israel.

Enough is enough. Americans who spied for the Soviet Union have been in and out of jail in the time Jay Pollard has been sitting in his cell in Mari-

on. His sentence is excessively long. President Bush has made it clear he has no intention of letting Pollard out. Israelis and American Jews, of the right and left, must make common cause to increase the pressure on both governments now. The Zionist left has a role to play and we must play it. We must do our part to get Jay Pollard out of prison and home to Israel.

—Eric Lee
Kibbutz Ein Dor

ERIC LEE is a veteran socialist activist and oleh from the U.S. and an occasional contributor to IH.

THE JERUSALEM POST

YERUSALEM, Israel
H. DAVID GRUSS, Editor

F. DAVID RADLER, Chairman, Board of Directors
ERIC YETTMANN, Managing Editor
DAVID BAR-ELAN, Executive Editor
JEFF BLAKE, Night Editor
RAY KATZ, Features & Photo Editor
JOEL KLEIN, City Editor
AVI ORAN, Marketing & Advertising Manager
PAUL STANISLAW, IFA, Treasurer
YOSHI HIRSH, Press Manager
RAY LEWIS, Circulation Manager
DAVID RAZ, Manager, North America
Founded in 1952 by YERUSALEM AGENCY

A meeting with Jonathan Pollard

David Kirschenbaum

THE drive from St. Louis airport to the Federal Prison in Marion, Illinois, to visit Jonathan Pollard is filled with anticipation. You hope to bring some much-needed and friendly human contact to someone who should no longer be imprisoned, yet remains incarcerated in the US's most notorious prison. He is now beginning the seventh year of a life sentence.

The return trip is filled with feelings of sadness and anger from seeing first-hand how terrible the consequences can be when justice is perverted.

Having visited Jonathan last year, I was less jarred this time by the fortress-like structure at Marion, with its frightening watchtowers and its series of iron gates and doors.

Jonathan is incarcerated underground in an eight-cell ward known as the K-Unit, the most tightly guarded unit in Marion prison. *Newsweek* described the unit as "a collection of prisoners who are there for symbolic reasons, to show what the Federal Government can do if it really gets angry." According to the magazine, Jonathan is the most well-guarded prisoner in the unit.

The activity that landed him in the K-Unit was transmitting to Israel classified US documents concerning the weapon systems and military capabilities of various Arab states, including information about Iraqi efforts to produce chemical, biological and nuclear weapons. He was given a life sentence and sent to the K-Unit even though he was never even charged with acting to injure the US.

Seeing Jonathan in that underground meeting room was a bitter-sweet moment. Very glad to meet him again, I was momentarily overcome by the enormity of his tragedy.

Unlike my first visit, which was monitored by a member of US Naval Intelligence, this meeting was allowed to take place without any overt government presence. I sat down with Jonathan at about 10 o'clock a.m.; we talked about a range of matters until I was required to leave after 3 p.m.

Jonathan had plenty he wanted to talk about. He showed me the prayerbook presented to him by Is-

rael's Sephardi chief rabbi, Mordechai Elisha, who visited Jonathan last October. It contained a very moving handwritten inscription, and it was clear that Jonathan was profoundly touched by the chief rabbi's visit. Jonathan hopes it will send a message to those Jewish leaders who have failed to extend any type of assistance to him all these years.

He hopes that just as his case has

energy problems, sleeping only two to four hours a night. He acknowledges that this virtually constant mental activity is in part a defense mechanism against the depression he experiences when his thoughts are not distracted from the tragedy of his situation.

As for physical activity, he is confined to his cell 23 hours a day and allowed out for only one hour of

It's easy to protest the blatant antisemitism of a David Duke. It takes courage to protest the more subtle variety in the Pollard case

united virtually the entire Knesset, regardless of party affiliation, over the fact that he should be released from prison, so too the American Jewish community might be able to unite on the fundamental principle of *pidyon shvuyim* - the redemption of captives.

Jonathan spends a significant amount of time studying desalination and alternative energy, areas of great concern to Israel in which he hopes to contribute in the future. He took great pleasure in explaining some practical applications of his research.

Although his academic and professional background is in the area of political science, it is clear that he is one of those brilliant people who are able to excel in any chosen area. It is equally clear that Jonathan has inherited at least some of his scientific acumen from his father, Dr. Morris Pollard, a renowned professor of microbiology at Notre Dame University.

JONATHAN also spends much of his day reading and corresponding about his case. He is, however, not always at liberty or in the position to respond to everything said or written about him - and, unfortunately, there have been a tremendous number of false statements and outright lies. The restrictions and limitations placed on his freedom to get his message across and to respond to falsehoods and misinformation is, obviously, a source of tremendous frustration for him.

Jonathan has thrown himself fully into his legal case and into his pursuit of solutions to Israel's water and

recreation. This takes place either indoors, or outside in an area surrounded by high concrete walls on all sides. It's been years since he saw the sky or the sun.

Jonathan's appeal of his life sentence is now pending before the Federal Circuit of Appeals in Washington, DC. It is important to note one thing, however. The specific legal issues raised in the appeal - whether the sentencing judge failed to ensure that his plea of guilty resulted from undue coercion and whether the government breached any or all three promises it made to Jonathan in return for his agreement to waive his right to a trial and plead guilty to the charge against him - are not the same as the issues before the Jewish community.

The Pollard case should be significant to the Israeli government and to the American Jewish community because a Jew has been singled out to receive a totally unprecedented draconian punishment. After six

years of incarceration in one of the harshest prisons in the US, the time for his release is long overdue.

No other American who spied for an allied country ever received more than five years in prison, and the overwhelming number of Americans who spied for enemies of the US received sentences substantially less than life imprisonment.

Much as we might feel better denying or ignoring it, it is hard to avoid the conclusion that what really seems to have damned Jonathan Pollard was the fact that he is a Jew and that the country on whose behalf he was spying was Israel.

A victim of antisemitism deserves the assistance of the Israeli government and the American Jewish leadership no less because he is unpopular with the US government or has been victimized by respected US government personnel and institutions.

It is easy for Jewish leaders and organizations to protest the blatant antisemitism of a David Duke. It takes some courage, however, to protest the more subtle, but nevertheless real, manifestations of antisemitism in the case of Jonathan Pollard.

If the status quo is not changed, Jonathan Pollard will spend the rest of his life in jail. Those Jewish leaders and organizations, both in Israel and the US, who have thus far stayed on the sidelines and, in some cases, even undermined efforts to help Jonathan, must be prevailed upon to help change that status quo.

The writer is active in efforts to bring about Jonathan Pollard's release.

White House
Washington, D.C. 20500

February, 1992

Dear Mr. President;

As citizens of the U.S. who strongly believe in democracy, fairness, and honesty, we must express to you our deep disappointment over several matters of American policy, some recent, and one of many years' standing.

We are outraged by the fact that our administration has not taken the least notice, or action, over the expulsion of hundreds of thousands of Palestinians from Kuwait, yet stridently joined in a U.N. vote to "strongly condemn" the State of Israel for issuing an expulsion order for twelve known terrorist agitators from territories it administers. Even Saddam Hussein's murderous invasion of Kuwait was condemned, but not strongly, by the U.N. Do you consider the action of the Israelis to be more reprehensible than Iraq's invasion??

We are grieved that our government holds back on its earlier promise of guaranteeing a \$10 billion loan for its only stable ally in the Middle East, needed for humanitarian purposes. To force Israel not to build settlements on territory having no official owner, only because Arab governments refused to negotiate for over 40 years about its status, means in effect that the U.S. has decided before negotiations that this land must become exclusive Arab property. We have no right to make such legal determinations before the negotiations take place.

Worst of all - the U.S. government has treated a convicted spy, who spied during peacetime for a friendly ally, worse than any other traitor in our time, including those (the Walkers) who spied for an avowed enemy at the time, and caused great damage to our cause. Jonathan Pollard primarily caused embarrassment to our government, that it did not warn Israel about impending threats to its existence from an array of enemies all around it. Keeping Pollard in solitary confinement for seven years is as ugly an act as the abominable actions of the French Government towards Alfred Dreyfuss early in this century. In recording this terrible blot on American justice, history will condemn not only Caspar Weinberger for his deviousness, but every American president who refused to undo this blatant discrimination of administering a punishment that does not fit the crime, and indeed smacks of naked anti-Semitism.

Mr. President - the time has come for you to release Mr. Pollard from his long incarceration, and to take the necessary courageous political steps that will demonstrate that you recognize the important contributions to our own country and to stability in the Middle East by Israel - the only democracy in the entire area. The eyes of all citizens of the U.S. who care for democracy and even-handedness are upon you in this election year. Please give us the kind of bold leadership that will prove you merit another term as leader of our great nation.

Respectfully, NATIONAL COUNCIL OF YOUNG ISRAEL



RABBINICAL ASSOCIATION OF VANCOUVER/VICTORIA

January 8, 1992

Tevet/Shevat 5752

Mr. William Barr
Attorney General of the United States
Department of Justice
Constitution Avenue & 10th Street N.W.
Washington, D.C. 20530

We, of the Rabbinical Association of Vancouver (RAV), endorse the World Jewish Congress resolution on Jonathan Pollard and appeal to the Justice Department of the United States to move to commute Mr. Pollard's sentence to time served (6 years.)

We, in no way are attempting to pass judgement or comment on the trial or to condone espionage. What we are concerned with is the issue of the appropriateness of the length of his sentence in light of sentencing of others who were guilty of spying for our "then" enemy, the Soviet Union. Pollard was sentenced for spying for Israel and his sentence has been longer and harsher.

As an act of justice tempered by kindness and leniency, we urge in the strongest terms possible that Jonathan Pollard's sentence be commuted.

Rabbi Ronnie Cahana
Chairman, RAV

COPY FOR YOUR INFORMATION

/ia

Pollard deserves better

"Few voices are being raised in this country to protest the life sentence handed down to Jonathan Pollard, the American Jew convicted of spying for Israel. Particularly deafening is the silence from the organized Jewish community." That was the opening paragraph in the editorial that ran in this space on Jan. 12, 1989. Has anything changed during the past three years?

Certainly there has been no change in the conditions of the former naval analyst who turned over to Israel secret documents about the locations of chemical and biological weapons arsenals in Iraq, Libya and Syria — information that the Pentagon *should* have, but didn't, share with its ally. For most of the past six years, he has remained in solitary confinement in the federal penitentiary in Marion, IL.

"Mainstream" American Jewish organizations generally persist in their refusal to become involved in Pollard's quest for a new trial or for reduction of his sentence to time served. (His appeal to set aside his plea bargain, on the grounds that it was violated by the U.S. government, is now being considered by the U.S. Court of Appeals for the District of Columbia.)

However, a groundswell of support for Pollard is growing, particularly among American rabbis. Rabbinical associations across the continent and from every Jewish denomination have passed resolutions voicing support for Pollard's appeal. A few secular leaders — notably, Seymour Reich, past chair of the Conference of Presidents of Major Jewish Organizations — are also beginning to stand up for Pollard. Reich was among the speakers at the first major "compassion" rally on Pollard's behalf, held in Los Angeles on Jan. 12.

After (stupidly) exploiting Pollard and (reprehensibly) denying him safe haven, the Israeli authorities are only now beginning to rally to his cause. Again, the rabbis go before the camp; Israel's Sephardi chief rabbi, Mordechai Eliahu, has been one of the few Israeli dignitaries to visit Pollard in prison.

Pollard's case constitutes a maze of legal complexities and government duplicity, with strong overtones of anti-Semitism. The convicted spy has always admitted he broke the law and should serve time. But, in 1987, he had the book thrown at him by the judge, despite his plea bargain — made with the understanding that the prosecution would not seek a life sentence.

While it didn't, Pollard received the stiffest sentence ever handed down to an American who spied for an ally — because the then secretary of defense, Caspar Weinberger (perhaps responding to his own twisted discomfiture over his Jewish ancestry), signed court papers urging severity due to "the magnitude of the treason committed." One of the prosecutors repeated the slur in court, speaking of Pollard's "traitorous conduct."

Whether Pollard is an authentic Jewish hero who put Israel's welfare first (as his supporters insist), or no more than a felon who delivered secrets to a foreign government for material gain (as his detractors hold), Pollard is *not* guilty of treason.

The Constitution clearly defines that crime. "Treason against the United States shall consist only in levying war against them or, in adhering to their enemies, giving them aid and comfort." Even a self-hating semi-Jew, like Weinberger cannot claim that Pollard helped Israel make war on the U.S. or that Israel is an enemy.

Pollard was betrayed — not only by his Israeli handlers, but also by the U.S. government and the justice system. *The Wall Street Journal* wrote (on Sept. 4, 1991): "No crime entitles prosecutors to induce plea bargains with broken promises or bullying tactics."

With Pollard's appeal now under judicial consideration, it is time for American Jews to consider seriously whether he is a victim of injustice and, if they deem he is — as we do — they should overcome the *shah-shall* mentality and speak out boldly for his release — or a new trial.

MetroWest Jewish News



THE NEW YORK BOARD OF RABBIS, INC.

10 East 73rd Street • New York, New York 10021-4194 • (212) 879-8415 • Fax: (212) 772-3877

Rabbi Myron M. Fenster
President
Rabbi Marc Angel
Rabbi Louis Fishman
Rabbi Alvin Kess
Vice Presidents
Rabbi Marc Gellman
Corresponding Secretary
Rabbi Jeremiah Wohlberg
Financial Secretary
Rabbi David Kahane
Recording Secretary
Rabbi Stanley Davis
Rabbi Joseph Potashnik
Treasurers
Rabbi Alfred Gottschalk
Rabbi Ismar Schorsch
Honorary Vice Presidents
Rabbi Israel Mowahowitz
Chairman,
Advisory Council Liaison
Board of Governors
and
Past Presidents
appear on reverse.

January 22, 1992

Rabbi Gilbert S. Rosenthal
Executive Vice President
Rabbi Moses A. Birnbaum
Associate Executive Director

Rabbi Paul L. Hall
Executive Vice President, 1977-80
*Rabbi Harold H. Gordon
Executive Vice President, 1949-79

RESOLUTION ON JONATHAN POLLARD

Whereas Jonathan Pollard, an admitted spy for Israel, received an unduly cruel and unusual punishment for spying for a friendly nation in a non-wartime era; and

Whereas Mr. Pollard has already spent over five years in solitary confinement,

The New York Board of Rabbis calls upon President Bush to commute the sentence of Jonathan Pollard to time served on humanitarian and compassionate grounds.

THE BROOKLYN BOARD OF RABBIS

ORTHODOX - CONSERVATIVE - REFORM

RESOLUTION ON THE CASE OF JONATHAN POLLARD

THE BROOKLYN BOARD OF RABBIS

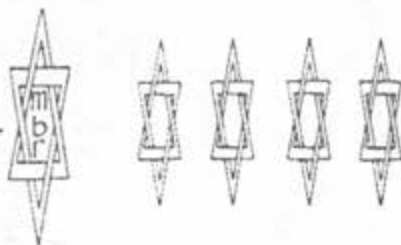
JANUARY 16, 1992

The Brooklyn Board of Rabbis emphasizes that persons convicted of espionage under the laws of this country should expect to be punished under its laws and The Brooklyn Board of Rabbis condemns crimes of espionage against the United States.

In the case of Jonathan Pollard The Brooklyn Board of Rabbis notes the findings of the International Association of Jewish lawyers and Jurists that:

"Jonathan Pollard's sentence is far harsher than those meted out to many persons convicted of spying for the Soviet Union and other Soviet-bloc countries even where such espionage activities endangered the lives of U.S. agents and resulted in the loss of critical strategic and technical data to the Soviets. Jonathan Pollard's sentence is grossly inconsistent with and far harsher than the treatment received by other Americans accused or convicted of spying for friendly third parties or governments."

Accordingly, The Brooklyn Board of Rabbis asks that Jonathan Pollard's sentence be commuted to time served.



MASSACHUSETTS BOARD OF RABBIS

186 STRASSER AVENUE
WESTWOOD, MASSACHUSETTS 02090
Telephone: 617-769-5270

OFFICERS

PRESIDENT

Rabbi Henry A. Zoob
186 Strasser Avenue
Westwood, MA 02090
617-326-2719

VICE PRESIDENTS

Rabbi Samuel Kenner
287 Lafayette Street
Salem, MA 01970
508-741-4880

Rabbi Ira Korinow
514 Main Street
Haverhill, MA 01830
508-373-3861

Rabbi Scott Rosenberg
1860 Washington Street
Newton, MA 02166
617-527-2410

TREASURER

Rabbi Howard Kosovske
100 Ames Street
Sharon, MA 02067
617-828-8587

SECRETARY

Rabbi Barry Starr
125 Pond Street
Sharon, MA 02067
617-784-3966

PAST PRESIDENTS

*Rabbi Herman H. Rubenovitz
*Rabbi Joseph S. Shubow
*Rabbi Albert I. Gordon
*Rabbi Israel Harburg
Rabbi Zev K. Nelson
Rabbi Roland B. Gittelsohn
Rabbi Earl A. Grollman
Rabbi Israel J. Kazis
Rabbi H. Bruce Ehrmann
Rabbi Manual Saltzman
Rabbi Murray I. Rothman
Rabbi Ephraim I. Bennett
Rabbi Oscar L. Bookspan
Rabbi Meyer J. Strassfeld
Rabbi Harry Roth
Rabbi Frank Waldorf
Rabbi Terry R. Bard
Rabbi David Werb
Rabbi Daniel Kaplan
Rabbi Alan Turetz
Rabbi Robert M. Miller
Rabbi Howard K. Kummer

*(deceased)

MBR Resolution on the Case of Jonathan Pollard

October 16, 1991

Heshvan 8, 5752

In light of the fact that Jonathan Pollard's sentence of life imprisonment for the crime of espionage is far harsher than the treatment of many of those convicted of spying for the Soviet Union and other unfriendly nations and grossly inconsistent and far harsher than the punishments received by other Americans convicted of spying for friendly third parties or governments, the Massachusetts Board of Rabbis calls for the commutation of Jonathan Pollard's sentence to the six years of time already served in solitary confinement.

More news

Local rabbinical board protests extreme punishment of Pollard

By Melissa Peerless
Editorial Intern

The Cincinnati Board of Rabbis has joined the recent groundswell of community groups speaking out against the sentence of Jonathan Pollard, the American Jew convicted of passing United States military secrets to Israel.

At a recent meeting, the Cincinnati Board of Rabbis drafted a resolution asking that Pollard's sentence be reconsidered and stating its belief that Pollard's sentence is too harsh for the crimes he committed.

Board President Rabbi Abie Ingber said: "The Pollard case was the most important Jewish spy case since the Rosenbergs. The Jewish community was embarrassed and scared that Jews would be equated with treason, communism and similar kinds of emotions.

"In this case, there was the extra dimension of dual loyalty that American Jews have to the United States and to Israel to

complicate the issue."

Ingber said that Pollard felt the United States was not only greatly endangering Israel, but also acting against the formal U.S. policy. He felt it was his duty to stop the activities, and did so by passing along naval information to Israel.

Pollard received a much more stringent sentence for his activities than other people who were convicted of similar crimes. Pollard was also sentenced for the crime of treason, which he did not commit, Ingber noted.

There have also been charges that Pollard was sentenced unfairly because of personal feelings of former Defense Secretary Caspar Weinberger and others involved in the case.

Ingber said: "At first, the Jewish community did whatever they did, which was primarily a response characterized by silence. Now many institutions and groups are calling for a reassessment of the severity of the sentence that Jonathan Pollard received. It is completely

out of line with similar cases."

Acting as president of the Board of Rabbis, Ingber wrote Pollard a letter telling him that the Cincinnati Board of Rabbis supports him and enclosing their resolution.

Although the board objects to Pollard's sentence, the reso-

Pollard also stressed that he has learned from his prison stay and that he is... committed to Israel.

lution clearly states that it finds espionage to be a serious, punishable crime.

The opening paragraph of the resolution reads, "Persons convicted of espionage under the laws of this country should expect to be punished...and the Cincinnati Board of Rabbis condemns crimes of espionage

against the United States."

Ingber recently received a letter of response from Pollard, who wrote from prison in Marion, Ill. Pollard's letter thanked the Board of Rabbis for their resolution and request on his behalf.

Pollard also attempted to explain "how and why (he) was capable of taking the actions that (he) did." Pollard also enclosed similar resolutions from other Jewish groups and organizations from throughout the United States.

Pollard wrote, "I have always accepted the fact that I am not above the law, and deserve to be punished for my actions, however well motivated I may have believed them to be."

At the time, I was faced with a cruel dilemma in which I thought I had to choose between the law and my conscience. The danger that I perceived to Israel's existence was so acute that I instinctively chose action over reflection.

"I now know that that was

wrong. I should have made the effort to discover a legal solution to the predicament that I faced. For this error in judgment I am sorry."

Pollard also stressed that he has learned from his prison stay and that he is still strongly committed to Israel and the Jewish people.

Pollard closed his letter by thanking Ingber again and said: "Let me just thank you once again, Rabbi, from the bottom of my heart for the resolution. Perhaps in the not too distant future, my friend, we can meet in Israel, where we can talk of better things. Until then, though, please know that I will never forget your uncommon decency and courage."

Although those who have filed resolutions and amicus curiae briefs in support of Pollard do not know what effect, if any, these actions will have on Pollard's future, support continues to increase as more organizations speak out on Pollard's behalf.

קהילת ספרדי ויוצאי איראן
SEPHARADIC SOCIETY OF MANHATTAN

163 East 67th Street • New York, N.Y. 10021 • (212) 737-6900

November 26, 1991

Rebbit:

Yedidia Azarahian

Capto:

David Melamed-Hacohen

Ms. Carol Pollard
Executive Director
CITIZENS FOR JUSTICE FOR JONATHAN POLLARD
80 Fowler Street #21
New Haven, CT 06515

Dear Ms. Pollard:

At a recent meeting of the Board of Trustees of the Sephardic Society of Manhattan, the following resolution was passed unanimously regarding Jonathan J. Pollard:

"Insomuch as Jonathan J. Pollard has been incarcerated in numerous federal correctional facilities under harsh and severe conditions for the past six years for the crime of espionage, for delivering national defense information which should have freely been available to Israel, we believe that a re-examination of his sentence and his immediate release from prison would be appropriate and just."

We wish you luck and success in your endeavors.

Very truly yours,

Rabbi Yedidia Azarahian



Asher Roshanzamir
President



The Board of Rabbis of Southern California

אגוד הרבנים של קליפורניה הדרומית

PAUL DUBIN
Executive Vice President
MARTIN B. RYBACK
Director of Chaplaincy

RESOLUTION ADOPTED BY BOARD OF RABBIS OF SOUTHERN CALIFORNIA

August 27, 1991

Jonathan Pollard is presently serving a life sentence for passing classified information to a nation friendly to the United States. In contrast, Abdelkader Helmy, an Egyptian-born American citizen, was sentenced to just 46 months in prison for illegally exporting to Egypt, for the benefit of the Egyptians and the Iraqis, 420 pounds of a material used in Stealth Aircraft, along with missiles and rockets. Samuel Morison, an analyst at the U.S. Navy's ultra secret Naval Intelligence Support Center, was sentenced to two years for selling classified photographs of Soviet Naval Vessels. Navy Ensign Steve Babs received only a two year prison term for illicitly transmitting code indices and a document on electronic warfare to South Africa.

And, in addition, even many convicted of spying for hostile nations have received prison sentences significantly less than Pollard's. For example, William Holden Bell was sentenced to eight years for providing information on antitank missiles and radar technology to a Polish agent, and even those convicted of spying for the Soviet Union have received sentences considerably less than life imprisonment.

Yet, although never accused nor convicted of treason, Jonathan Pollard is serving an unprecedented life sentence in solitary confinement, with no realistic chance for parole, for passing classified information to an allied country.

Therefore, we call upon the President and the Justice Department of the United States Government to recognize that the punishment meted out to Jonathan Pollard has been unduly harsh. His incarceration reflects a clear excess of punishment in comparison with that given to others sentenced for similar actions, and we therefore call for the commutation of Jonathan Pollard's sentence to the five and one half years he has already served.

HARVEY J. FIELDS
President
JOEL REMBAUM
ABNER WEISS
LAWRENCE GOLDMARK
Vice Presidents
JOHN ROSOVE
Treasurer
GILBERT KOLLIN
Secretary
YISROEL Y. KELEMER
Recording Secretary
JOSHUA BERKOWITZ
JACK SIMCHA COHEN
LAURA GELLER
ELI HERSCHER
LEVI MEIER
PERRY NETTER
MOSHE J. ROTHBLUM
ALLAN SCHPANTZ
Executive Committee
MOISES BENZAQUEN
STEVEN JACOBS
ALAN KALINSKY
MARVIN LABINGER
STEVEN C. REUBEN
LENNARD R. THAL
DAVID VORSPAN
Executive Committee
Ex-Officio
URI D. HERSCHER
MARVIN HIER
DAVID LIEBER
Executive Committee
Honorary Members
HARRY ESSRIG
Executive Vice President
Emeritus
HARRY HYMAN
Chaplaincy Director
Emeritus
ABRAM MARON*
JACOB PRESSMAN
ALFRED WOLF
MORRIS KAPLAN
AARON M. WISE
ALBERT M. LEWIS*
BEN ZION BERGMAN
JULIAN P. FEINGOLD
WILLIAM SPIGELMAN
MARVIN BOHNSTEIN
SAMSON H. LEVEY
JACOB LEVINE
ABRAHAM N. WINOKUR
MAX NUSSBAUM*
PHILIP SCHROIT
MEYER MEREMINSKY*
MEYER HELLER
JOSEPH SMITH
MAURICE LAMM
LEONARD I. BEERMAN
MARTIN I. DOUGLAS
RUBIN HUTTLER
ALLEN I. FREEHLING
MOSHE J. ROTHBLUM
JACK SIMCHA COHEN
Past Presidents
EDGAR F. MAGNIN*
JACOB KOHN*
Honorary Presidents
*Deceased

The Chicago Board of Rabbis

7"3

President

RABBI LOUIS M. TUCHMAN

Vice-Presidents

RABBI PETER KNOBEL

RABBI VERNON KURTZ

RABBI MICHAEL BALINSKY

Secretary

RABBI ELLEN DREYFUS

Treasurer

RABBI MICHAEL SIEGEL

Executive Vice President

RABBI MORDECAI SIMON

August 29, 1991

Fax #203-389-2444

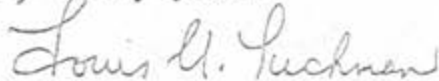
Ms. Carol Pollard
80 Fowler Street-Unit 2C
New Haven, CN 05615

Dear Ms. Pollard:

At a meeting of the Chicago Board of Rabbis held on August 28, 1991, the following resolution was passed.

"Whereas the punishment meted out to Jonathan Pollard has been far harsher than those meted out to many persons convicted of spying even where such espionage activities endangered the lives of United States agents, and because Jonathan Pollard's sentence is grossly inconsistent with and far harsher than the treatment received by other Americans accused or convicted of spying for friendly third parties of governments, the Chicago Board of Rabbis calls for the commutation of Jonathan Pollard's sentence to time served or at least a reduction of his sentence to equal the level proportionate to that of others who have been convicted of spying for friendly nations."

Very truly yours,



Rabbi Louis M. Tuchman
President



חבר הרבנים דמינססא
Minnesota Rabbinical Association

RESOLUTION ON THE CASE OF JONATHAN POLLARD
MINNESOTA RABBINICAL ASSOCIATION
OCTOBER 28, 1991

The Minnesota Rabbinical Association emphasizes that persons convicted of espionage under the laws of this country should expect to be punished under its laws and the Minnesota Rabbinical Association condemns crimes of espionage against the United States.

In the case of Jonathan Pollard the Minnesota Rabbinical Association notes the findings of The International Association of Jewish Lawyers and Jurists that:

"Jonathan Pollard's sentence is far harsher than those meted out to many persons convicted of spying for the Soviet Union and other Soviet-bloc countries even where such espionage activities endangered the lives of U.S. agents and resulted in the loss of critical strategic and technical data to the Soviets. Jonathan Pollard's sentence is grossly inconsistent with and far harsher than the treatment received by other Americans accused or convicted of spying for friendly third parties or governments."

Accordingly, the Minnesota Rabbinical Association asks that Jonathan Pollard's sentence be commuted to time served.

מועצת הרבנים דמונטריאל רבתי

THE BOARD OF JEWISH MINISTERS OF GREATER MONTREAL
LA COMMISSION RABBINIQUE DU GRAND MONTREAL

1590 Avenue Docteur Penfield, Montréal, Québec H3G 1C5
Telephone (514) 931-7531

STATEMENT CONCERNING
THE CASE OF JONATHAN POLLARD

The Board of Jewish Ministers of Greater Montreal, representing congregational and communal rabbis of all branches of Judaism, fully supports the Resolution on the Case of Jonathan Pollard adopted by the World Jewish Congress, American Section.

While we agree that any individual convicted of crimes of espionage against the United States should be punished according to the laws of that country, we believe that the punishment meted out to Jonathan Pollard has been unduly severe and not consistent with that of others convicted of the same crime, even in cases the consequences whereof were far more critical.

Accordingly, we call for Jonathan Pollard's sentence to be commuted to time served.



קאנגרעס יידישער קאנאדעס • קאנאדעס יידישער קאנגרעס

CONGRÈS JUIF CANADIEN CANADIAN JEWISH CONGRESS

Edifice Samuel Bronfman House
1590 Avenue Dorval Penfield
Montreal, Quebec H3G 1C9
Cables: American, Montreal
Tel: (514) 931-7531
Fax: (514) 931-3281

RÉGION DU QUÉBEC/QUEBEC REGION

Directeur général
Executive Director
MICHAEL CKELINSTEIN

T-03

July 2, 1991

Président
Chairperson
DOLORE HERSHON
Président de l'Exécutif
Chairman of the Executive
WILLIAM MILLER, QC
Vice-président de l'Exécutif
Vice-Chairman of the Executive
RABBI ABRAHAM J. POUPKO
Vice-président
Vice-Chairman
JOSEPH BENARROSH
MILKHA KOLODNY
RICHARD LEVY
ERIC MALDOFF
Secrétaire
Secretary
KRISTA TITELBAUM
Trésorier
Treasurer
JEFFREY MANDEL
Administrateur honoraire
Honorary Officer-at-Large
MORTIMER DANKSHAD
MARTIN PEARL
DOROTHY TALCUMAN HOWARD
Conseiller juridique
Honorary Legal Counsel
JUDITH FRANK SCHLESINGER
Président honoraire
Honorary Past Chairman
BARNARD J. FINESTON, C.L.C.
Président national
National President
LES SCHEININGER
Président honoraire
Honorary President
MONROE ARBEL, M.D.C.
Vice-président national
National Vice-President
MORTON ROSENBAUM
Officiers nationaux
National Officers
DAVID COTLAR
DOROTHY REITMAN
Trésorier national
National Treasurer
ARCHEL VINSBERG, C.A.
Vice-président exécutif
Executive Vice-President
ALAN ROSE, C.M.
Directeur exécutif national
National Executive Director
M. JACK SILVERSTONE

Ms. Carol Pollard
Executive Director
Citizens for Justice for Jonathan Pollard
80 Fowler Street #2L
New Haven, CT
06515

Dear Ms. Pollard:

The World Jewish Congress, American Section's Resolution on the Case of Jonathan Pollard, was considered by the Administrative Committee of the National Officers of Canadian Jewish Congress today.

The following resolution was passed:

THAT the National Officers' Committee of Canadian Jewish Congress supports the World Jewish Congress, American Section's Resolution calling for the commutation of the Jonathan Pollard sentence to time served.

We hope that this will be helpful to you in your attempt to act on behalf of your brother.

Sincerely yours,

Les Scheininger
President
Canadian Jewish Congress

a189.mo

San Diego Rabbinical Association

c/o 6660 Cowles Mtn. Blvd., San Diego, CA 92119 (619) 697-6001 FAX (619) 697-1102

October 16, 1991
8 Cheshvan 5752

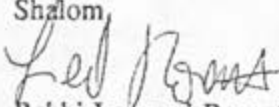
Ms. Carol Pollard
Executive Director
80 Fowler Street #2L
New Haven, CT 06515

Dear Ms. Pollard:

I am pleased to inform you that the resolution below concerning Jonathan Pollard was passed by the San Diego Rabbinical Association on October 15, 1991. I hope it speeds his release.

Please let me know if there is any other way in which I can be of assistance.

Shalom,


Rabbi Leonard Rosenthal
President

The San Diego Board of Rabbis endorses and supports the following World Jewish Congress resolution concerning the case of Jonathon Pollard:

The World Jewish Congress American Section emphasizes that persons convicted of espionage under the laws of this country should expect to be punished under its laws and the Section condemns all crimes of espionage against the United States.

In the case of Jonathan Pollard, the World Jewish Congress American Section notes the findings of the International Association of Jewish Lawyers and Jurists that

1. "Jonathan Pollard's sentence is far harsher than those meted out to many persons convicted of spying for the Soviet Union and other Soviet-bloc countries even where such espionage activities endangered the lives of U.S. Agents and the loss of critical strategic and technical data to the Soviets;"
2. "Jonathan Pollard's sentence is grossly inconsistent with, and far harsher than the treatment received by other Americans accused or convicted of spying for friendly third parties or governments."

Accordingly, the World Jewish Congress American Section calls for the commutation of Jonathan Pollard's sentence to time served.

THE PARK SYNAGOGUE - Anshe Emeth Beth Tefilo Congregation

3300 Mayfield Rd. Cleveland Hts., OH 44118-1899 • (216) 371-2244 • FAX (216) 321-0639

PARK SYNAGOGUE EAST - 27575 Shaker Blvd. Pepper Pike, OH 44124 • (216) 831-5363



Peter Rzepka
President
Norman Adler
Kenneth A. Bravo
Marc W. Freimuth
Lawrence Sherman
Joan Wittenberg
Vice Presidents
Michael Ritter
Treasurer
N. Herschel Koblenz
Recording Secretary
Arthur Hirsh
Samuel Miller
Albert Ratner
Bennett Yanowitz
Executive Committee
Philip Arnoff
Marvin Karp
Bernard M. Loewenthal
Elmer Paul
Max Ratner
Nathan Shafran
Saul G. Stillman
Past Presidents

Dov Peretz Elkins
Senior Rabbi
Joshua Skoff
Rabbi
Steven Friedman
Executive Director
Simon Spiro
Cantor
Rev. Eli Z. Levy
Ritual Director
Cheryl Birkner Mack
Education/Youth
Director
Barbara Goldfarb
Director of Membership
& Development
Ellen Petler
Program Director
Susan Traub
Librarian

Armond E. Cohen
Distinguished
Service Rabbi

Affiliate Presidents
Sanford Weinberg
Men's Club
Lesley Hirsh
Sisterhood
Michael and Carol Wolf
New Generation
Roseann Schmidt
Nadia Ritter
Family and School
Together

NEWS RELEASE - THE CLEVELAND JEWISH NEWS
ATTENTION: NINA ROTHMAN
FAX #: 991-9556

10-22-91
FROM: RABBI DOV PERETZ ELKINS
TEL.: 371-2244

The Cleveland Board of Rabbis (CBR) met recently and adopted a resolution regarding the espionage case of Jonathan Pollard. Pollard, an American citizen, was convicted in March, 1987, of spying for Israel, and was given a life sentence. Driven by a passionate ideological commitment to the Jewish state and a deep concern about Israel's security, over a 1 1/2 year period, Pollard transmitted thousands of documents to Israel, which he believed were vital to her security yet withheld from her illegally by the American government. Much of this information was used by Israel to maintain her extraordinary restraint during the Persian Gulf War.

Many Jewish groups and organizations through the North America, includ The World Jewish Congress, The Central Conference of American Rabbis, and the New York Association of Reform Rabbis, have adopted resolutions regarding the Pollard case. The resolution adopted by the CBR reads, in part,

The Cleveland Board of Rabbis (CBR) emphasizes that persons convicted of espionage under the laws of this country should expect to be punished under its laws and the CBR condemns all crimes of espionage against the U.S.

In Pollard case, the CBR notes the findings of The International Association of Jewish Lawyers and Jurists that:

"Jonathan Pollard's sentence is far harsher than those meted out to many persons convicted of spying for the Soviet Union and other Soviet-bloc countries even where such espionage activities endangered the lives of U.S. agents and the loss of critical strategic and technical data to the Soviets."

"Jonathan Pollard's sentence is grossly inconsistent with and far harsher than the treatment received by other Americans accused or convicted of spying for friendly third parties or governments."

Accordingly, the Cleveland Board of Rabbis calls for the commutation of Jonathan Pollard's sentence to time served.

For further information, please call Rabbi Dov Peretz Elkins of The Park Synagogue, at 371-2244.

DPE:ask



איחוד
ליהדות
מתקדמת
באמריקה

The CSA is a joint instrumentality of the UAHC, its affiliates, and the CCAR. It strives to apply Jewish ethics to contemporary issues of social justice, religious liberty and world peace.

Commission on Social Action of Reform Judaism

SERVING REFORM JUDAISM IN NORTH AMERICA

UNION OF AMERICAN HEBREW CONGREGATIONS-CENTRAL CONFERENCE OF AMERICAN RABBIS

838 FIFTH AVENUE, NEW YORK, NY 10021-7064 (212) 249-0100

Goldman

November 25, 1992

Mr. Arthur Susswein
21 Chapel Place
Great Neck, NY 11021

Dear Mr. Susswein:

Thank you for your note of November 23, 1992, which Rabbi Schindler has referred to me as Director of the Commission on Social Action of Reform Judaism.

This matter was brought before the Commission at its October meeting, following an appearance by Carol Pollard with the Commission's Executive Board. The Commission debated the matter for several hours; participating in the deliberations were many attorneys and two federal judges, who helped us to clarify the legal issues involved. Finally, by a vote of 26-4, the Commission defeated a resolution recommending commutation. The Commission, it should be noted, consists of lay leaders and rabbis, and representatives of all Reform affiliates. Present at the meeting were leaders from Reform communities around the country.

As I indicated, the debate was lengthy, serious, and thorough. The matter was considered from every perspective, and all points of view were discussed. The particular issue that you mentioned -- the matter of sentencing -- was examined very carefully; the Commission took note of the fact that while some people accused of similar crimes have received lesser sentences, others accused of such crimes have received harsher sentences. I am reluctant to attempt to summarize for you in a few words the full discussion. If you wish, I would be happy to send you the minutes of the meeting when they are ready in a few weeks.

I appreciate the fact that this is a difficult case which has elicited much emotion on both sides. Many leaders of the Jewish community support commutation. At the same time, most Jewish leaders and organizations do not. The special committee established by NJCRAC -- the community relations umbrella body of the Jewish community -- has refrained from endorsing commutation.

Chairperson
Evelyn Laser Shlensky

Director
Rabbi Eric H. Yoffie

Co-Director & Counsel
Rabbi David Saperstein

Director Emeritus
Albert Vorspan

Associate Director
Rabbi Gary Bretton-Granatoor

NATIONAL FEDERATION OF
TEMPLE SISTERHOODS

NATIONAL FEDERATION OF
TEMPLE BROTHERHOODS

NORTH AMERICAN FEDERATION
OF TEMPLE YOUTH

NATIONAL ASSOCIATION OF
TEMPLE ADMINISTRATORS

NATIONAL ASSOCIATION OF
TEMPLE EDUCATORS

AMERICAN CONFERENCE
OF CANTORS

ASSOCIATION OF REFORM
ZIONISTS OF AMERICA

Mr. Arthur Susswein
November 25, 1992
Page 2

In my view, the Commission did everything possible to give this matter full and fair consideration. We recognize, of course, that not everyone will agree with our course of action. If you have any additional questions I would be happy to answer them.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Eric H. Yoffie".

Eric H. Yoffie

cc: Rabbi Jerome K. Davidson

Vowor

WE DO NOT WANT
TO SIGN ~~CCM~~

do you want to sign on or merely

Abg

send on to abg? it was sent to you both

Our counsel
says not to
do too. Let's
have our own
statement of
letter. Let CCM

ASK AV
+ or DS
if we should
sign —
or not send
to MBB.

CITIZENS FOR JUSTICE FOR JONATHAN POLLARD

Carol Pollard, Executive Director
80 Fowler Street #2L
New Haven, CT 06515
(203) 389-0033 - Phone
(203) 389-2444 - Fax

Dear Friends of Jonathan Pollard:

My name is Carol Pollard. I am Jonathan Pollard's sister. Perhaps you have been following Jonathan's case in the media during the past five and one-half years. During this time, no events have done more to point out what my family knew all along -- and to reinforce Jonathan's case -- than the recent Gulf conflict. The material Jonathan provided to Israel should not have resulted in a life sentence, with him now forced to spend all of his days in virtual isolation in the toughest prison in the United States. Jonathan faced a moral dilemma; he saw information vital to Israel's defense purposely withheld by his superiors -- despite an Executive Agreement which allowed for an exchange of this information -- showing, among other things, nuclear and chemical developments in Syria and Iraq. During the war in the Persian Gulf, the Coalition Forces' ability to act in unison was due in part to Israel's ability to stay out of the conflict. Fortunately for the United States, Israel was warned by Jonathan over five years ago, acted on his information, and was in a position to defend itself confidently against aggressor nations in the Middle East. By giving this information, Jonathan has indeed helped both Israel and the United States.

Although Jonathan was never accused of treason (a fact that to this day is conveniently overlooked when this case is discussed by our opponents, including the Justice Department), he received a life sentence due to the intervention of Mr. Weinberger in the case. This is an extreme and disproportionate sentence when compared to sentences given to others who were involved in more serious matters with hostile nations.

Jonathan's case is being brought before the United States District Court of Appeals in Washington, D.C., in early September. **The Amicus Brief herein enclosed must be filed by early June.** I have also enclosed an updated packet of information on recent events in Jonathan's case. This information is merely a preface to a plea for your support.

We seek your support for the Amicus Brief. **A list of supporters must be submitted by June 10, 1991.** After reading the enclosed materials, please sign and return the enclosed reply sheet or contact me at the above phone or fax numbers. Other individuals you may contact for more information are: Professor Irwin Cotler; Professor Alan Dershowitz; Hamilton P. Fox, Esquire; Professor Kenneth Lasson; and Professor Charles Rice (see reverse side of this paper for addresses/phone numbers).

Please remember that every day that Jonathan spends in isolation is a living nightmare. During the past few months we have been very successful in dramatically raising interest in his case throughout the world. Please help us continue the fight to see that Justice is served.

Sincerely,



- p.s. (1) The enclosed brief should not go beyond your desk or your organization.
(2) If you have any reason to believe that any of the Judges scheduled to hear this case (Laurence Silberman II, Stephen F. Williams, or Ruth Bader Ginsburg) either hold membership in, or are closely acquainted with officers in your organization, please inform us.

Please detach this reply sheet and return in the enclosed self addressed, stamped envelope

I wish to support Jonathan Pollard's Amicus Brief.

P Name: _____
L
E Organization: _____
A
S Address: _____
E

P
R Phone: (_____) _____
I
N
T

Signature: _____

CITIZENS FOR JUSTICE FOR JONATHAN POLLARD

Carol Pollard, Executive Director
80 Fowler Street #2L
New Haven, CT 06515
(203) 389-0033 - Phone
(203) 389-2444 - Fax

INDIVIDUALS TO CONTACT FOR FURTHER INFORMATION

Professor Irwin Cotler
Faculty of Law
McGill University
3644 Peel Street
Montreal, Quebec
H3A 1Y1
Canada
514-398-6622

Professor Alan Dershowitz
Harvard Law School
Cambridge, Mass. 02138
617-495-4617

Hamilton P. Fox, Esq.
Sutherland, Asbill and Brennan
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 383-0100

Professor Kenneth Lasson
University of Baltimore Law School
1420 N. Charles Street
Baltimore, Maryland 21201
(301) 358-4649

Professor Charles Rice
Notre Dame Law School
Notre Dame, Indiana 46556
(219) 239-5667

FORWARD

FOUNDED APRIL 11, 1977

Pollard in Perspective

Treason is unique in American law. It is the only crime for which America's founders denied the Congress authority to write the definition. "Treason against the United States," they wrote, "shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort." The founders went on to restrict the authority of the Judiciary in treason cases. They provided in the Constitution that no person shall be convicted of treason unless on the testimony of two witnesses. On top of this they provided that the witnesses would have to testify to the same overt act. Not even a confession could be accepted in treason cases, the founders insisted, unless it were made in open court. The reason for all these hurdles is not only that treason is the most heinous of all crimes, but also that it is the one that seems to arouse the most reckless political passions. We have long suspected that such passions ran amok in the case of Jonathan Pollard, who is now serving a life sentence for spying for Israel.

Pollard was not convicted, or even accused, of treason. Yet people seem to talk of the Pollard case as though he were a traitor. The crime Pollard was accused of is still a serious one, espionage; even his family understood that he had to serve some time in prison. The American defense secretary at the time, Caspar Weinberger, one of those who publicly described Pollard's act as treason, wrote an out-of-channels letter to the sentencing judge that is still being kept secret. Pollard drew a life sentence, even though the prosecution hadn't sought one and the espionage he was convicted of, following his confession, was a relatively mild form, involving no intent to harm the United States. His motive was to help Israel, which, our Roy Isacowitz reports this week, has now decided to seek his release. This comes as Pollard's partisans are pointing out that part of the intelligence that Pollard passed to Israel included information on Iraqi chemical weapons plants and offensive weapons. Suddenly — with Iraq raining Scud missiles on civilian population centers in Israel and preparing to gas American GIs in Saudi Arabia — Pollard's act appears less like one of desperation and more like one of foresight.

The new chairman of the Conference of Presidents of Major American Jewish Organizations, Shoshana Cardin, indicated on her recent visit to Israel that she intends to put her group into the campaign here at home. Certainly it would be a shame were the campaign for Pollard's release to be left to Israel. The outstanding issues, after all, are for Americans. While Pollard was desperately trying to alert Israel to the danger that was brewing in Iraq, Secretary Weinberger was helping the Reagan administration's Gulf policy toward the Baghdad regime. Though wiser heads were publishing frantic warnings, the defense department even passed intelligence to Iraq, to help Saddam Hussein in his war with Iran. In other words, while Pollard passed some secrets to an American friend, Mr. Weinberger's defense department passed other secrets to an American enemy. It is an irony that the one man is in jail for life and the other free as a bird. History has a way of playing these kinds of tricks, which is something President Bush will no doubt contemplate as he decides what to do about Pollard.

Appeasement of Iraq Made Me a Spy

In 1985, my son Jonathan Pollard pleaded guilty to providing Israel with information about the military capabilities of Arab states, including Iraq. Today he sits in a basement cell, in isolation 23 hours a day, serving a life sentence.

Jonathan was never accused of or indicted for treason, because he did not commit treason. He was indicted on one count—giving information to an ally, Israel. Abdel Kader Helmy, an Egyptian-American rocket scientist, participated in a scheme to illegally ship ballistic missile technology to Egypt—technology later used to help increase the range of Iraq's Scud-B missiles. Mr. Helmy got less than a four-year sentence. Jonathan, who warned Israel about Iraq's capabilities, got life.

America is now fighting a war with Iraq, while the one person who tried to warn Israel about Iraqi threats sits in jail. In a 1989 letter excerpted below, Jonathan wrote to an American rabbi from his cell that America would have to go to war against Iraq if we failed to prevent the completion of chemical facilities that we knew were under construction. How right he was.

—Morris Pollard

* * *

Dear Rabbi,

My name is Jonathan Pollard and I am currently serving a life sentence due to my activities on behalf of Israel.

Lest you labor under a false impression, Rabbi, I want to state quite categorically that I do not consider myself to be above the law. I fully appreciate the fact that I must be punished for my activities, however justified I may have felt them to be. That being said, I do not believe that the draconian sentence meted out to me was in any way commensurate with the crime which I committed. Nowhere in my indictment . . . was I ever described as a "traitor," which is hardly a surprise given the fact that the operation with which I was associated actually served to strengthen America's long-term security interests in the Middle East.

Notwithstanding [then Defense Secretary Caspar] Weinberger's disingenuous opinion, any objective examination of the record will show that no American agent, facility or program was compromised as a result of my actions—not one. But this salient fact was conveniently overlooked by Mr. Weinberger, who felt that I deserved the death penalty for having had the audacity to make Israel "too strong."

In retrospect, perhaps one of the worst things the Reagan administration did to Israel during the course of our trial was that it purposely distorted the nature of my activities in such a way so as to leave the impression that Israel had somehow become a threat to the national security of this country. So by intent the subsequent sentence I received was an arrow aimed directly at the heart of the U.S.-Israel "special relationship."

The case of Mr. and Mrs. Abdel Kader Helmy appears to be yet another instance where the political aspects of an espionage trial have been of paramount concern to the government. As you'll recall, the Helmys are the Egyptian-born U.S. citizens who were accused last year of funneling highly sensitive ballistic missile technology to their native land. At the time of his arrest on June 24, 1988, [Mr.] Helmy was a senior propulsion engineer who held a "secret" level security clearance from the U.S. Department of Defense. According to a 36-page affidavit filed by the Customs Service . . . U.S. customs agents searching [Mr.] Helmy's trash found handwritten

notes outlining how to work with carbon-carbon fiber material, used in rocket nose cones and "stealth" aircraft . . . instructions on building rocket exhaust nozzles; a description of an extremely sensitive microwave telemetry antenna; and a complete package needed to build or upgrade a tactical missile system.

Although there is no public evidence linking [Mr.] Helmy directly with the Iraqis, intelligence sources have indicated that the Egyptians used [Mr.] Helmy's expertise to help Baghdad modify its stockpile of Soviet-supplied Scud-B ballistic rockets. His principal responsibility, however, was to ensure the success of an Egyptian-Iraqi missile program which had encountered some developmental problems. Code named BADR 2000 by the Egyptians and SAAD-16 by the Iraqis, this Argentine-designed weapon has an estimated range of 500-1,000 miles, and, from

geoning chemical weapons arsenal. Then again, the CIA . . . could not very well confirm the existence of the Iraqi poison gas plants without running the risk of compromising the Reagan administration's policy towards these facilities.

After a few days of "soul searching," the State Department finally admitted that the U.S. had intercepted some Iraqi military communications which indicated that lethal gas had, in fact, been employed against unarmed Kurdish civilians. The Iraqis had astutely outmaneuvered them, though, and the issue had to be "contained" before it caused a rift in U.S.-Arab relations. Certainly, confirming the undeniable operational employment of chemical munitions by the Iraqis was far preferable to describing the exact dimension of their poison gas plants, which would have raised some uncomfortable questions on Capitol Hill . . .

Thus, in an attempt to recapture the moral "high ground," so to speak, from Iran, the White House evidently decided that it would be better for the U.S. to be seen as leading the public denunciation of Iraq rather than the Ayatollah Khomeini. As it was, though, the administration still managed to salvage its standing in the Arab world by preventing Congress from imposing any punitive sanctions against Iraq. In essence, then, what I did by passing satellite photos of the Iraqi poison gas plants to Israel was endanger the Reagan administration's pro-Saudi political agenda, not the intelligence community's "sources and methods."

According to the prosecution, there were two reasons why the government refused to tell Israel about Iraq's poison gas plants: 1) fear of compromising the KH-11 [intelligence] system, and 2) concern over the Israelis' probable reaction once they recognized the threat these facilities posed to their survival.

What the Israelis would actually have considered was a preventive attack on the Iraqi chemical-arms factories before they had become fully operational. Once they had come on-line, you see, and the Iraqis had been able to disperse their arsenal of chemical munitions, these plants, like the ones in Syria, would only have been attacked either in war time, where the idea of a preemptive strike is valid, or in a clandestine sabotage campaign aimed at slowing their production of poisons. This was the same reasoning, by the way, that lay behind the Reagan administration's desire to bomb the Rabta industrial complex before the Libyans had had the opportunity to complete its construction.

The crisis over the Rabta plant does beg the question, though: If the Reagan administration felt justified in its desire to eliminate what it perceived to be an impending Libyan chemical threat to our national security, why was it so unwilling to grant Israel the same right of preventive self-defense with regard to Iraq's poison gas manufacturing facilities?

So what was I supposed to do? Let Israel fail for herself? If you think that is what I should have done, then how can we condemn all those . . . who during the Second World War consciously participated in the abandonment of European Jewry? Seriously, Rabbi, what would be the difference between what they did and a decision on my part to have kept silent about the Iraqi poison gas threat to Israel? I'd rather be rotting in prison than sitting shiva for the hundreds of thousands of Israelis who could have died because of my cowardice.

JONATHAN POLLARD

Jonathan Pollard:

"What the Israelis would actually have considered was a preventive attack on the Iraqi chemical-arms factories before they had become fully operational."

what I've been told, figures prominently in Arab strategic planning against Israel.

If one compares the way in which the government responded to my affair with that of its soft-pedaling of the Helmy case, the existence of a double standard becomes apparent. Firstly, at the insistence of the State and Defense departments, all espionage-related charges against Mr. and Mrs. Helmy have been quietly dropped . . . [T]he administration has done everything it can to reduce the notoriety of the Helmy affair.

The problem . . . lay in the fact that many of the photos I turned over to the Israelis were of a number of Iraqi chemical weapons manufacturing plants which the Reagan administration did not want to admit existed. Why? Well, if no one knew about these facilities then the State and Defense Departments would have been spared the embarrassing task of confronting Iraq over its violation of the Geneva Protocol of 1925, which banned the use of chemical weapons in war. You have to remember . . . that at the time of my sentencing the massacre of Kurdish civilians in Halabja had not yet occurred, and what little public concern was being voiced over Iraq's apparent use of poison gas was largely ignored by the administration, which did not want to anger the Arab world by criticizing the employment of such barbaric weapons against Iran. The photos I gave Israel, though, if "compromised," would have jeopardized the administration's policy of callous indifference towards this issue, in that they constituted hard, irrefutable proof that Iraq was indeed engaged in the production and mid-scale use of chemical weapons. What the administration was really concerned about was being placed in a position where it would have to admit that it had tacitly condoned the creation of an Iraqi chemical weapons manufacturing capability.

Once the atrocity at Halabja had occurred, though, the White House was placed in a rather awkward position. On the one hand, the U.S. intelligence community did not want to be accused of having failed to keep an eye on Iraq's bur-

OUTLOOK

SUNDAY, FEBRUARY 24, 1991

My Brother's Vengeful Keepers

*Why Was Pollard So Harshly Punished
For Helping Israel Against Saddam?*

By Carol Pollard

JONATHAN POLLARD is now completing his fifth year of a life sentence for having given to Israel U.S. intelligence data about Iraq and other hostile countries. He is held in isolation in the federal prison at Marion, Ill. The U.S. Court of Appeals here will rule soon on motions to withdraw the guilty plea that led to Jonathan's life sentence.

These five years have changed my life in ways I could never have imagined. My work on my brother's case has led me to ask many questions, and I have received too few answers. I have written countless unanswered letters and have had hundreds of telephone calls unreturned. I'm aware of press reports that Israel is seeking to have Jonathan released from prison in the United States and to serve his sentence in Israel. I'm hopeful that this will occur, but neither I nor the family can rely solely on such an outcome.

Jonathan broke the law. He and his family know this. He gave Israel secret information that our country had about critical military matters in the Middle East. In a letter to a rabbi, Jonathan has acknowledged that "many of the photos I turned over to the Israelis were of a number of Iraqi chemical weapons manufacturing plants which the Reagan administration did not want to admit existed."

But does this mean Jonathan should have received a life sentence as part of a plea bargain with the government? That he should spend 23 hours of each day locked alone in a basement cell? And that six years after his arrest, virtually everyone associated with the government's case against Jonathan should still stand behind a veil of secrecy as Jonathan's lawyers, family and friends attempt to get his sentence reduced to a just and fair punishment?

Jonathan had a plea bargain with the government. He was sentenced at a hearing before U.S. District Judge Aubrey E. Robin-

See POLLARD, B4, Col. 1



PETER MOEY—THE WASHINGTON POST

Carol Pollard is chairwoman of Citizens for Justice.

Vengeful Keepers

POLLARD, From B1

son Jr. in Washington on March 4, 1987. A grand jury had studied the case for months and indicted him on one count: giving information to an ally—Israel. He was never accused of or indicted on a treason charge because he did not commit treason.

I understand that my brother pleaded guilty to a one-count indictment because the government promised not to seek a life sentence. But as Jonathan's motion to vacate his plea now argues: "The government made three promises and broke all three. It promised not to seek a life sentence. But the entire tenor of its written and oral submissions at sentencing was a request for just such a sentence. . . . It promised [to] limit the statements it made to the court about the sentence to the facts and circumstances of the offenses committed. Despite this promise . . . the government discussed many other subjects. It promised to inform the court of Pollard's cooperation and of the considerable value of that cooperation." But the government renege "by claiming that his cooperation came too late to apprehend his Israeli co-conspirators who had fled the country."

Promises or not, a life sentence for Jonathan's crimes went way beyond sentences given in similar cases. Thomas Dolce, a former Army weapons analyst, received a 10-year sentence for giving defense information to South Africa. Rocket scientist Abdel Kader Helmy, who schemed to smuggle missile material to Egypt that were later used to increase the range of Iraq's Scud-B missiles, got less than four years. Samuel Morison, a Navy intelligence analyst, sold classified photographs to a magazine. He

didn't cooperate with the government and didn't plead guilty. He was sentenced to two years in prison and was released after eight months. But Jonathan received the same kind of sentence as John Walker, Jerry Whitworth and Ronald Pelton, who all spied for years for the Soviet Union. Why?

In sentencing Jonathan, Judge Robinson relied on classified memoranda submitted by then-secretary of defense Caspar Weinberger. As Robinson noted in a recent opinion rejecting Jonathan's motions to vacate his guilty plea: "It was difficult for [Weinberger] to conceive of greater harm to the national security than that caused by the defendant."

What was in the still-classified memos? Several years ago, Joseph DiGenova, who prosecuted Jonathan, told attorney Alan Dershowitz during a debate that Jonathan was prosecuted "so fully because the information he gave the Israelis could have gotten into the hands of the Russians." Dershowitz responded: "So, Jay was prosecuted for a crime which may not have even occurred."

No one connected with Jonathan's appeal has had the opportunity to carefully review and analyze the Weinberger memos. This is critical to the appeal because we believe the tenor of the two memos violated the government's promise not to request a life sentence. The attorney who handled Jonathan's original defense was given one chance to read Weinberger's first memo; the second memo was sent just before sentencing, preventing serious perusal. Yet the government now refuses to allow Jonathan's current attorney to examine the Weinberger documents.

I assumed until recently that the memos remained classified because they contained sensitive information. Now, I'm not so sure. In an affidavit in Jonathan's appeal, Der-

showitz says he was told by former U.S. Supreme Court justice Arthur Goldberg that Judge Robinson in a conversation with Goldberg declared that the government had provided Robinson evidence that my brother had given Israel U.S. satellite photos proving that: Israel had tested a ballistic missile, the Jericho, in South Africa; and Israel had given missile and nuclear technology to South Africa.

Dershowitz says Goldberg told him Robinson was outraged by the Israel-South Africa connection and Pollard's role in giving

Who signs a plea agreement for life? Why won't the government justify Jonathan's sentence and treatment?

U.S. evidence of it to Israel. Dershowitz in his affidavit says, "Goldberg told me that Robinson had told him that the Pollard-South African connection had weighed heavily in his [Robinson's] decision to impose a life sentence. . . ."

Goldberg has since died, but the conversation provides great insight into Jonathan's sentence and why Robinson doesn't want the Weinberger memos read by Jonathan's attorney, much less made public. Besides the real possibility that the knowledge gained by Robinson consisted of a highly prejudicial ex parte communication from the government, and that Jonathan and his attorneys never had an opportunity to deny these claims (which Jonathan denies in no uncertain terms) at the time of sentencing, the Dershowitz affidavit raises the distinct probability that the memos contained no facts to justify Jonathan's life sentence.

The Dershowitz affidavit says Goldberg said that Robinson had sentenced Jonathan on the basis of "false, inflammatory, ex parte information." Although Robinson said in answer to Jonathan's appeal, "The court's recollection of events is in stark contradiction" to the assertions in the Dershowitz affidavit, Robinson did not deny that a conversation with Goldberg took place and didn't explicitly respond to Jonathan's assertion that the judge was influenced by the South African information in meeting out his sentence. Robinson has refused Jonathan's further motion for his attorney to examine the Weinberger memos.

Jonathan's case was of special interest to Weinberger. According to Wolf Blitzer's book, "Territory of Lies," in a conversation with Meir Rosenne, Israel's ambassador to the United States, Weinberger said Jonathan "should be shot." Jonathan did not provide America's adversaries with technology costing us billions of dollars, as did the Toshiba Corp. Yet Weinberger thought what Jonathan did for Israel was more damaging to America than these and other espionage activities that occurred on Weinberger's watch.

Lawrence J. Korb, a top Weinberger defense aide, recently wrote my father and said in part: "I do know that Weinberger had an almost visceral dislike of Israel and the special place it occupies in our foreign policy." So I am not alone in questioning Weinberger's motivations. Even Robinson admitted in his ruling that Weinberger "may not have been neutral and detached."

Even as the American public becomes more aware of how the Iraqi chemical, biological and nuclear threats were developed throughout the 1980s—threats that Jonathan informed Israel about—Weinberger wrote to me: "My memorandum to the trial judge in the case was and is classified, but essentially I stated the reasons why I felt a

major punishment was [required] in his case. Nothing I have seen since has changed any of the facts, or my opinion."

Jonathan is held in the K unit at Marion. David Ward, a University of Minnesota professor of sociology, wrote in Newsweek that K unit's prisoners "are there for symbolic reasons, to show what the federal government can do if it really gets angry." Jonathan is allowed four personal telephone calls each week, to immediate family only. His visitation privileges are highly restricted. Before arriving at Marion, he spent 10½ months in a ward for the criminally insane in Springfield, Mo., even though federal Director of Prisons Michael Quinlan stated in a letter to Rep. Lee Hamilton (D-Ind.) that Jonathan was not there for treatment. Jonathan would probably still be there if Hamilton hadn't protested his treatment to the Justice Department. Quinlan later wrote Hamilton that Jonathan was the only inmate of a federal prison to receive such treatment.

Why such harshness? Two years ago, in a meeting with the Rev. Frank Etkor and other clergy concerned about the Pollard case, Quinlan stated: "We have our orders from higher up." Asked what he meant, he responded, "The Justice Department, the Office of Navy Investigations and Mr. [then-U.S. attorney general Edwin] Meese."

We believe serious grounds exist to sustain Jonathan's appeal. Many troublesome questions remain about this case. Here are just two: Who signs a plea agreement for life? Why won't the government justify Jonathan's sentence and treatment?

I believe in the Constitution, which guarantees equal justice under the law. Jonathan Pollard broke the law, but his sentence is a challenge to the intent and purpose of our Constitution. I personally do not know how he continues to survive in isolation, under a sentence that is harsh and disproportionate. I can't understand how we can be fighting a war with Iraq, while one person who tried to warn Israel about Iraqi threats is still in jail.

RECENT SENTENCING FOR AMERICANS CONVICTED OF ESPIONAGE FOR NON-COMMUNIST COUNTRIES

Alan Dershowitz, Harvard Law Professor and internationally renowned attorney, called the severity of Jonathan Pollard's sentence "the greatest miscarriage of American justice that I know of." Professor Liebman of Princeton University has stated publically: "Americans convicted of espionage for non-Communist countries have received much lighter sentences -- so did even spies for the Soviet Union."

Here is a brief list of five recent cases of espionage for allied countries:

1. In 1982, Ensign Stephen Baba was sentenced for selling secret electronic warfare documents to **South Africa**. he served only **TWO YEARS**.
2. In 1985, Samuel Morrison, former Naval Intelligence Analyst, was caught stealing secret Navy documents for a **British** publication, Jane's Defence Weekly. More than 3,600 confidential documents and 4,200 classified photos were found in his apartment. Morrison was sentenced to **TWO YEARS** and was released after **8 MONTHS**.
3. In 1985, A Federal Court reduced the sentence of Sharon Scrange, former CIA employee, convicted of spying for **Ghana**, from five years to **TWO YEARS** in jail.
4. Reported in the New York Times on October 12, 1988, Thomas J. Dolce, a 49-year-old former army weapons analyst, in an agreement with prosecutors that pre-empted more serious criminal charges, pled guilty to one count of communicating information to an agent of a foreign government. From 1979 to 1983 he furnished **South Africa** with a wide variety of defense-related information in collusion with three successive defense attaches in the South African Embassy in Washington, D.C. The Justice Department said it would recommend the maximum punishment of **10 YEARS IMPRISONMENT** and a **\$10,000 FINE**.
5. Reported in the Wall Street Journal on June 9, 1989, Abdelkader Helmy, a rocket scientist, participated in a scheme to ship to **Egypt** sophisticated missile making supplies in violation of the State Department's munitions control list. Helmy was recruited by Egypt's Defense Minister, Lieutenant Abdel Halim Abu Ghazala, who is considered Egypt's second most powerful man after President Hosni Mubarak. Our government agreed to recommend **MAXIMUM IMPRISONMENT OF 4 YEARS AND 9 MONTHS** and a **MAXIMUM FINE OF \$358,600**. He was sentenced 12/6/89 to **46 MONTHS PLUS AGREED FINE**. **HELMY WAS GIVEN "CREDIT" FOR HIS 18 MONTH PRE-SENTENCE PERIOD AND WILL SERVE A MAXIMUM 3 YEARS AND 10 MONTHS**.

JONATHAN POLLARD'S SENTENCE

JONATHAN POLLARD IS INCARCERATED FOR **LIFE** WITH RECOMMENDATION AGAINST PAROLE. HE HAS BEEN IN **SOLITARY CONFINEMENT FOR OVER FIVE YEARS - CRUEL AND UNUSUAL PUNISHMENT!**

Pollard gains the support of two major Jewish organizations

By ALIZA MARCUS

Two major Jewish groups have criticized convicted spy Jonathan Jay Pollard's life sentence, apparently signaling a shift in the community's position toward the American Jew who spied for Israel.

The American Section of the World Jewish Congress, which represents 40 mainstream Jewish groups, issued a statement asking that Pollard's life sentence be commuted to time served.

The Reform movement's Central Conference of American Rabbis said later that it believes there was an "injustice" in Pollard's sentencing.

The CCAR executive board's statement also said the group's officers will consider filing a friend-of-the-court brief next month, when Pollard's lawyers will seek a new trial.

Some Jewish community leaders

have said that these statements exemplify a new view of Pollard in the organized American Jewish community. He once was studiously ignored by many community leaders and organizations.

"I'm pleased [with the publicity] and think it's reflective of a change in the mood in the community," said Seymour Reich, former chairman of the Conference of Presidents of Major American Jewish Organizations, an umbrella group representing 47 major Jewish groups.

He added that "everywhere I go, people come over to me and say that it's about time the community responds to the harshness of the sentence." Reich visited Pollard three weeks ago in the maximum security prison in Marion, Ill., where he is being held in solitary confinement.

Pollard, a former naval intelligence analyst, was arrested in 1985 for passing hundreds of secret documents to Israel. Two years later, he

was sentenced to life imprisonment.

His former wife, Anne Henderson Pollard, was sentenced to two concurrent five-year terms for being her husband's accessory. Following allegations that the prison system failed to treat her digestive disorder adequately, she was released early on parole.

Pollard's arrest aroused the ire and embarrassment of many in the American Jewish community. Fearing that it raised the issue of dual loyalty, they were angered that Israel used an American Jew as a spy, endangering the community's status.

But those involved in organized Jewry say the community is beginning to believe it can criticize Pollard's sentence without excusing his crime.

"We would like commutation of the sentence, because we feel he has served enough," said Evelyn Sommer, chairwoman of WJC's

American Section. "We believe his suffering is really out of proportion to the crime."

Alan Dershowitz, Pollard's lawyer, said the WJC statement "is an important first step and reflects the growing grass-roots sentiment in the Jewish community" that Pollard's continuing imprisonment "is an affront to Israel, to American Jews and to justice."

The Gulf war and Iraqi Scud missile attacks on Israel may have improved U.S. Jewry's perception of Pollard because of his contention that he gave Israel early warning about Iraq's weapons capabilities.

During the Gulf crisis, his sister, Carol Pollard, said in an interview: "Right now is Jonathan's time" because people "realize that the information he gave Israel ensured that Israel was prepared" for such a threat.

In a later interview, she added that the WJC statement is "a historic step, given the size and stature of the group." She applauded the Jewish community for taking a more public stand on her brother's imprisonment.

The WJC resolution was also hailed by Israel's Knesset Lobby on Behalf of Jonathan Pollard. It wrote to the WJC, saying it had made a "very important decision" and adding its hope that other American organizations would follow suit.

The Israeli group has been campaigning on behalf of Pollard. Last winter it sent President Bush a petition, signed by 70 Knesset members, asking that he treat Pollard with leniency.

"We believe that the crimes that Jonathan Pollard committed stemmed, in great part, from his intention to warn also of the unconventional Iraqi threat, which endangers the security of Israel and indeed the whole world," said the Jan. 29 petition.

Pollard's supporters argue that he received an unduly harsh sentence, considering that he was charged with passing classified documents to an ally.

They cite much shorter sentences given to others who have given clas-

sified information to non-enemy nations. Pollard's sister referred to a 10-year sentence given a weapons analyst for passing information to South Africa and the less than four years given to a rocket scientist who tried to smuggle missile materiel to Egypt.

In a plea-bargain agreement with the government, Pollard agreed to cooperate and plead guilty in exchange for a reduced sentence. But the Justice Department claimed he broke his part of the agreement by speaking to journalist Wolf Blitzer, who wrote a book about the case.

Pollard's supporters suggest that anti-Semitism played a role in the long sentence. They point to alleged statements by former Defense Secretary Caspar Weinberger showing great hostility toward Pollard.

Dershowitz said Weinberger was known to have a "problem" toward Jews and Israel.

After Pollard's arrest, Weinberger referred to him as the most dangerous spy in U.S. history, saying he grossly compromised national security. A secret memo he wrote to the judge in Pollard's case has never been released.

"It's un-American to prosecute someone and sentence them on the basis of secrets and whispering, and people whispered into the judge's ear," said Dershowitz.

In a letter to Pollard's father written last October by former Weinberger aide Lawrence Korb, Weinberger's neutrality toward issues concerning Israel is raised.

"I am not aware of exactly what Weinberger told the court about the impact of the information Jonathan passed to Israel," Korb wrote. "I do know that Weinberger had an almost visceral dislike of Israel and the special place it occupies in our foreign policy."

Korb, now director of the Center for Public Policy Education at the Brookings Institution, added: "In my opinion, the severity of the sentence that Jonathan received was out of proportion to his alleged offense."

Jewish Telegraphic Agency

IN THE UNITED STATES DISTRICT COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 90-3276

JONATHAN J. POLLARD,
Petitioner

v.

UNITED STATES OF AMERICA,
Respondent

BRIEF IN SUPPORT OF PETITIONER
BY AMICI CURIAE, LAW PROFESSORS ET AL

Kenneth Lasson, Esq.
University of Baltimore
School of Law
Maryland at Mount Royal
Baltimore, Maryland 21215
(301) 625-3088

Attorney for Amici Curiae
LAW PROFESSORS ET AL

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii
INTEREST OF THE AMICI	iv
QUESTIONS PRESENTED	v
STATEMENT OF THE CASE	vi
STATEMENT OF FACTS	vi
SUMMARY OF ARGUMENT	vii
ARGUMENT	
I. THE LOWER COURT ERRED IN REFUSING TO VACATE AN INHERENTLY SUSPECT WIRED PLEA WITHOUT HAVING APPLIED THE REQUISITE SPECIAL CARE TO DETERMINE WHETHER THE PLEA WAS TRULY VOLUNTARY -- FAILING EVEN TO CONDUCT AN EVIDENTIARY HEARING ON THE QUESTION.	1
II. THE LOWER COURT ERRED IN NOT NULLIFYING THE PLEA AGREEMENT, WHICH PROSECUTORS HAD BREACHED (A) BY FAILING TO LIMIT THEIR ALLOCUTION OF THE FACTS AS AGREED UPON; (B) BY PROMISING TO DISCLOSE PETITIONER'S "VALUABLE" COOPERATION, BUT THEN CASTING ASPERSIONS UPON IT; AND (C) BY SEEKING TO INFLUENCE THE COURT TO IMPOSE THE HARSHEST POSSIBLE SENTENCE.	11
III. THE COURT BELOW ERRED WHEN THE SENTENCING JUDGE, HAVING IMPOSED UPON PETITIONER A DISPROPORTIONATELY HARSH SENTENCE, REFUSED HIS APPELLATE COUNSEL ACCESS TO THE VARIOUS <u>EX</u> <u>PORTE</u> DECLARATIONS AND DECLINED TO RECUSE HIMSELF WHEN HAVING TO RULE UPON A CHALLENGE TO HIS IMPARTIALITY.	17
CONCLUSION	31

TABLE OF AUTHORITIES

Page

Cases

<u>Bordenkircher v. Hayes</u> , 434 U.S. 357, 363 (1978)	
<u>Brady v. United States</u> , 317 U.S. 742, 748 (1970)	
<u>Brunelle v. United States</u> , 864 F.2d 64, 65 (8th Cir. 1988)	
<u>Correale v. United States</u> , 479 F.2d 944, 947 (1st Cir. 1973)	
<u>Cortez v. United States</u> , 337 F.2d 699, 701-702 (9th Cir. 1964)	
<u>Crow v. United States</u> , 397 F.2d 284, 285 (10th Cir. 1968)	
<u>Innes v. Dalsheim</u> , 864 F.2d 974, 978 (2d Cir. 1988), <u>cert. denied</u> , 110 S. Ct. 50 (1989)	
<u>Johnson v. Wilson</u> , 371 F.2d 911, 912 (9th Cir. 1967)	
<u>Liljeberg v. Health Services Acquisition Corp.</u> , 108 S.C. 2194, 2202 (1988)	
<u>Machibroda v. United States</u> , 368 U.S. 487, 493 (1962)	
<u>Mack v. United States</u> , 635 F.2d 20, 27 (1st Cir. 1980)	
<u>Martin v. Kemp</u> , 760 F.2d 1244 (11th Cir. 1985)	
<u>McCarthy v. United States</u> , 394 U.S. 459, 467 (1969)	
<u>North Carolina v. Alford</u> , 400 U.S. 25, 31 (1970)	
<u>People v. Wango</u> , 534 P.2 1001 (1975)	
<u>Sanders v. United States</u> , 373 U.S. 1, 20 (1963)	
<u>Solem v. Helm</u> , 463 U.S. 277, 297 (1982)	
<u>State v. Evans</u> , 245 P.2d 788 (1972)	
<u>Thacker v. Garrison</u> , 445 F. Supp. 376 (W.D.N.C. 1978)	
<u>Tyler v. Swenson</u> , 427 F.2d 412, 415 (8th Cir. 1970)	
<u>United States v. Bernstein</u> , 546 F.2d 109 (5th Cir. 1977)	

United States v. Bowler, 585 F.2d 851, 853-55
(7th Cir. 1978)

United States v. Brown, 500 F.2d 375 (4th Cir. 1974)

United States v. Calabrese, 645 F.2d 1379, 1390
(10th Cir. 1981), cert. denied, 451 U.S. 1018 (1982)

United States v. Cammisano, 599 F.2d 851 (8th Cir. 1979)

United States v. Casamento, 887 F.2d 1141, cert. denied,
110 S. Ct. 1138 (1989)

United States v. Cody, 438 F.2d 287, 288 (9th Cir. 1971)

United States v. Colson, 230 F. Supp. 953, 955
(S.D.N.Y. 1964)

United States v. Cook, 668 F.2d 317 (7th Cir. 1982)

United States v. Coplon, 185 F.2d 629, 638 (2d Cir. 1950)

United States v. Crusco, 536 F.2d 21, 26 (3rd Cir. 1976)

United States v. Daniels, 821 F.2d 76 (1st Cir. 1987)

United States v. Fisch, 863 F.2d 690 (9th Cir. 1988)

United States v. Foss, 501 F.2d 522, 530 (1st Cir. 1974)

United States v. Fountain, 777 F.2d 351, 356
(7th Cir. 1985)

United States v. Grandinetti, 564 F.2d 723
(5th Cir. 1977)

United States v. Greenwood, 812 F.2d 632, 635
(9th Cir. 1987)

United States v. Gonzalez, 820 F.2d at 579 (2d Cir. 1987)

United States v. Harvey, 848 F.2d 1547 (11th Cir. 1988)

United States v. Heldt, 668 F.2d 1238, 1271 (D.C. Cir. 1981),
cert. denied, 456 U.S. 9926 (1982)

United States v. Lewis, 743 F.2d 1127 (5th Cir. 1984)

United States v. Moscahlaidis, 868 F.2d 1357, 1361
(3rd Cir. 1989)

United States v. Nuckols, 606 F.2d 566, 569
(5th Cir. 1979)

United States v. Packwood, 848 F.2d 1009 (9th Cir. 1988)

United States v. Pollard, 747 F. Supp. 797, 807 (1990)

United States v. Pomazi, 851 F.2d 244 (9th Cir. 1988)

United States v. Read, 778 F.2d 1437 (2nd Cir. 1985),
cert. denied, 479 U.S. 835 (1985)

United States v. Reardon, 787 F.2d 512 (10th Cir. 1986)

United States v. Rossillo, 853 F.2d 1062, 1066
(2d Cir. 1988)

United States v. Simmons, 537 F.2d 1260, 1261
(4th Cir. 1976)

United States v. Travis, 735 F.2d 1129 (9th Cir. 1984)

United States v. Tursi, 576 F.2d 396, 398 (1st Cir. 1978)

United States v. Usher, 703 F.2d 956, 958 (6th Cir. 1983)

Walker v. Johnston, 312 U.S. 275, 287 (1941)

Statutes

18 U.S.C. §§ 371, 793(e), 794(a), 794(c)

28 U.S.C. § 455

Articles

Friedman, The Secret Agent, N.Y. Rev. Books 10
(Oct. 29, 1989)

N.Y. Times, 1/9/81, at A1, col. 1

N.Y. Times, 12/17/81, at A20, col. 6

N.Y. Times, 1/21/82 at B9, col. 6

N.Y. Times, 8/4/84, at A5, col. 6

N.Y. Times, 8/25/87, at A1, col. 1

N.Y. Times, 3/11/89, at A9, col. 2

N.Y. Times, 12/7/89 at A12, col. 3

N.Y. Times, 2/5/91, at B6, col. 2

U.S. News & World Rep, Sept. 24, 1990, at 40

Weiss, "The Quiet Coup," Harper's, September 1989
at 54; N.Y. Times, 12/8/85 at D4, col. 1

Miscellaneous

Bench Book for U.S. District Judges
(Federal Judicial Center)

Note, Disproportionality in Sentences of Imprisonment,
79 Col. 2 Rev. 1119, 1131 (1979)

1954 Cong. Rec. at 10,105; 10,115; 14,598; 14,600

Federal Rules of Criminal Procedure, Rule 11

INTEREST OF THE AMICI

Amici are professors of law and practitioners with special academic and professional interests in issues involving constitutional rights and civil liberties, and broad-based national communal organizations. Amici have a particularly strong interest in this case, because the totality of the circumstances surrounding Jonathan Pollard's guilty plea suggest coercion and bad faith to an aggravated degree, leading to a gross miscarriage of justice.

The potential for prosecutorial abuse in the "wiring" of guilty pleas requires that they be subjected to heightened judicial scrutiny -- an inquiry that was not undertaken here. Moreover, the court's insensitivity to the government's patent circumvention of both the letter and spirit of the plea agreement, its acceptance of ex parte evidence not subject to cross examination or rebuttal by the defendant, and its imposition of the harshest possible sentence -- in disregard of both the plea agreement and established sentencing guidelines -- dangerously undermine fundamental principles of fairness and due process.

KENNETH LASSON
Professor of Law
University of Baltimore

[ET AL]

QUESTIONS PRESENTED

- I. DID THE LOWER COURT ERR IN REFUSING TO VACATE AN INHERENTLY SUSPECT WIRED PLEA WITHOUT HAVING APPLIED THE REQUISITE SPECIAL CARE TO DETERMINE WHETHER THE PLEA WAS TRULY VOLUNTARY -- FAILING EVEN TO CONDUCT AN EVIDENTIARY HEARING ON THE QUESTION?
- II. DID THE LOWER COURT ERR IN NOT NULLIFYING THE PLEA AGREEMENT, WHICH PROSECUTORS HAD BREACHED (A) BY FAILING TO LIMIT THEIR ALLOCUTION OF THE FACTS AS AGREED UPON; (B) BY PROMISING TO DISCLOSE PETITIONER'S "VALUABLE" COOPERATION, BUT THEN CASTING ASPERSIONS UPON IT; AND (C) BY SEEKING TO INFLUENCE THE COURT TO IMPOSE THE HARSHEST POSSIBLE SENTENCE?
- III. DID THE COURT BELOW ERR WHEN THE SENTENCING JUDGE, HAVING IMPOSED UPON PETITIONER A DISPROPORTIONATELY HARSH SENTENCE, REFUSED HIS APPELLATE COUNSEL ACCESS TO THE VARIOUS EX PARTE DECLARATIONS AND DECLINED TO RECUSE HIMSELF WHEN HAVING TO RULE UPON A CHALLENGE TO HIS IMPARTIALITY?

STATEMENT OF THE CASE

Amici adopt the statement of the case as set forth in Petitioner's Brief.

STATEMENT OF FACTS

On November 21, 1985, Jonathan Pollard was arrested and charged with transferring classified documents to Israeli nationals. He was held without bond, while the government sought his cooperation in assessing whatever damage may have resulted from his activities.

On November 22, 1985, Anne Pollard (Petitioner's wife) was arrested and subsequently charged with being an accessory after the fact to her husband's possession of national defense documents.*

She was held without bond for over three months in a District of Columbia jail, during which time she suffered severe physical and emotional disorders. Mrs. Pollard's long-standing medical problems, for which she had undergone a surgical procedure the day

* After Pollard had come under investigation, Mrs. Pollard (at her husband's request) attempted to remove from their apartment documents that were incriminating to him. She was also charged with conspiracy to receive embezzled government property; the material in question, however, was less-classified literature about the embassy of the People's Republic of China -- which Pollard had provided his wife to help her in a public relations presentation -- and not the documents that he had given to Israel.

STATEMENT OF THE CASE

Amici adopt the statement of the case as set forth in Petitioner's Brief.

STATEMENT OF FACTS

On November 21, 1985, Jonathan Pollard was arrested and charged with transferring classified documents to Israeli nationals. He was held without bond, while the government sought his cooperation in assessing whatever damage may have resulted from his activities.

On November 22, 1985, Anne Pollard (Petitioner's wife) was arrested and subsequently charged with being an accessory after the fact to her husband's possession of national defense documents.*

She was held without bond for over three months in a District of Columbia jail, during which time she suffered severe physical and emotional disorders. Mrs. Pollard's long-standing medical problems, for which she had undergone a surgical procedure the day

* After Pollard had come under investigation, Mrs. Pollard (at her husband's request) attempted to remove from their apartment documents that were incriminating to him. She was also charged with conspiracy to receive embezzled government property; the material in question, however, was less-classified literature about the embassy of the People's Republic of China -- which Pollard had provided his wife to help her in a public relations presentation -- and not the documents that he had given to Israel.

before her arrest, worsened dramatically in jail. She endured long periods of constant pain and was often unable to eat. Her frequent requests for medical treatment went largely ignored, primarily because the jail's medical staff was unable to determine the causes of her condition. In the ninety-five days of her incarceration, Mrs. Pollard lost more than forty pounds and her hair began to turn gray. All of these problems were well known to her husband and had been amply documented before the court that accepted the guilty pleas. [See Anne Henderson Pollard's Memorandum in Aid of Sentencing, dated Feb. 26, 1987, particularly at pages 21-23.]

Mrs. Pollard was diagnosed by a private specialist (Dr. Michael Goldberg of Chicago) as having biliary dyskinesia, a rare condition of the bile duct that presents "a clinical enigma . . . difficult to diagnose and manage therapeutically." In October of 1986 she underwent multiple and complex surgical procedures to reduce pressure in her intestinal tract. The surgery was termed "not completely successful." [*Id.* at 24.]

While she was free on bond, Anne Pollard visited her husband at the federal penitentiary in Petersburg, Virginia. These visits served to make Petitioner even more acutely aware of the gravity of his wife's condition -- and of the apparent reality that her own guilty plea represented her best chance to survive.

The prosecutors, however, refused to allow Anne Pollard to plead guilty unless her husband did likewise. Moreover, if Petitioner did not cooperate the government threatened to bring new and additional charges against his wife. [cite?] Thus were

their two pleas inextricably linked (or "wired") to one another. The government did not conceal its intentions: Anne Pollard's plea agreement explicitly provided that --

If Mr. Jonathan Jay Pollard fails to completely fulfill all of his obligations pursuant to his plea agreement, at any time before both he and Mrs. Pollard have been sentenced, then the Government will be relieved of its obligations under this plea agreement with Mrs. Pollard. [Plea Agreement at ¶ 9.]

The plea agreement that the government offered Pollard required that he submit to interviews and polygraph examinations, that he testify before the grand jury investigating others involved in his offense, and that he respond to all questions put to him by federal law enforcement authorities. Specifically, Pollard would disclose everything he knew about espionage-related activities, including the nature and extent of any classified information that may have been compromised. [Plea Agreement at ¶ 3.] The plea agreement also contained a provision that required Pollard to submit to Navy censors any information he might disclose in a private interview or public statement. [*Id.* at ¶ 9.]

In return for Pollard's guilty plea the government would agree specifically not to ask for a life sentence, but to limit itself to recommending "that the Court impose a sentence of a substantial period of incarceration and a monetary fine." [Plea Agreement at ¶ 4.] The government would also agree to limit its allocution to the facts and circumstances of the offenses committed by Pollard, and to make his cooperation known to the court. [*Id.*]

On June 4, 1986, pursuant to the wired agreements described above, Petitioner pled guilty to one count of conspiracy to deliver

national defense information to a foreign government, in violation of 18 U.S.C. § 794(c). Anne Pollard pled guilty to conspiracy to receive embezzled government property, in violation of 18 U.S.C. § 371, and to being an accessory after the fact to possession of national defense documents, in violation of 18 U.S.C. § 793(e).

At the hearing, the court never scrutinized the voluntariness of Petitioner's guilty plea, even though it was wired to that of his wife and therefore inherently suspect. [Transcript of Guilty Plea at 7.]

Pollard subsequently spent many hours cooperating with prosecutors in interrogation and polygraph sessions. [See Government's Memorandum in Aid of Sentencing at 23-37 (hereinafter "Government's Memorandum").]

In November 1986, after the plea had been entered but before sentencing, a reporter named Wolf Blitzer contacted the warden at the federal penitentiary in Petersburg, Virginia, and requested (both orally and in writing) to interview Pollard. Pursuant to its standard procedures, the Bureau of Prisons contacted Pollard to see if he agreed to the interview; he did, and he executed the request form supplied to him by the government. The request was officially granted, the interview took place, and on November 30, 1986, Blitzer published an article based upon it. In January of 1987, Blitzer requested a second interview; Pollard again submitted the forms supplied by the government, which in turn again granted permission, and Blitzer later published a second article. [Defendant's Motion to Withdraw Guilty Plea at 9-10.] Despite the

fact that the government had approved and facilitated both interviews without imposing any restrictions on them -- and was fully aware of the fact that an article had appeared based on the first before it approved the second -- at sentencing the government charged that the interviews violated the plea agreement. [Id. at 10-11.]

Pollard disputed the claim that he had disclosed classified information to Blitzer [Sentencing Transcript at 59]; indeed the lower court never found that the interviews had in fact violated the plea agreement. Nor did the government ever attempt to have the agreement set aside and to proceed to trial, as the agreement permitted it to do in the event of a breach. [Plea Agreement at ¶ 5.]

In addition to asserting a breach of the plea agreement, the government in its sentencing memoranda and in its oral allocution -- far from limiting itself to the facts and circumstances surrounding Pollard's offenses, as it was required to do by the agreement -- discussed at great length what it portrayed as Pollard's nefarious motives and bad character. One example out of many: the government said that it was "arrogance and deception which drove this defendant to commit the acts, the criminal acts in this case, and they are also those two character traits, arrogance and deception, typical of the way he has sought to defend and excuse the things that he had done." [Sentencing Transcript at 35.]

The government also failed to abide fully by another of its promises under the plea agreement -- to inform the court of the "nature, extent and value of [Pollard's] cooperation." Although it characterized the information he provided as of "considerable value" as the plea agreement required, the government proceeded to ask that the court discount Pollard's cooperation because his Israeli co-conspirators had escaped -- an event that had occurred before the plea agreement -- and because it doubted the integrity of the defendant's motives in cooperating. [Government's Memorandum at 37-44.]

In addition, the government submitted as part of its allocution a classified declaration, under seal, from then-Secretary of Defense Caspar Weinberger, which presented his opinions as to the damage that Pollard had allegedly done to national security. Moreover, the day before sentencing Weinberger submitted a supplemental declaration to the court which stated that Pollard's interviews with Blitzer showed he was not loyal to the United States and called his actions "treason"; Weinberger went on to declare that he could not imagine worse damage to national security than that caused by Pollard.

On March 4, 1987 Pollard was sentenced to life imprisonment with a recommendation against parole (???) -- a sentence never before meted out against someone who has spied for an American ally, and considerably more harsh even than those typically given to enemy spies. He has been held in solitary confinement since January of 1988. As a practical matter there is

virtually no possibility of parole. ** His motion to have the sentence reduced pursuant to Rule 35 of the Federal Rules of Criminal Procedure was denied on February 22, 1988. Petitioner's new lawyer on the instant appeal, who had obtained a security clearance, requested access to materials which had been submitted under seal by the government; this request was denied. [Letter from David Geneson to Hamilton Fox, May 26, 1989.]

On March 12, 1990, citing the government's manifold failure to live up to its part of the plea agreement, as well as the involuntariness of his "wired" plea, Petitioner moved to have his guilty plea withdrawn, pursuant to 28 U.S.C. § 2255. In further support of this motion, on March 29, 1990 he submitted an affidavit executed by Professor Alan Dershowitz of the Harvard Law School (hereinafter Dershowitz Affidavit), reporting a telephone conversation he had had with the late Supreme Court Justice Arthur Goldberg, during which Justice Goldberg described a conversation that he had had with Judge Robinson of the court below. According to Justice Goldberg, Judge Robinson said that the government had supplied him with information indicating that Pollard had given Israel American satellite photographs which proved Israel tested Jericho missiles in South Africa and provided South Africa with military technology. This connection between Israel and South

** According to prosecuting U.S. Attorney Joseph diGenova, "Mr. Pollard . . . will not see the light of day." [Chicago Tribune, 3/5/87 at p.8.] "It's highly unlikely that he'll become eligible for parole." [New York Times, 3/5/87 at A1, col.2.]

Africa, said Justice Goldberg, had "weighed heavily" in Judge Robinson's decision to impose a life sentence upon Pollard. [Dershowitz Affidavit at 2.]

Pollard requested that he be given an opportunity in a hearing to explore whether the government had made such an ex parte disclosure, and to challenge the validity of these claims if they had been made. If the conversation were substantiated, it would raise a serious question about both the government's adherence to its part of the plea agreement and the fairness of the sentence. In addition, because Judge Robinson was the only available witness to the alleged conversation, Pollard moved for his recusal.

On September 11, 1990, in a memorandum opinion, Chief Judge Robinson denied all of Pollard's motions.

SUMMARY OF ARGUMENT

Although the court below was faced with an inherently suspect "wired" guilty plea -- one induced by the promise of lenient treatment toward a third party if the defendant pleads guilty -- it failed to apply the special care necessary to ensure that Petitioner's plea was truly voluntary. Moreover, it declined even to conduct an evidentiary hearing on the question. Such failure was especially prejudicial under the unique circumstances of this case -- where Petitioner agreed to plead guilty largely out of fear for the well-being (and perhaps the life) of his wife -- and reveals coercion to an aggravated degree. (See infra Argument I, pp. ____.)

In addition, the government breached the plea agreement in every particular. Despite their implicit promise not to seek a life sentence, prosecutors did precisely that by submitting hyperbolic declarations from the Secretary of Defense labelling Petitioner's crime "treason"; by not limiting itself in its presentence allocution to the "facts and circumstances" of Petitioner's crime, as it had promised to do, instead attacking his character and motivation; by undercutting its agreement to inform the court of Petitioner's "valuable" cooperation; and, as alleged in the Dershowitz Affidavit, by making ex parte disclosures that "weighed heavily" in the judge's sentencing decision. These breaches entitled Petitioner to withdraw his plea. (See infra Argument II, pp. ____.)

Finally, the court below paid scant if any deference to the plea bargain by imposing upon Petitioner the harshest possible sentence (life in prison) -- a penalty substantially more severe than similar or worse offenders have received in the recent past. The judge may well have been influenced by the ex parte declarations noted above, yet he denied Petitioner the right to pursue this issue in an evidentiary hearing, instead ruling that because he himself "knew" that he had not been improperly influenced there was no need for him to recuse himself or hold a hearing on the issue. This was plain error. (See infra Argument III, pp. ____.)

ARGUMENT

I.

THE LOWER COURT ERRED IN REFUSING TO VACATE AN INHERENTLY SUSPECT WIRED PLEA WITHOUT HAVING APPLIED THE REQUISITE SPECIAL CARE TO DETERMINE WHETHER THE PLEA WAS TRULY VOLUNTARY -- FAILING EVEN TO CONDUCT AN EVIDENTIARY HEARING ON THE QUESTION.

At the time when they were both subject to pre-trial imprisonment, Pollard understood that his wife -- afflicted with a rare disease called biliary dyskinesia -- was suffering greatly from her incarceration, and that her medical problems would be exacerbated by a trial and the possibility of a lengthy sentence. The prosecutors, however, refused to allow her to plead guilty unless her husband did the same. Moreover, they threatened to bring new charges against her if Petitioner did not plead guilty.

All guilty pleas must be entirely voluntary.

A court may not accept a guilty plea without determining that it "represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." [North Carolina v. Alford, 400 U.S. 25, 31 (1970); see also Brady v. United States, 397 U.S. 742, 755 (1970).]

In determining whether a plea was voluntary, a court must examine the totality of events and circumstances -- which in turn "involves an evaluation of psychological and other factors that may reasonably be calculated to influence the human mind." [United States v. Colson, 230 F. Supp. 953, 955 (S.D. N.Y. 1964).] As the Supreme Court has emphasized, it is incumbent upon the trial court to conduct a probing, on-the-record inquiry to determine

voluntariness:

To the extent that the district judge . . . exposes the defendant's state of mind on the record through personal interrogation, he not only facilitates his own determination of a guilty plea's voluntariness but he also facilitates that determination in any subsequent post-conviction proceeding based upon a claim that the plea was involuntary. Both of these goals are undermined to the degree the district judge resorts to 'assumptions' not based upon recorded responses to his inquiries. [McCarthy v. United States, 394 U.S. 459, 467 (1969); see also [United States v. Cody, 438 F.2d 287, 289 (9th Cir. 1971), and the Bench Book for U.S. District Judges (Federal Judicial Center).]

This requirement is embodied in Rule 11(d) of the Federal Rules of Criminal Procedure. As the Second Circuit recently noted, "Rule 11 is not satisfied unless the district court determines the voluntariness of the guilty plea based upon the record responses to its questions." [United States v. Rossillo, 853, F.2d 1062, 1065 (2d Cir. 1988).] The burden is on the court to satisfy Rule 11, and adherence to the rule must be "scrupulous." [Id. at 1067.] Similarly, it is important for the court to "flush out any discussions that have occurred regarding the possible sentence a defendant may receive." [United States v. Gonzalez, 820 F.2d 575, 579 (2d Cir. 1987).]

A guilty plea induced by promises or threats which deprives it of the character of a voluntary act violates the constitutional guarantee of due process. [cite to record?] A conviction based upon such a plea is open to collateral attack, regardless of when it occurs. [See Machibroda v. United States, 368 U.S. 487, 493 (1962), in which a hearing was ordered even though the defendant filed his habeas corpus petition three years after he had pleaded

guilty.]

No determination of voluntariness was ever attempted in the court below. Rather than conducting a careful inquiry, the court below asked merely if the defendant understood "the consequences" of his plea and contented itself with a rote response in the affirmative. "Whatever the exact nature of the colloquy it is essential that it be meaningful. . . . [T]he trial court should question the defendant in a manner that requires the accused to provide narrative responses" rather than "responses which merely mimic the indictment or the plea agreement." [United States v. Fountain, 777 F.2d 351, 356 (7th Cir. 1985).]

"Wired" pleas must be examined with special care.

If every plea agreement requires such scrutiny to determine voluntariness, a "wired" plea -- one induced by the promise of lenient treatment toward a third party if the defendant pleads guilty -- should merit an even more thorough probing by the trial court. The overwhelming weight of authority supports the common-sense proposition that "guilty pleas made in consideration of lenient treatment as against third persons pose a greater danger of coercion than purely bilateral plea bargaining, and that, accordingly, 'special care must be taken to ascertain the voluntariness' of guilty pleas entered in such circumstances." [United States v. Nuckols, 606 F.2d 566, 569 (5th Cir. 1979) (quoting United States v. Tursi, 576 F.2d 396, 398 (1st Cir. 1978)). See also Crow v. United States, 397 F.2d 284, 285 (10th Cir. 1968); and Cortez v. United States, 337 F.2d 699, 701-702 (9th Cir.

1964):.]

In Bordenkircher v. Hayes, 434 U.S. 357 (1978), the Supreme Court left unresolved "the constitutional implications of a prosecutor's offer during plea bargaining of adverse or lenient treatment for some person other than the accused. . . , which might pose a greater danger of inducing a false guilty plea by skewing the assessment of the risks a defendant must consider." [434 U.S. at 364 n.8 (Emphasis in original).] But the Court did take pains to note that the "'give and take' of plea bargaining [will be permitted only] so long as the accused is free to accept or reject the prosecution's offer." [*Id.* at 363, emphasis added.]

No such leeway was permitted Jonathan Pollard. He was not free to reject the prosecution's offer, lest he permanently endanger his wife's health.

In United States v. Cammisano, 599 F.2d 851 (8th Cir. 1979), a guilty plea was ordered vacated when the defendant claimed that "he [had been] pressured into pleading guilty because of threats that, unless he did so, his brother . . . might go to trial and receive a long sentence." [*Id.* at 852.] Both brothers had pleaded guilty. The district court had ruled that defendant's statements adopting his attorney's remarks were sufficient to show compliance with Rule 11(d). [*Id.* at 855.] But the Court of Appeals found nothing in the record contained a "specific inquiry . . . into the plea's voluntariness or whether it was the product of 'force, threats or promises,'" and held that "this procedure falls short of the spirit and letter of Rule 11(d). . . . The essential

purpose behind Rule 11 is to seek judicial assurance that the plea is voluntary and not wrongfully induced by force, threats or promises." [Id. at 855-856.]

In Johnson v. Wilson, 371 F.2d 911, 912 (9th Cir. 1967), the Ninth Circuit held erroneous the trial court's dismissal of the appellant's claim that his "wired" guilty plea had been coerced: "Whether appellant's guilty plea was the voluntary choice of a free and unrestrained will [citations omitted] or was the product of a coerced confession, or was itself improperly induced or coerced, were questions of fact which could only be determined after an evidentiary hearing." The coercion worked on Jonathan Pollard was even greater than that involved in Johnson v. Wilson, where the police had merely threatened to proceed against defendant's wife and daughter. With Pollard's wife alarmingly ill and already having been in jail, he reasonably perceived the threats of additional charges as virtual threats against her life.

In United States v. Daniels, 821 F.2d 76 (1st Cir. 1987), the appellant was again allowed to withdraw his guilty plea where the government failed to tell the court at the Rule 11 hearing that it had made clear to the defendant that it would not accept guilty pleas from his two codefendants (his brother and brother-in-law) unless he also pleaded guilty." [Id. at 78-79.] In the case at bar, although the district court should have been aware of the statements made by the prosecution to Jonathan Pollard connecting his wife's plea to his own, it made no meaningful inquiry about them.

A case similarly germane is United States v. Nuckols, supra, where the appellant was held entitled to a hearing on his claim "that the prosecuting attorney induced his guilty plea by threatening 'to prosecute appellant's wife if he fought the case.'" Even though the prosecutors in Nuckols did not in fact bring charges against the appellant's wife, and [there was no evidence indicating that the appellant's wife had been involved in criminal conduct that would have justified her prosecution,] the Fifth Circuit nevertheless recognized the coercive element inherent in the mere threat to charge the wife. Here, the element of coercion was even stronger; Anne Pollard had already been charged with several offenses, and this lent credibilty to the government's spectre of additional charges.

The lower court failed completely to determine that Petitioner's wired plea was voluntary.

Far from conducting the careful inquiry specifically needed to determine whether a "wired" plea is truly voluntary, the lower court exercised no scrutiny at all -- apparently satisfying itself with the idea that the plea agreement itself negated the possibility that it had been coerced. Instead of undertaking a meaningfully thorough inquiry, the court relied on a pro forma statement by Pollard's attorney asking that the guilty plea be accepted. [Plea Transcript at 7-8.]

Likewise, the court failed to make any meaningful evaluation of the psychological factors involved that suggested the plea had been vitiated by coercion. Although Pollard admitted his guilt,

the judge asked him nothing even generally about whether he had been threatened by his wife's prosecution -- much less specifically about the connection between her plea and that of his own. Although she was scheduled to plead moments later, and though each plea agreement referred specifically to the other's, the judge made no effort to weigh the possibility that they were mutually coercive.

Pollard's acknowledgment that he understood the consequences of his plea was no evidence of its voluntariness. In Martin v. Kemp, 760 F.2d 1244 (11th Cir. 1985), the Eleventh Circuit, relying on Nuckols, ordered an evidentiary hearing to determine whether a guilty plea allegedly induced by threats to prosecute a spouse "were founded in good faith upon probable cause." [Id. at 1249.] The defendant's prior attestation of voluntariness," said the court in Martin, is insufficient to preclude his "subsequent claim that he pleaded guilty only to protect the third party." [Id. at 1248.]

Rule 11's plea bargaining rules serve not simply to benefit parties to an agreement, but also to allow the district court to assure that the agreement is just. . . . Thus, the court has an interest independent of that of the parties in knowing the terms of a plea agreement. . . . Because Rule 11 protects not only the parties but also the 'fairness, integrity [and] public reputation of judicial proceedings,' other appellate courts have applied the requirement of raising questions below less strictly in the Rule 11 violations sua sponte. [Id. at 81.]

Even the cases that ultimately rejected the defendant's claim that his guilty plea had been involuntarily (and therefore improperly) linked to that of a third party recognize that a hearing is imperative: whether a guilty plea was involuntary is a

question of fact which must be determined from the totality of circumstances in each case. [See, e.g., United States v. Usher, 703 F.2d 956, 958 (6th Cir. 1983), in which the defendant claimed that linkage to his wife's plea was in itself sufficient coercion to vitiate his own.] Here Pollard invokes the appropriate standard under which the court must examine all the surrounding circumstances to determine whether the government-inspired linkage between his plea and that of his wife was coercive and therefore constitutionally impermissible.

Given the severity of the charges facing him, and the fact that his plea and the plea of his wife were known to be "wired," at a minimum the lower court should have conducted more than a cursory inquiry into Petitioner's decision to plead guilty, specifically to ensure that it was truly voluntary and not coerced. The judge's failure to do so was not merely a technical violation of Rule 11, but amounted to reversible error.

It is likewise important to note that neither the defendant nor his counsel is obliged affirmatively to raise the issue of the coercive circumstances surrounding the plea at the time it was made. Rule 11 directs the court to determine that the plea is voluntary. "The rule places no such burden on the defendant." [United States v. Rossillo, 853 F.2d 1062, 1067 (2d Cir. 1988).]

The careful inquiry by the court contemplated by Rule 11 would have probed the circumstances under which Petitioner pled guilty, and would have discovered that Pollard was motivated to forego his right to a trial not only to minimize his chances of receiving a

life sentence, but clearly (and perhaps primarily) for the well-being of his wife. It would have also made clear that the very coercion that vitiated Pollard's guilty plea constrained him to be silent unless required to speak in answer to the court's questions. Pleading guilty was the only way he could protect his wife from what he reasonably regarded as a serious threat to her life; but disclosure of the coercion that generated the plea would render it null, and in the absence of an effective guilty plea by Jonathan none would be available to Anne.

Thus Pollard could not be expected to speak spontaneously, and his silence cannot be reasonably interpreted as a genuinely voluntary and valid waiver of his right to a jury trial. He did not waive his right to a trial by delaying his claim that the guilty plea had been involuntary: he could not safely renounce his plea until his wife was out on parole and subject to a lesser risk of retaliation by a potentially vindictive prosecution. Even had he wanted to waive his rights, he could not have done so without jeopardizing his wife. He was truly trapped.

Indeed this is the dilemma presented by many "wired" plea agreements, and precisely why they must be scrutinized so carefully. Clearly the judge below was bound to make those inquiries; his failure to do so rendered the plea unconstitutionally defective, and should be reason enough to vacate it and remand the case. The only remedy now is to allow Petitioner to withdraw his plea of guilty and stand trial.

II.

THE LOWER COURT ERRED IN NOT NULLIFYING THE PLEA AGREEMENT, WHICH PROSECUTORS HAD BREACHED (A) BY FAILING TO LIMIT THEIR ALLOCUTION OF THE FACTS AS AGREED UPON; (B) BY PROMISING TO DISCLOSE PETITIONER'S "VALUABLE" COOPERATION, BUT THEN CASTING ASPERSIONS UPON IT; AND (C) BY SEEKING TO INFLUENCE THE COURT TO IMPOSE THE HARSHTEST POSSIBLE SENTENCE.

The essence of a plea agreement is the assurance in good faith that both sides will receive something of value. In the nature of a contract, specific promises are exchanged between prosecutor and defendant. Interpretation of the terms of a plea agreement is subject to the same objective standards applied to other contracts. [United States v. Pomazi, 851 F.2d 244, 250 (9th Cir. 1988); United States v. Harvey, 848 F.2d 1547, 1552 (11th Cir. 1988); United States v. Packwood, 848 F.2d 1009, 1011 (9th Cir. 1988).] When a contract is materially breached, the aggrieved party has the right to seek its nullification. [Santobello v. New York, 404 U.S. 257 (1971); Brunelle v. United States, 864 F.2d 64, 65 (8th Cir. 1988).]

Even where a breach is inadvertent or where the trial judge declines the prosecutor's recommendation, the interests of justice require that a defendant receive "what is reasonably due in the circumstances." [Santobello, 444 U.S. at 262.] A long and clear line of cases holds the government to high standards of promise and performance; breaches of either explicit or implicit promises are enough to invalidate a plea agreement. [United States v. Moscahlaidis, 868 F.2d 1357, 1361 (3rd Cir. 1989); United States v. Bowler, 585 F.2d 851, 853-55 (7th Cir. 1978); United States v.

Grandinetti, 564 F.2d 723 (5th Cir. 1977); United States v. Brown, 500 F.2d 375 (4th Cir. 1974); Correale v. United States, 479 F.2d 944, 947 (1st Cir. 1973).]

Here, in return for Petitioner's guilty plea, the government promised that it would limit its allocution to the facts and circumstances of the offenses committed; that it would make Pollard's cooperation known to the court; and that it would ask for a "substantial" -- not "maximum," but "substantial" -- sentence. The government breached each of these promises in its sentencing recommendations to the court. Petitioner had bargained away his right to trial in return for empty promises and illusory statements. He gave, but he did not receive.

The government breached both the substance and spirit of the agreement in every particular.

Instead of limiting its allocution to "the facts and circumstances of the offenses committed by Mr. Pollard" [Plea Agreement at § 4(b)], the government (after stating that the facts and circumstances it had presented in detail justified a "substantial period of incarceration") went on to malign Pollard's motives and character -- concluding that it was greed, not altruism, which had caused him to pass classified information to Israel. [Government's Memorandum in Aid of Sentencing at 39-43.] In a subsequent memorandum, the government variously called Petitioner a "recidivist," "unworthy of trust," and "traitorous." [Reply to the Defendant's Sentencing Memorandum at 12 and 22.] At the sentencing itself, the government called Pollard deceptive,

arrogant, vengeful, and "not a man of his word." [Transcript at 44.] None of these statements could fairly be described as either "fact" or "circumstance" of the offense committed -- certainly not within any reasonably literal or figurative meaning of the plea agreement.

A case directly on point is United States v. Moscahlaidis, 868 F.2d 1357 (3rd Cir. 1989), in which the plea agreement permitted the government to inform the sentencing judge and probation office of "the full nature and extent" of the defendant's activities relevant to the facts. [*Id.* at 1359.] But the court found that the government had breached the agreement by using such phrases as "the depth of [the defendant's] greed and moral bankruptcy" and his "utter contempt for the welfare of his fellow man." [*Id.*] Such prosecutorial opinions, said the court, amounted to "nothing less than a 'transparent effort to influence the severity' of [the defendant's] sentence." [*Id.* at 1362.]

In our case, the trial court's assertions that the prosecutors' opinions as to Pollard's character could somehow be construed as "facts and circumstances" seem to swallow whole the government's strained interpretation of its commitment under the plea agreement. At best such a "strict and narrow interpretation of its commitment is untenable." [United States v. Crusco, 536 F.2d 21, 26 (3rd Cir. 1976).] At worst it renders all such language meaningless.

The trial court also held that the government fulfilled its promise to tell of Pollard's cooperation. But whatever the

prosecutors did say on that subject was unalterably diminished by gratuitous speculation about Petitioner's motives, doubts about his remorse, and belittling comments about its timeliness. [citation to record?] The government agreed to inform the court of Pollard's cooperation -- only in the next breath to belittle its value. The defendant certainly cannot be understood to have bargained for that kind of duplicity. [See United States v. Greenwood, 812 F.2d 632, 635 (9th Cir. 1987), and United States v. Fisch, 863 F.2d 690 (9th Cir. 1988).]

The government encouraged the trial to
mete out the maximum sentence.

The government likewise violated its clearly-implied promise to seek something less than the maximum sentence, when it submitted two declarations from then-Secretary of Defense Caspar Weinberger; in them he called for "severe punishment" of Pollard's "treason," which he found "difficult . . . to conceive [causing] a greater harm to national security." [Weinberger Declaration at 45; Supplemental Declaration at 1-2.] There may be yet additional inflammatory and prejudicial allegations in the classified portions of the Weinberger Declarations -- to which Petitioner's current counsel has been denied access. However, even the non-classified portions of the declarations plainly expose the government's attempt to circumvent its commitment to recommend something less than the maximum sentence.

The prosecutors cannot avoid their explicit obligation under the plea agreement by using the statements of a public official not

part of the trial record. The government and Weinberger are one and the same. It was the government which submitted the declarations whose tone and content flew directly in the face of the plea agreement. [See United States v. Cook, 668 F.2d 317 (7th Cir. 1982).]

Moreover, in its attempt to have Pollard sentenced to life in prison, the government may well have engaged in ex parte communications with the sentencing judge. As alleged in the Dershowitz Affidavit, former Supreme Court Justice Arthur Goldberg related to Professor Dershowitz that Judge Robinson had told him that one of the things that had "weighed heavily" in his sentencing decision was information the government had revealed to him concerning Pollard's alleged disclosure to Israel of classified information regarding Israeli missile programs in South Africa. We return to this point in Argument III infra, but note for now that if the allegation -- on which the court below refused to hold a hearing -- is accurate, it provides yet further evidence of the government's breach of its promise not to seek a life sentence.

Here the government has been permitted to interpret "substantial" as "maximum" -- thereby rendering the plea agreement of little or no value to Petitioner (except for the leniency promised his wife, which gave rise to the coercive element noted in Argument I).

The government prompted and facilitated what it claimed to be a breach by Petitioner.

The government claims that Petitioner himself violated the

plea agreement by granting unauthorized interviews.

Much to the contrary, there is ample evidence that the government knowingly allowed Pollard to engage in the interviews, only then to assert that he had breached the agreement. Pollard was incarcerated both times he met with Wolf Blitzer, the reporter to whom he spoke. On each occasion he carefully followed the procedures imposed by federal prison regulations, including written notice to the Department of Justice. In fact the government not only acquiesced to but facilitated both the first interview -- upon which was based an article it could not fail to have noticed in the internationally-circulated Jerusalem Post -- and the second. In short, the interviews and the articles they generated were anything but clandestine.

The trial court found nothing whatever to substantiate the government's claim that Pollard had disclosed classified information to Blitzer -- perhaps because the court held no evidentiary hearing at all to resolve that factual dispute. Nor did it ever determine as a matter of fact or law that the procedure Pollard followed in granting the interviews was a violation of the plea agreement.

Likewise, the lower court made no mention of Petitioner's argument that the government itself had attempted to prompt a breach by the Petitioner so that (in abrogation of the plea agreement) it could subsequently argue for a harsh sentence. It would be easy for an outside observer to conclude that the government had "used Blitzer, hoping to obtain a long prison

sentence for Pollard." [See, e.g., Friedman, The Secret Agent, N.Y. Rev. Books 10 (Oct. 29, 1989).]

The lower court permitted to go unchallenged the government's assertion that though Petitioner had breached the plea agreement he should still be held to it. But it is for the court, not the government unilaterally, to decide if the defendant has breached. [United States v. Calabrese, 645 F.2d 1379, 1390 (10th Cir. 1981), cert. denied, 451 U.S. 1018 (1982); see also United States v. Reardon, 787 F.2d 512 (10th Cir. 1986) and United States v. Simmons, 537 F.2d 1260, 1261 (4th Cir. 1976).]

In determining whether a plea agreement has been broken, the court must look to what was reasonably understood by the defendant when he entered his plea. [United States v. Casamento, 887 F.2d 1141, cert. denied, 110 S.Ct. 1138 (1989); United States v. Read, 778 F.2d 1437 (2nd Cir. 1985), cert. denied, 479 U.S. 835 (1985); United States v. Travis, 735 F.2d 1129 (9th Cir. 1984).]

Furthermore, if the court finds that the defendant has breached, the government's remedy is to be allowed to proceed to trial [Innes v. Dalsheim, 864 F.2d 974, 978 (2d Cir. 1988), cert. denied, 110 S.Ct. 50 (1989)] -- not to abrogate its own promises.

In short, in this case it is the government which violated its duty of good faith and fair dealing -- and the Petitioner who is entitled to be discharged from the plea agreement.

III.

THE COURT BELOW ERRED WHEN THE SENTENCING JUDGE, HAVING IMPOSED UPON PETITIONER A DISPROPORTIONATELY HARSH SENTENCE, REFUSED HIS APPELLATE COUNSEL ACCESS TO VARIOUS EX PARTE DECLARATIONS AND DECLINED TO RECUSE HIMSELF WHEN HAVING TO RULE UPON A CHALLENGE TO HIS IMPARTIALITY.

Petitioner has been denied the right to challenge the Weinberger Declarations.

As part of its pre-sentence recommendations to the court, the government submitted two declarations from then-Secretary of Defense Caspar Weinberger, both of which offered Weinberger's personal assessment of the damage Pollard had done to national security. Although Petitioner had never been charged with anything more than having given classified information to a friendly nation, the Secretary wrote that "no crime is more deserving of severe punishment than conducting espionage activities against one's own country." [Weinberger Declaration at 45 (emphasis added).] Weinberger also declared that Pollard "should not be treated merely as a common criminal" and that the punishment should fit defendant's "treason." [Supplemental Declaration at 2.]

This hyperbolic language in the non-classified portions of the Weinberger Declarations suggests strongly that the classified portions may include allegations that go beyond the charges that formed the basis of Petitioner's indictment -- allegations which may be entirely false or grossly exaggerated, and which may have contributed to the trial judge's decision to sentence Petitioner to a life term. To pursue this line of inquiry, Petitioner's new counsel obtained security clearance, and sought access to the

classified portions of the Weinberger Declarations. When the government refused his request, he asked the court for relief.

The court below denied this motion. It reasoned that it was within its discretion to deny presentence materials to new counsel; that prior counsel as well as Pollard himself were given sufficient opportunity to comment on the classified documents; that prior counsel was competent; and that current counsel can examine the files of prior counsel. [United States v. Pollard, 747 F.Supp. 797, 807 (1990).]

In so ruling the lower court ignored the well-established requirement that presentence reports should be available to counsel at every level, even where the information they contain is already known. [United States v. Foss, 501 F.2d 522, 530 (1st Cir. 1974).] Also ignored was the fact that security regulations required counsel below to leave his notes about classified materials in the government's custody. [cite?]

To support the proposition that presentence reports need be shown to appellate counsel only where a "gross abuse of discretion" was manifest, the lower court cited United States v. Lewis, 743 F.2d 1127 (5th Cir. 1984), and United States v. Bernstein, 546 F.2d 109 (5th Cir. 1977). In both cases, however, the facts were substantially different: in both the defendants fully accepted the presentence report, and made no allegations as to improper

performance under their plea agreements. *** Pollard, in contrast, has consistently claimed that the presentence memoranda were "speculative, seriously flawed and exaggerated." [747 F.2d at 803.] The district court's opinion fails to explain why the circumstances of this case justify keeping these materials from appellate counsel.

Petitioner was denied a fair and impartial
hearing on the Dershowitz Affidavit.

The allegations contained in the Dershowitz Affidavit lend further support to the argument that the judge below was negatively influenced by ex parte communications and that he should have recused himself -- or at the very least held an evidentiary hearing. The affidavit suggests that the judge relied heavily upon the government's ex parte allegations that Pollard had supplied information to Israel about South Africa, a charge Petitioner would have strongly controverted -- had he only been able to do so.

The court below denied Petitioner's request for a hearing because the judge's "recollection of events is in stark contradiction to that claim." [747 F.Supp. at 801.] The judge "knew" that the allegations in the Dershowitz Affidavit were

*** The appellant in Lewis "alleged no facts to show that the sentence was a gross abuse of discretion [and] made only the wholly conclusionary allegation that his background and record were not properly presented at sentencing." [743 F.2d at 1129.] In Bernstein, the defendant informed the court that the presentencing report was correct and was subsequently sentenced to sixty days in jail, well below the maximum he could have received. [596 F.2d at 109.]

"false." [Id. at n.4.] But the trial court's opinion implies that a conversation did in fact take place -- a central allegation in the Dershowitz Affidavit that is never categorically denied. Petitioner, on the other hand, was rendered totally incapable of challenging the judge's conclusory characterization. He could not, for example, ask if the judge had received any information relating to South Africa and if so whether it affected his sentence, or if there ever was a conversation with Justice Goldberg and if so whether Professor Dershowitz's recounting of that conversation was accurate.

Petitioner was clearly entitled to a hearing on the affidavit. A trial judge cannot deny a hearing simply because he "knows" what happened outside of court and because he "believed the facts untrue as alleged." [Mack v. United States, 635 F.2d 20, 27 (1st Cir. 1980); see also Machibroda v. United States, 368 U.S. 487 (1962); Walker v. Johnston, 312 U.S. 275, 287 (1941) and Sanders v. United States, 373 U.S. 1, 20 (1963).]

Not only should there have been a hearing on the affidavit, but at that hearing the judge below should have recused himself. The law on this subject is clear and unambiguous: a federal judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned," or where "he has personal . . . knowledge of disputed evidentiary facts concerning the proceeding," or where he is "likely to be a material witness in the proceeding." [Title 28, U.S.Code, Section 455.] The standard is an objective one, "designed to promote public

confidence in the impartiality of the judicial process." [H.R. No. 93-1453, P.L. 93-512 at pp. 6355 (1974).]

Fundamental fairness is violated when a judge rules upon the credibility of his own testimony; a judge has no particular competence in factual recollection of unrecorded events. [Tyler v. Swenson, 427 F.2d 412 at 415.] Were the analysis of the court below to be accepted, judges would always be insulated against challenges to their ex parte actions because they could always find an absence of bias simply by relying upon their "personal knowledge."

The obvious problem of a court ruling on its own impartiality is the difficulty of removing the appearance of partiality. Such an appearance was not at all obviated -- indeed, it was encouraged -- by the judge's analysis here: "the [c]ourt knows that it did not receive information, as is in fact the case, because and only because of its participation in this criminal action." [747 F.Supp. at 800.] The court's reasoning is tautological: it bypasses the question of its impartiality by deciding that in its own view the charge is baseless, and that therefore there could have been no partiality. The court thus eschews any objective standard to determine impartiality, concluding baldly that the allegation "is simply not credible." [747 F.Supp. at 801.]

If the charge of partiality had been viewed objectively, the possibility that the judge below could become a material witness in a future proceeding would have been clear. For that reason alone he should have disqualified himself.

This very Court has held that a judge should recuse himself whenever there has been even "an appearance of bias or prejudice sufficient to permit the average citizen reasonably to question [his] impartiality." [United States v. Heldt, 668 F.2d 1238, 1271 (D.C. Cir. 1981), cert. denied, 456 U.S. 926 (1982), emphasis in original.] Under Sec. 455(a), "recusal is required even when a judge lacks actual knowledge of the facts indicating his interest or bias in the case if a reasonable person, knowing all the circumstances, would expect that [he] would have actual knowledge." [Liljeberg v. Health Services Acquisition Corp., 108 S. Ct. 2194, 2202 (1988).]

The Sentence Imposed Upon Petitioner
Was Grossly Disproportionate.

It is likewise evident that the classified portions of the Weinberger Declarations and the ex parte communications were extremely prejudicial to Petitioner. The penalty imposed -- life imprisonment with a recommendation against parole [???] -- is so grossly disproportionate to the gravity of Pollard's offense, as well as to other sentences received by those convicted of similar crimes, that the only logical conclusion is that the trial judge must have been influenced by government charges which the Petitioner never had a legitimate opportunity to contravene.

Jonathan Pollard's activities consisted solely of passing information to Israel, an American ally, regarding the production, location, and performance of Arab military hardware and capabilities. His conduct was motivated by a desire to uphold an

Executive Agreement between the United States and Israel, which he understood to require the disclosure of the particular information he provided to the Israelis. [cite to record?] He did not compromise the internal security of the United States. Indeed - - as subsequent events in the Persian Gulf indicate -- far from damaging United States interests, Pollard's actions enhanced them. Intelligence maps he gave to Israel enabled that country to develop an improved defensive capability and to refrain from a potentially divisive active improve in the Persian Gulf War. [See, e.g., U.S. News & World Rep., Sept. 24, 1990, at 40.]

The degree of disparity between Pollard's crime and his punishment is magnified by a comparison of Pollard's sentence with those given to offenders convicted of similar crimes. For example, an Egyptian-born American citizen named Abdelkader Helmy was sentenced to forty-six months in prison for illegally exporting material used in Stealth missiles to Egypt, which planned to share the material with Iraq. [N.Y. Times, 12/7/89 at A12, col.3.] Navy Ensign Steven Baba received a two-year prison term for illicitly transmitting codes to South Africa. [N.Y. Times, 1/21/82 at B9, col.6.] And Samuel Morison, an analyst at the ultra-secret Naval Intelligence Support Center, hid in his apartment over 3500 confidential documents and 4000 classified photographs, some of which he sold to Jane's Defence Weekly (a British magazine). Unlike Pollard, Morison neither cooperated with prosecutors nor pleaded guilty. Nevertheless, he was sentenced to but two years in prison (and was released after eight months). [Weiss, "The Quiet

Coup," Harper's, September 1989 at p.54; N.Y. Times, 12/8/85 at D4, col.1.]

Even more serious crimes of espionage -- and even those committed on behalf of non-friendly countries -- are punished less severely. For example, Richard Miller received a sentence of twenty years for passing a counter-intelligence manual to a Soviet Agent; he is eligible for parole in seven years. [N.Y. Times, 2/5/91, at B6, col.2.] Army Warrant Officer James Hall was convicted of accepting \$100,000 to give classified information (including documents revealing intelligence communications and war plans) to East Germany and the Soviet Union; he was sentenced to forty years and fined \$50,000. [N.Y. Times, 3/11/89, at A9, col.2.] Marine Sergeant Clayton Lonetree was convicted on thirteen counts of espionage for conspiring with the KGB; he received thirty years. [N.Y. Times, 8/25/87, at A1, col.1.] David Barnett sold intelligence data to Russia (including the identity of thirty U.S. agents) while working for the CIA; he was sentenced to eighteen years. [N.Y. Times, 1/9/81, at A1, col.1.] William Bell gave anti-tank missile radar technology to a Polish agent; he received eight years. [N.Y. Times, 12/17/81, at A20, col.6.] Ernst Forbrich, who purchased U.S. defense secrets for East Germany, was sentenced to fifteen years. [N.Y. Times, 8/4/84, at A5, col.6.]

The most telling indication of the relative harmlessness of Jonathan Pollard's offense may be the government's own response towards him: he was never charged with causing injury or intending to cause injury to the United States, but merely with intending to

give information to the advantage of a foreign country. Thus the government charged Pollard under the least egregious prong of 18 U.S.C. Section 794(a). If Pollard's actions were truly as harmful as insinuated in the Weinberger memoranda, or in ex parte communications with the trial judge, it is difficult to believe that the government would have charged him under this provision of the law.

In short, Jonathan Pollard was not a traitor to his country. He never sought to give aid or comfort to an enemy. While his loyalty and patriotism may have been misguided, and while what he perceived to be a benign purpose does not excuse his violation of the law, the gravity of Pollard's crime must be considered relatively minimal.

By contrast, the sentence which Pollard received was extremely severe. Only a sentence of death would have been a more drastic punishment. No one in this country has ever been executed for peacetime espionage, however. (Not since the Rosenberg case during the Korean War has anyone been executed for wartime espionage.) Thus for all practical purposes Pollard received "the most severe punishment that . . . could have [been] imposed." [Solem, 463 U.S. at 297.]

When a particular statute proscribes a broad range of activities, the trial court must not only refrain from exceeding the statutory maximum but also from meting out a punishment which exceeds what the legislature thought to be proportionate. [See Thacker v. Garrison, 445 F.Supp. 376 (W.D.N.C. 1978); People v.

Wango, 534 P.2d 1001 (1975); and State v. Evans, 245 P.2d 788 (1972).] In Pollard's case, just as the trial court gave little heed to the plea agreement, it paid no attention to the range of punishments intended by Congress for the peacetime communication of classified documents.

The legislative history of 18 U.S.C. Sec.794(a) independently demonstrates that Jonathan Pollard's sentence goes well beyond the range of sentences contemplated by Congress for the peacetime communication of classified documents. The War and National Defense Act of 1917 limited the maximum penalty for the communication of such material during peacetime to twenty years. The substantive penalties remained unaltered when the Act was overhauled in 1948. Six years later Congress amended the statute once again with the understanding that, except under the most rare circumstances, the range of punishments for peacetime espionage would remain what it was before. [See 1954 Cong. Rec. at 10,105; 10,115; 14,598; and 14,600.]

Indeed, in the light of clear precedent, a strong case could be made that his sentence should be invalidated as cruel and unusual punishment under the Eighth Amendment. In Solem v. Helm, 463 U.S. 277 (1982), the Supreme Court stated that proportionality analysis under the Eighth Amendment should be guided by three objective factors. These factors include (a) the gravity of the offense and the harshness of the penalty; (b) the sentences imposed on other criminals in the same jurisdiction; and (c) the sentences imposed for commission of the same crime in other jurisdictions.

[Id. at 290-92.] Thus courts must ask whether or not the sentence bears any rational relation to the nature of the offense, and they must compare the sentence of those received by other persons convicted of similar or more severe crimes.[See Note, Disproportionality in Sentences of Imprisonment, 79 Colum. L. Rev. 1119, 1131 (1979).] As the Court noted in Solem, if the sentence is found to be disproportionate on either of these grounds, there is a violation of the Eighth Amendment. (An Eighth Amendment violation may also be found from the combined effect of these two inquiries. [Solem v. Helm, 463 U.S. at 277 n.17.]])

Pollard passed classified data to a friendly nation during peacetime. What he did was clearly wrong, but it was not treason. Much worse offenders have receive much lighter punishment. By sentencing him to life in prison, the court below was disproportionately harsh and substantially exceeded well-established sentencing standards. At a minimum, this disproportionality of sentence strongly suggests that the trial judge may well have been unduly influenced by prejudicial and inflammatory material in the Weinberger Declarations, as well as by ex parte communications as alleged in the Dershowitz Affidavit.

This Court should accordingly grant Petitioner's counsel access to the unexpurgated Weinberger Declarations, order a hearing on the allegations of the Dershowitz Affidavit, and require the trial judge to recuse himself so that he may be called as a material witness.

CONCLUSION

For the reasons stated above, the District Court's order denying Petitioner's Motion to Withdraw his Guilty Plea, his Motion for Access to Classified Sentencing Materials, and his Motion to Disqualify the Court, should be reversed.

Respectfully submitted,

Kenneth Lasson, Esq.
University of Baltimore
School of Law
Maryland at Mount Royal
Baltimore, Maryland 21215
(301) 625-3088

Attorney for Amici Curiae
LAW PROFESSORS ET AL

RELIGIOUS ACTION CENTER
OF REFORM JUDAISM

November 1, 1990

To: Alex Schindler
From: David Saperstein

I was fascinated by the material which you sent to me regarding the Pollard matter. In particular, where did you get it from and for what purpose.

For the record, I concur strongly with your own view of the case i.e. he was guilty and should be punished; but the sentence (whether or not as result of improper government interference) was grossly out of proportion to the sentences given to others engaged in similar activities -- particularly under the circumstances that motivated him.

Much of this memorandum is carelessly written so I am not certain of several key facts. First, is this memorandum a public document or is under the protective order of the court (and "leaked" to you)? Second, regarding the sentence at the end of page one and the top of page two: is it Israel or Pollard who was accused of giving nuclear technology to South Africa? The sentence, albeit ambiguous, indicates it was Israel. Later the memorandum implies it was Pollard.

If this gets out to the Black community it would be a disaster.

As to the legal consequences of the memorandum itself, they are apparently not appealing the sentence itself but using the cumulative impact of all of this information as a means to withdraw the plea and have a new trial. Interesting approach.

Other than the general interest of the document, is there any question before us? They weren't, for example, asking for groups to join in an amicus on this matter, were they? I certainly would agree to do so on the sentence issue. This approach is more problematic, and while I would probably end up supporting it, I would need to see the more detailed memo.

Let me know.

The Religious Action Center
pursues social justice and
religious liberty by
mobilizing the American
Jewish Community and
serving as its advocate
in the nation's capital

2027 Massachusetts Ave NW
Washington, DC 20036
(202) 387-2800

Harris Gilbert, Chairman
Commission on Social Action
of Reform Judaism

Albert Vorspan
Co-Director

Rabbi David Saperstein
Co-Director and Counsel

The Religious Action Center
is under the auspices of
the Commission on Social
Action of Reform Judaism,
a joint instrumentality of
the Central Conference of
American Rabbis and
the Union of American
Hebrew Congregations
with its affiliates:
American Conference
of Cantors,
Association of Reform
Zionists of America,
National Federation of
Temple Brotherhoods,
National Federation of
Temple Sisterhoods,
North American Federation
of Temple Youth.

Handwritten:
Please get the
original material
called SS 11/12

MEMORANDUM

COPY

DATE: October 9, 1990
FROM: Rabbi Alexander M. Schindler
TO: Rabbi David Saperstein
COPY:

The enclosed was sent to me by Jonathan Pollard. Please let me have your reaction to it.

While I have not changed my mind about his guilt and my revulsion with it, I have been troubled by the severity of the sentence. Is this something we should get involved with?

Thanks much.

MEMORANDUM

COPY

February 12, 1991

FROM: Edith J. Miller
TO: David Foster
Religious Action Center

Thanks so much for returning the correspondence which we sent down to you from Morris Pollard. That is what I was looking for. In addition, I am grateful for the other materials which we will keep in our file on Jonathan Pollard.

By the way, you are not Steve Foster's son, he is your father! He should be very proud of you - - your report to our Executive Committee was wonderful. I am only sorry that your visit to 838 was such a brief one. Maybe next time you will let me know in advance and come on a day when we can do lunch together.

It was nice seeing some of your R.A.C. colleagues at the NFTY Convention, I am sorry you were not there, it was such a terrific gathering. I enjoyed it immensely.

All the best.

P.S.: It will not be necessary to send me all the materials you receive from David Kirshenbaum, Esq. Should I ever need it, I will holler and get it from you.

To: Edie
From: Steve Foster's son
Re: Jonathon Pollard

Hello. I am sending you copies of everything we have in our Pollard file. Additionally, I have contacted David Kirshenbaum, Esq., he has been very involved with organizing general support for Pollard. He is sending me a great deal more info. which I will send on to all of you. If I can be of further assistance please just scream.

On a personal note, it was great seeing you on Monday, I definately have to come by 838 more often.

Take care. David.

Tel: (714) 676-6879

SOUTHERN CALIFORNIA COALITION
CITIZENS FOR JUSTICE, INC.
Justice for the Pollards
38800 Via de Oro
Temecula, CA. 92390
March 28, 1990

Dear Friends:

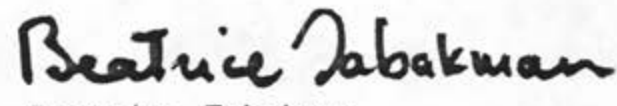
While the rescue of Soviet Jewry from dangers that threaten their lives is uppermost in our minds, we must not ignore the grave injustice and cruel treatment inflicted, by our own government, on Jonathan and Anne Pollard. Both should be of deep concern to Jews everywhere and, indeed, to all fair-minded men and women.

We are enclosing a Summary of Arguments set forth by Jonathan's attorney, Hamilton P. Fox, III, in a Motion, to withdraw the Guilty Plea of Jonathan Pollard, submitted to the United States District Court for the District of Columbia on March 12, 1990.

A Newsletter, reviewing the events preceding the sentencing, the sentencing itself and the subsequent treatment, or rather mistreatment, of the Pollards in prison, is also included so that a clear understanding may be gained of the imperative need for an open trial.

Friends, we urge you to inform your family, colleagues, friends and organizations, of this important development. Funds are urgently needed to enable us to continue with the work we are doing. We thank you for whatever contributions you are able to make.

Shalom

 
Prof. Haim Daniel Tabakman Beatrice Tabakman

SOUTHERN CALIFORNIA COALITION - CITIZENS FOR JUSTICE, INC.

38800 Via de Oro - Temecula - California - 92390

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

United States of America)

v.)

Jonathan Jay Pollard)

Criminal No. 86-0207 (AER)

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION TO WITHDRAW GUILTY PLEA OF JONATHAN JAY POLLARD

Defendant Jonathan Pollard moves the Court to allow him to withdraw his plea of guilty, entered June 4, 1986, to a one count indictment alleging a violation of 18 U.S.C. § 794(c).

SUMMARY OF ARGUMENT

A motion to set aside a guilty plea must be granted if the government fails to keep the promises that it made to the defendant in order to induce the plea. In this case the government made three promises and broke all three. First, it promised not to seek a life sentence. But the entire tenor of its written and oral submissions at sentencing was a request for just such a sentence. Particularly egregious were declarations from former Secretary of Defense Weinberger, submitted by the government, which, among other things, falsely accused Pollard of having committed treason and requested a sentence consistent with an offense that Weinberger claimed was more deserving of severe punishment than any other crime.

The government also promised Pollard that it would limit the statements it made to the court about the sentence to the facts and circumstances of the offenses committed by Pollard. Despite this promise, and after filing 35 pages of information about the offenses, the government discussed many other subjects. It accused Pollard of being motivated by greed, described his alleged "high lifestyle," claimed that he was without remorse for his crimes, and claimed that he was being deceitful, vengeful, and arrogant. In so arguing to the court, the government exceeded the limits it had promised to impose on itself in order to induce Pollard to plead guilty. It also reinforced its efforts to seek a life sentence.

The third promise that the government broke was its promise to inform the court of Pollard's cooperation and of the considerable value of that cooperation. The government did make the appropriate statements about Pollard's cooperation, but it then undermined them completely by arguing that his cooperation was motivated solely by self-interest and, more importantly, by claiming that his cooperation came too late to apprehend his Israeli co-conspirators who had fled the country. This conduct constituted nothing less than an attempt to "sandbag" a defendant, to minimize the importance of his cooperation, and to enhance the chances of a life sentence.

In addition to violating the plea agreement itself, the government improperly accused Pollard of violating the same agreement by giving two interviews to a journalist without first

obtaining proper permission. Both interviews occurred while Pollard was incarcerated prior to sentencing. Before giving the first interview, Pollard, in accordance with federal regulations, informed the Department of Justice, in writing, of his intent to do so. The Department gave its permission and facilitated the interview. No other procedures existed to notify the government. After the first interview, the government made no effort to revise or supplement its procedures with respect to Pollard's contact with the press. Accordingly, before giving a second interview, Pollard again followed the regulations, notified the Department of Justice in writing, and received the Department's permission to give the interview.

Despite Pollard's adherence to the letter of the only procedures that existed for press contact, the government accused Pollard of violating the plea agreement in its sentencing submissions. Given the government's own failure to devise alternative procedures, it was unfair and improper for the government to allege Pollard's violation of non-existent procedures as a reason for the court to impose a longer sentence. This was but another effort to circumvent its promise not to ask for life.

If the government alleges a violation of a plea agreement, the defendant is entitled to a hearing at which the government has the burden of proof. Here the government asserted and the Court found a violation without a hearing, and relied on that alleged violation, in part, to justify a life sentence.

If Pollard had violated the plea agreement, the appropriate remedy would have been for the agreement to be set aside and for the government to prosecute and try Pollard for all his alleged crimes. Instead the government took advantage of Pollard's part of the bargain by continuing to benefit from his cooperation but failed to live up to its side of the bargain, i.e., limiting its sentencing recommendation to less than life, commenting only on the offenses committed, and informing the court that Pollard's cooperation was of considerable value to the government.

These various violations of the plea agreement and unfair claims that Pollard had violated the agreement had a substantial effect on the sentence. In other instances where espionage convictions have been obtained, the length of the sentence has varied substantially, depending on the country on whose behalf the espionage was committed. When the country has been hostile, the sentences have frequently been life sentences. When the espionage has benefited an ally, and particularly where the defendant has cooperated with the government, much lesser sentences have been imposed. Pollard stands as the exception to this rule. He committed espionage to aid one of the United States' closest allies, entered a guilty plea, and cooperated completely. Yet he still received a life sentence.

Alternatively, Pollard's guilty plea should be set aside because it was coerced. When Pollard entered his plea, his wife, who was ill, had suffered greatly as a result of her pre-trial incarceration. Pollard believed that further incarceration might

severely damage her health and perhaps threaten her life. Yet despite his wife's substantially lesser culpability, the government threatened to prosecute her for multiple offenses unless she pled guilty. Pollard was aware that if, after a trial, his wife was convicted of multiple offenses, she would almost certainly be imprisoned. On the other hand, if she pled guilty, it seemed likely to him that she would receive a sentence of probation. But the government refused to accept a guilty plea from Mrs. Pollard unless Mr. Pollard also entered a guilty plea. The pleas were "wired." Pollard's plea was therefore not voluntary, but was coerced by the threat to his wife.

Finally, the court erred at the guilty plea hearing by not inquiring of Pollard personally about the voluntariness of the plea and specifically about the "wiring" of the plea.

For all these reasons, Pollard requests that he be allowed to withdraw his plea of guilty and to stand trial.

To Bureau

*Sent to me in
unmarked envelope*

The United States of America v. Jonathan Pollard -
Time for a Reassessment ? *Steve P.*

There is a growing awareness across all political spectrums in this country that our government failed to properly assess the grave dangers posed by Iraq to the United States and to the security of the world community at large. Our intelligence community did its job in gathering the necessary information about Iraq, but our political leadership blundered abysmally in failing to draw the obvious conclusions from Iraq's military activities.

Jonathan Pollard, a former United States Naval Intelligence Officer, is now serving a prison sentence for providing Israel with classified United States documents about Arab weapons systems and military capabilities, including the information, now so frightening to the world community, of Iraq's efforts to produce chemical, biological and nuclear weapons. Like Oliver North, who acted on his belief that the United States had an obligation to aid the Contras in Nicaragua, notwithstanding congressional prohibitions against such activity, Pollard strongly believed that information critically important to Israel's security ought to be furnished to Israel. Pollard could not understand why the political decision had been made not to share with Israel such information as Iraqi production on a grand scale of chemical weapons and the efforts Iraq was making to deliver to Israeli population centers such terrible weapons of destruction.

In Pollard's mind, furnishing such information to Israel, far from harming the United States, served American interests by deterring aggression against our most loyal ally in the Middle East. As only one example among many of the degree to which the United States can rely upon Israel, year in and year out, the country that heads the list of those countries that vote most often with the United States at the United Nations, is Israel. Last year, Israel supported the United States position at the U.N. 88% of the time. Second on the list was Great Britain, which supported the U.S. position 77% of the time. By contrast, Egypt, which is supposed to be America's strongest supporter in the Arab world and Saudi Arabia, the country we are defending with our troops, each supported the American position only 11% of the time, just slightly better than Syria and Iraq's 8%.

Thus, while Pollard was charged under, and plead guilty to, one count of conspiracy to violate a Federal statute that prohibits a person from communicating to a foreign government information relating to national defense either "with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation", the specific charge brought against Pollard was limited to "having intent and reason to believe that the [information] would be used to the advantage of Israel..." Quite significantly, he was never charged with intending to harm or injure the United States.

Surely, one would be hard pressed to find many Americans today who would support a policy that made light of, if not ignored, the acquisition by countries such as Iraq of arsenals of mass destruction. It was precisely our unbridled willingness to draw closer to Iraq at all costs, regardless of the terrible evils perpetrated by Iraq (such as the use of poison gas against Kurdish villages), that was behind the refusal to share with Israel information about Iraq's military projects and objectives. How many Americans can honestly say, given what they now know about Iraq, that they would not be absolutely thrilled had Israel acted on the type of information supplied to them by Pollard and eliminated Iraq's chemical arsenals?

Nevertheless, the prosecution of an intelligence officer who acts on his own determination as to what is in the national interest and who, in so doing, breaks the laws of this country, is not in and of itself troublesome. What is however deeply shocking and disturbing is that while Oliver North served no time in prison, and other individuals who provided United States allies with classified information received, if at all, very lenient prison sentences, Pollard was sentenced to life imprisonment.

Earlier this year, Pollard's counsel, Hamilton Fox III, submitted to District Court Judge Aubrey Robinson, who sentenced Pollard, motions to withdraw Pollard's guilty plea. The motions cite various grounds in support of the withdrawal of the plea, asserting, inter alia, that the government prosecutors committed multiple breaches of its plea agreement with Pollard, that Pollard's guilty plea was coerced and that Judge Robinson failed to adequately inquire, especially given the particular circumstances of the case and the proceedings, into the possibility that Pollard's plea agreement was not entered into voluntarily. There is also a suggestion that the government provided Judge Robinson with false ex parte information about Pollard which the government knew to be false and which Robinson allegedly admitted had a decisive impact on his sentencing. (An ex parte communication is a communication between a judge and only one party to an adversarial judicial proceeding where no notice of, or the opportunity to contest the substance of, the communication is given to a person with an adverse interest.) If true, this would constitute not only an uncontrovertible ground for withdrawal of Pollard's plea, but would also require Robinson to withdraw from any further judicial proceedings in Pollard's case. In September, Judge Robinson rejected each of Pollard's motions and Pollard is now appealing that decision.

Pollard has been imprisoned nearly five years and the disturbing questions that most people were too squeamish and uneasy about asking when Pollard was first sentenced have yet to be answered in any manner whatsoever. What was it about the Pollard affair that resulted in a sentence that was not only grossly deviant from sentences meted out to other individuals who passed

classified information to American allies, but even more harsh than the punishments imposed on Americans who spied for adversaries of the United States?

For example in 1981, Steven Baba, a U.S. Navy ensign who provided South Africa with classified information, received a prison sentence of only two years. Similarly, in 1986, Sharon Scrange, a CIA employee who divulged classified information, including the names of CIA operatives in Ghana, to a Ghanaian agent, was also sentenced to only two years in prison. With respect to Americans who have spied for Soviet bloc countries, William Bell, who provided a Polish agent with information on United States antitank missile and nuclear technology was sentenced to a prison term of eight years. Ernest Forbrick, who purchased U.S. secrets in order to pass them on to East Germany, received a 15 year prison sentence.

As Professor Alan Dershowitz of Harvard Law School, who has served as counsel to Pollard has argued with respect to the Pollard sentence, "History provides at least some relevant parameters which allow one to conclude, with reasonable confidence, that if comparable information had been provided by a French-American to France or a Swedish-American to Sweden, it is unlikely that the sentence would have been as severe."

One must also ask what benefit Pollard received by pleading guilty to the charges against him, fully cooperating with the government in its investigation and saving the government the expense of a trial. Given these lingering questions, and especially in light of recent events, a public reconsideration of the Pollard affair and the manner in which our government prosecuted Pollard is long overdue.

The United States Supreme Court has held that, "When a plea rests in any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of the inducement or consideration, such promise must be fulfilled." (Santobello v. New York, 1971). When a breach of such a promise takes place, the sentence must be vacated and the case remanded to the court which sentenced the defendant. Following remand, the court which initially sentenced the defendant must either allow the defendant to withdraw his plea or grant the defendant specific performance of the agreement on the plea, in which case the defendant should be resentenced by a different judge. This remedy, the Supreme Court held in Santobello, must be granted a defendant even if the breach was inadvertent and even if the sentencing judge stated that a prosecutor's recommendation did not influence him.

Pollard's motion to withdraw his guilty plea presented evidence of the breach by the government of at least three undertakings it made in its plea agreement with Pollard. The most important of these promises was that the government would not ask for a life

sentence, but rather, would limit its recommendation to asking for a "substantial" sentence. Notwithstanding this promise, Secretary of Defense Caspar Weinberger submitted two declarations to the sentencing court (the first being classified and detailing the nature and extent of the purported harm Pollard may have caused to national security) that could plainly be interpreted as advocating a life sentence. Weinberger, for example, wrote in his declaration to the court the day before sentencing, "It is difficult for me, even in the so-called 'year of the spy' to conceive of greater harm to national security than that caused by the defendant..." In a separate statement to the court, Weinberger declared, "Punishment, of course, must be appropriate to the crime, and in my opinion, no crime is more deserving of severe punishment than conducting espionage activities against one's own country."

The "year of the spy" referred to by Weinberger included the arrest and conviction of a number of Americans, such as John Walker and Jerry Whitworth who, for years, spied for the Soviet Union, causing massive damage, including the compromising of American military and technologic secrets, the disclosing of American operatives in Communist countries and the death of U.S. military personnel. Walker's espionage activities on behalf of the Russians spanned a period of seventeen years. Pollard's motion argued that, in stating to the court his opinion that Pollard caused greater harm to national security than the likes of a John Walker, Weinberger was sending a very clear message to the sentencing judge. If Walker got life and Pollard caused as much or greater damage to national security, Pollard too should receive a life sentence. The government was clearly and improperly using the Weinberger memoranda to circumvent the most important promise of the plea agreement. The Weinberger memoranda, in fact, probably had more persuasive value than had the same arguments been made by the prosecuting attorney.

Judge Robinson dismissed as "utterly without basis" the claim that the submission of the Weinberger memoranda was an attempt by the government to circumvent its promise not to ask for a life sentence. It is astounding to read the Weinberger memoranda, including the statements cited above, and then read the flippant and imprecise one sentence summary by Robinson of the gist of Weinberger's submissions. Thus, Robinson writes in his decision, "The opinion [expressed by Weinberger] that a 'severe sentence' is warranted in no way means that the (emphasis in the original) most severe sentence should be imposed." Thus, Weinberger's submission that the punishment imposed on Pollard should fit the crime of espionage activities that caused as much or greater harm to this country as the activities of spies for the Soviet Union who received life sentences, is converted into simply an opinion that a severe sentence is warranted. Only by completely ignoring the very words in Weinberger's submission to the court could Robinson have failed to have recognized that Weinberger's

statements constituted an obvious violation of the government's plea agreement. Inexplicably, that is exactly what Robinson seems to have done.

One further example of Robinson's obfuscation of the plain meaning of Weinberger's words is equally incredible. After writing the court that in the "year of the spy" he could conceive of no "greater harm to national security than that caused by" Pollard, Weinberger wrote that, "The punishment imposed [on Pollard] should reflect the perfidy of the individual's actions, the magnitude of the treason committed and the needs of national security." As Pollard's motion points out, "Pollard did not commit treason and it was outrageous for the government to claim that he did...the Constitution of the United States provides, 'Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort...' As Weinberger was well aware, Israel and the United States were not and never have been in a state of war and are not enemies. There is absolutely no justification for the Secretary of Defense to state that Pollard's punishment should reflect the magnitude of the treason committed. Such a statement is inaccurate and highly inflammatory and is nothing less than a demand to the court that it sentence Pollard to life imprisonment."

As Robinson would have it, Weinberger's only point was that Pollard had caused "severe damage" and Weinberger's "off-hand use of the word 'treason'... does not change this fact..." Raising a charge of treason cannot so facilely be dismissed as simply an "off-hand use of the word." Obviously, using the word "treason" does not "change the fact" that, in Weinberger's view, Pollard had caused severe damage. But what it does do, far more importantly, is grossly magnify and supplement that fact with a patently false charge. Would Robinson accept the use of the term "murderer" for someone who committed assault and battery on the grounds that the "murderer" label "does not change the fact" that the aggressor caused "severe damage" to the victim? Quoting again from Pollard's motion, "It seems unlikely that Caspar Weinberger, a lawyer, Secretary of Defense in the 'year of the spy,' was unfamiliar with the legal definition of treason. It also strains the imagination to conceive that Weinberger was not fully aware of the implications of using the term 'treason' to describe Pollard's actions...[or] that no other lawyer reviewed (if not drafted) Weinberger's Declaration and thus was not fully cognizant that Pollard was described as committing an act that he did not commit."

The second promise the government made to Pollard was that it would limit its allocution - its arguments and declarations before the court at sentencing - to the facts and circumstances of the case. Pollard's motion submits that the government breached this second promise as well by dedicating a significant

portion of two memoranda submitted to the court at sentencing to a character assassination of Pollard, characterizing him as a "recidivist", "unworthy of trust", being "contemptuous of the court's activities", and describing his conduct "traitorous". Caspar Weinberger's memoranda to the court and the government's oral statement at sentencing each contained more of the same vituperatives.

Pollard's argument was supported by a Third Circuit Court of Appeals case (U.S. v. Moscahlaidis, 1989) that dealt with a plea agreement containing virtually the same limitation on allocution by the prosecution. The court found in that case that the prosecution went beyond the scope of its agreement by attacking the character of the defendant. Accordingly, the Third Circuit vacated the sentence and remanded the case to the district court to determine whether the appropriate remedy would be to require specific performance or permit the defendant to withdraw his guilty plea.

Judge Robinson never suggested, nor could he have, that the substance of the government's agreement in the Pollard case was different than the government's agreement in the Moscahlaidis case cited by Pollard, nor does he attempt to rebut the assertion that the government did in fact breach this portion of the agreement with Pollard. Rather, Judge Robinson focuses on the fact that in the Moscahlaidis case, unlike in Pollard's case, the government agreed not to take any position on sentencing, while in Pollard's case, the government's agreement was that it would not ask for a life sentence. This distinction, one would think, ought to be irrelevant unless Judge Robinson is suggesting that whenever the government does not agree that it will not take a position on sentencing, it is free to flagrantly violate a promise to limit allocution. Such a suggestion is ludicrous and clearly contrary to the opinion of the Supreme Court in Santobello cited above.

Thirdly, the government had promised to advise the court of Pollard's cooperation and the value of the information he provided to the government's investigation. The government, however, after telling the court of Pollard's cooperation and its importance, went on to cast aspersions on Pollard's motives for cooperating, stressing his lack of remorse and elaborating on the fact that some of Pollard's alleged co-conspirators had fled the country. This, Pollard contended, effectively discounted the value to him of the government's third promise.

Judge Robinson's response to this argument is especially transparent since it is clearly rebutted by the language in the plea agreement between Pollard and the government, language which Robinson himself cites in his decision. Thus, on page 17 of his decision, Robinson writes, "It was no violation of the plea agreement for the Government to explain the positive value of the

cooperation in one sense (damage assessment) while also noting that the defendant had frustrated government efforts in another sense (law enforcement). The record in this case does not support the contention that the Government failed in its obligation." Had Judge Robinson read the words that appear in his own decision five pages before drawing this conclusion, he would have realized that there is no basis for a two tier analysis separating damage assessment from law enforcement.

On page 12 of his decision, Judge Robinson quotes from the plea agreement the government's promise to "bring to the Court's attention the nature, extent and value of [defendant's] cooperation and testimony...the government has agreed to represent that the information Mr. Pollard has provided is of considerable value to the Government's damage assessment analysis, its investigation of its criminal case, and the enforcement of the espionage laws" (emphasis added). Thus, it clearly was a violation on the government's part to, paraphrasing Judge Robinson's words, note that Pollard had frustrated the government's law enforcement efforts. The representation the government was to make as to the importance of the information supplied by Pollard was plainly meant to include not only damage assessment but also law enforcement. The separation of these concepts is Judge Robinson's creation and is clearly contradicted by the terms of the plea agreement.

Pollard further argued that at sentencing, the government not only breached its side of the plea agreement, but also wrongly asserted to the court that Pollard, in giving two interviews to Wolf Blitzer of The Jerusalem Post, breached his side of the plea agreement. Pollard had agreed to submit any books or writings he authored or information he provided for the purposes of publication, to the Director of Naval Intelligence for pre-publication review and deletion of information which, in the Director's sole discretion, is or should be classified. The plea agreement contained no procedures that Pollard was to follow.

It must initially be asked whether this restriction imposed on Pollard was meant to apply to the granting of an interview to a reporter with the full knowledge of prison and government officials. One can understand the purpose behind the screening of written materials to determine whether classified information is being disseminated. Written information could be disseminated publicly by a prisoner without the knowledge of prison officials. Books and articles also by their nature lend themselves to pre-publication screenings. Pollard could readily comply with a requirement for the screening of written information by sending such writings by mail to the Director of Naval Intelligence.

In marked contrast, the interviews given by Pollard to Blitzer were not, nor could they realistically have been, given without the government's full knowledge and consent. Wolf Blitzer

contacted, both orally and in writing, the warden of the prison where Pollard was imprisoned requesting to interview Pollard. Before granting the interview, Pollard executed, as he was required to do, a Department of Justice form that was filed with and processed by the Justice Department. Blitzer interviewed Pollard on November 30, 1986 and published an article based on the first interview. In January of 1987, Blitzer requested a second interview. Pollard completed the appropriate Department of Justice forms and consent was again granted Blitzer. Thus, even though the Department of Justice had prior notice of both interviews and imposed no restrictions on them, the government later claimed that Pollard had violated the plea agreement by not liaising with the Director of Naval Intelligence.

Pollard's motion points to information that suggests that the government deliberately set up a restriction that Pollard could not technically comply with in order to claim that Pollard had violated the plea agreement. In a review of Wolf Blitzer's book about the Pollard affair, Robert Friedman reports that he asked the prosecuting attorney in the Pollard case, Joseph E. DiGenova, why the government allowed Blitzer to interview Pollard. Friedman states that DiGenova "indicated that the government was fairly certain that if he were given the opportunity [the defendant] would violate one of the provisions of his plea agreement and talk to a journalist without first receiving permission." Although Pollard could reasonably believe that by filling out a Department of Justice form he was complying with his undertaking in the plea agreement, the government seized upon what appears to be at worst a technical violation, in order to claim a breach by Pollard and to argue before the court that Pollard breached his undertaking.

Only in March of 1987, after Pollard was sentenced, did the Department of Justice set up procedures for Pollard's contact with members of the media and the public and only then did it specifically require that interviews with news media representatives be conducted only in writing. No similar restriction existed at the time of the Blitzer interview. Pollard complied with the only rules that existed at the time.

Judge Robinson, again in a very perfunctory answer, finds nothing improper with the government's assertion that Pollard breached the agreement. Pollard gave the interview without submitting to naval intelligence the contents of his discussions with Blitzer and that, in Robinson's mind, is the end of the story. Judge Robinson completely ignores the defendant's argument that he fully complied with all prison procedures for the conduct of interviews that existed at the time of the Blitzer interviews. In fact, four out of the twelve sentences in Robinson's decision that are addressed to the issue of the Jerusalem Post interviews focus on an argument that was not even raised by Pollard on appeal. At sentencing, Pollard's original counsel, Richard

Hibey, suggested that even if there was a technical breach by Pollard of the plea agreement, the information was in any event not classified. Robinson stressed in his decision that it was of no import whether the information Pollard disclosed to Blitzer was classified. But this line of argument, i.e., that non-classified information was not subject to the pre-screening procedure, does not appear in the ten pages of the motions submitted to the court by Pollard's counsel, Hamilton Fox, that relate to the Jerusalem Post interviews.

Perhaps Robinson focused on arguments not made to hide the fact that he was failing to address the arguments that Pollard's motions did make. Thus, Pollard's motion further points out that the Blitzer interviews were given four months before sentencing. If the government believed that Pollard had breached the plea agreement, it could have petitioned the court for a hearing to determine whether in fact the agreement had been breached. If it was found that Pollard had, in fact, breached the agreement, the remedy would have been to release the government from its promises under the plea agreement, and allow it to fully prosecute Pollard. The government, however, did no such thing, but continued to obtain the benefits of the plea agreement, securing Pollard's continuing cooperation and the forfeiture by Pollard of his constitutional right to a trial. The government then sought (quite successfully, it turns out) to deprive Pollard of his benefits of the plea agreement by belatedly asserting just at the time of the government's promised performance, the alleged breach by Pollard four months before. Robinson does not address this argument with even one word.

Pollard's brief on appeal also argues that the circumstances under which the government linked Pollard's guilty plea with his wife's plea undermined his free will and rendered his plea involuntary. It is further argued that Judge Robinson failed to properly inquire into the voluntary nature of Pollard's plea agreement, as required by Rule 11 of the Federal Rules of Criminal Procedure. The Supreme Court has held that a defendant whose plea has been accepted in violation of Rule 11 should be afforded the opportunity to plead anew. (McCarthy v. United States, 1969).

In his decision, Robinson cites the statement of Mr. Hibey at sentencing that Pollard came before the Court "knowingly, and voluntarily enters his plea." Robinson also refers to the following exchange he had with Pollard at sentencing:

Robinson: "Do you know of any reason why I shouldn't accept your plea?"

Pollard: "No sir, I don't."

Yet, Rule 11 provides that a Court "shall not accept a plea of guilty...without first, by addressing the defendant personally in open court, determining that the plea is voluntary and not the result of force or of threats or of promises apart from the plea agreement."

Robinson's failure to inquire of Pollard directly whether his plea was voluntary, as opposed to giving him the opportunity to raise the issue on his own, is not merely a technical defect. Federal law provides that when a defendant's plea is made in consideration of a third party receiving a lenient sentence, special care must be taken and a higher standard must be applied to assure the voluntariness of the guilty plea. During the time when Pollard was negotiating his plea with the government, his wife was extremely ill with a debilitating gastrointestinal disorder that required continuous medical attention. Upon her arrest, in November 1985, she was held without bail in a rat and roach infested prison cell. So bad was the treatment that she lost approximately 55 pounds during the three months she was in prison. Mrs. Pollard was released on bail in February 1986 and visited her husband (who remained incarcerated at all times following his arrest) while the government was negotiating the plea agreement with Mr. Pollard. During these visits, Mr. Pollard became painfully aware of the terrible conditions in the cell where his wife was imprisoned, the physical threats she was subject to and the devastating physical deterioration she suffered while in prison.

The government threatened to bring additional charges against Mrs. Pollard (she was charged with being an accessory after the fact to her husband's possession of national defense documents and with conspiracy to receive embezzled government property) if she did not plead guilty. Mr. Pollard feared the effects of a prison sentence on his wife and felt the safest way to avoid a jail sentence for his wife would be for her to plead guilty to the initial charges brought against her. The government, however, linked the guilty pleas, forcing Mr. Pollard to plead guilty to the charges brought against him in order to insure that his wife's life would not be endangered.

Thus, even though Federal rules required that inquiry be made into the voluntariness of Pollard's plea and the facts surrounding Pollard's plea agreement screamed out for a serious examination of the possibility of coercion, the court never asked Pollard himself whether he was entering his plea voluntarily or whether the plea was the product of force, threats, or promises.

Hamilton Fox contends in his motion that he has information that the classified memorandum submitted by Caspar Weinberger contained false or exaggerated claims about the damage done by Pollard. If this were the case, it would provide still further grounds for withdrawal of Pollard's guilty plea. Accordingly,

Fox made a supplementary motion that he be granted access to the classified portion of Weinberger's memoranda.

In rejecting this motion as well, Judge Robinson relied on a 1984 Fifth Circuit case, United States v. Lewis, in which the circuit court upheld the district court's refusal to allow a defendant's newly retained counsel access to a pre-sentence report. The court cited the following factors in its refusal to allow access. (1) The defendant "alleged no facts to show that the sentence was a gross abuse of discretion". (2) Lack of access did not prevent defendant's counsel from presenting the information contained in the pre-sentence report - defendant's background and record. (3) The defendant himself had read the report and there was no allegation that he did not remember or understand the report.

Robinson argues that, "Each of the factors identified in Lewis apply with some force here." In fact, none of the factors cited by the court in Lewis are applicable in Pollard's case. Robinson declares that, "The sentence here was well within the court's discretion." The standard set forth by the court in Lewis however, is not whether the court has discretion to issue the particular sentence, but whether the sentence was a "gross abuse of discretion." The statute under which Pollard was sentenced does in fact provide for punishment by "imprisonment for any term of years or for life." But one must recall that the statute includes within its net, on the one hand, individuals whose espionage activities are designed to injure the United States, and on the other hand, individuals whose espionage activities are geared to providing only an advantage to a foreign nation. Individuals who commit espionage on behalf of adversaries of the United States cannot help but also have reason to believe that it is to be used to the injury of this country. The same cannot be said of individuals who commit espionage on behalf of American allies. It is, therefore, not surprising that before Jonathan Pollard, nobody convicted under this statute who passed classified information to an ally of the United States ever received a sentence even remotely close to life imprisonment. And, one must again remember, of those individuals convicted of espionage for American adversaries, only the most notorious received life sentences. Sentencing Pollard to life was in fact, a "gross abuse of discretion."

As to the second factor, unlike in Lewis, where lack of access to the pre-sentence report clearly did not prevent defendant's counsel from presenting information about which the defendant had first-hand knowledge - his own background and record, in the Pollard case, the information was classified communications between Weinberger and Robinson that were seen only by Pollard's first counsel. And in total contrast with the third factor mentioned in Lewis, Jonathan Pollard never saw the classified memorandum submitted by Weinberger.

Whether or not Judge Robinson had the discretionary authority to deny Pollard's counsel access to the Weinberger memorandum, one must wonder why, in light of allegations that the classified memorandum contained exaggerated or false information, Judge Robinson would choose to exercise that discretionary authority to deny a defendant who has been sentenced to serve the rest of his life in jail the opportunity to examine and rebut damning testimony presented to the sentencing judge.

Hamilton Fox suggests in a supplemental memorandum that the government may have deliberately provided Judge Robinson with ex parte information the government knew to be false in order to prejudice Judge Robinson against Mr. Pollard. Pollard presented to the court a sworn affidavit from Professor Alan Dershowitz that relates the substance of a conversation Dershowitz had with former Supreme Court Justice Arthur Goldberg. Dershowitz declares that Goldberg reportedly told Dershowitz that in a discussion Goldberg had with Judge Robinson about the Pollard affair, Judge Robinson stated that he had been provided by the government with evidence that Pollard had given Israel, American satellite photographs that proved that Israel had tested Jericho missiles in South Africa and had provided South Africa with missile and nuclear technology. Dershowitz further declared that Goldberg told him that Robinson admitted to Goldberg that the alleged Israel-South African connection had weighed heavily in Robinson's decision to impose a life sentence.

After being assured by Hamilton Fox that there was no truth whatsoever in the claim that Pollard had provided Israel with any documents evidencing a purported Israel-South African connection (Pollard himself adamantly denied having provided Israel with such information and Pollard and Richard Hibey, Pollard's first counsel, each stated that no reference to any such documents was made in any of the materials shown to them by the government), Dershowitz wrote a letter to Goldberg (which Dershowitz attached to his affidavit) to advise him of this fact. (In his letter, Dershowitz referred to the substance of his previous conversation with Goldberg.) A few days later, Dershowitz phoned Goldberg to discuss the letter. In relating the substance of Goldberg's remarks, Dershowitz declared in his affidavit, "He told me that if my facts were correct, then the Justice Department had improperly 'pandered' [that was his precise word] to Judge Robinson's racial sensitivities as a Black judge by providing him with false, inflammatory, ex parte information." Justice Goldberg told Dershowitz that he would pursue with Attorney General Thornburgh this alleged misconduct by the government prosecutors. Goldberg however, died four days later.

A defendant has the constitutional right not to be sentenced on the basis of false information and, prior to sentencing, must be given the opportunity to rebut any challenged information. If a defendant can show that information before the sentencing Court

was false and that the Court relied on the false information in passing sentence, the sentence must be set aside. Thus, if the substance of Dershowitz's affidavit is accurate, Pollard's sentence must be set aside. Moreover, again assuming the accuracy of the Dershowitz affidavit, Judge Robinson should have, as Pollard argued, withdrawn from any role in the Pollard case since he was rendered partial by false ex parte information.

Robinson denied that the ex parte communication described in the Dershowitz affidavit actually occurred. Accordingly, Robinson denied the defendant's motion that Robinson disqualify himself from the case and also denied Pollard's motion that the defendant be allowed to withdraw his plea on the basis of the facts alleged in the Dershowitz affidavit.

It is interesting to note that while Robinson denied that the ex parte communication described in Dershowitz's affidavit actually occurred, he does not confirm or deny the substance of his alleged discussion with Justice Goldberg. One would be especially surprised to learn that Alan Dershowitz, one of the most respected law professors in the country, would perjure himself as to his recollection of his conversation with Justice Goldberg, or that Dershowitz would have fabricated the letter he wrote to Goldberg that refers to the Robinson-Goldberg and Goldberg-Dershowitz conversations. One would also be surprised to learn that Justice Goldberg, who had not previously taken a position in support of Pollard, would knowingly misrepresent to Dershowitz his discussions with Robinson.

While there could have been some misunderstanding or miscommunication, there is certainly a strong possibility that the facts stated in Dershowitz's affidavit are totally accurate and the false and prejudicial ex parte communication between the government and Robinson did in fact take place. It is therefore most disappointing that Judge Robinson also denied Pollard's motion for a hearing and discovery as to whether the ex parte contact between the government and Robinson described in Dershowitz's affidavit did in fact take place.

The life sentence imposed on Jonathan Pollard was the product of Secretary of Defense Weinberger's antagonism towards Israel, a government prosecution team that was not merely overzealous but that also carried out its duties in bad faith and a judge who failed to protect the defendant against prosecutorial abuses. Whether or not Judge Robinson was improperly influenced by the alleged ex parte information referred to in the Dershowitz affidavit, the facts strongly suggest that Robinson failed to protect the constitutional rights of Jonathan Pollard and grossly abused the court's discretion in imposing a life sentence.

The Court of Appeals will be reviewing the manner in which the government prosecuted Pollard and will determine whether Judge Robinson erred in denying Pollard's motion to withdraw his guilty plea. But, if one wants to cut through all the legalese, all the motions, memoranda, answers and decisions, and still be able to determine for himself whether a serious miscarriage of justice has been committed in the Pollard case, one need only compare the manner in which our Defense and Justice Departments dealt with Jonathan Pollard and how it dealt with Abdelkader Helmy.

Helmy, an Egyptian born American citizen was cleared for secret work at a weapons plant in California. Last year he was arrested for illegally exporting to Egypt 420 pounds of a material used in stealth aircrafts, missiles and rockets. The materials exported to Egypt were meant to be used as part of a joint weapons production by Egypt and, of all countries, Iraq. Although Helmy could have been charged with espionage, he was eventually indicted on a single count of smuggling due to the State Department's desire to maintain cordial relations with Egypt.

If Israel had acted on the kind of classified information provided Israel by Pollard about Iraq, the United States and the world community would not now be living in fear of the use by Saddam Hussein of his chemical weapons. In marked contrast, had Helmy's plan succeeded, Iraqi missiles, enhanced with American technology provided by Helmy, would now be aimed at the American troops in Saudi Arabia. Helmy received a sentence of under five years; Pollard received life. Has justice been served?

David Kirshenbaum, Esq.
3308 Fourth Street
Oceanside, New York 11572
(212) 830-2654
(516) 764-6995

Demolishing 6 Middle East myths

By DANIEL PIPES

Why did Saddam Hussein invade Iran back in September 1980? After many years of discussion, informed opinion had finally agreed that his motives were defensive — to preempt an Iranian effort to overthrow his regime.

Well, that argument may have sounded convincing before the invasion of Kuwait, but the "Four-Hour War" revealed Hussein's ambitious drive to dominate the Persian Gulf. It is now clear that

*A lot of minds
were changed
after Saddam
Hussein invaded
Kuwait.*

his attack on Iran was an attempt to grab oil and territory at a moment of apparent Iranian weakness — and there's nothing defensive about that.

This is not the only piece of conventional wisdom overturned by the Aug. 2 Iraqi attack. Middle East politics has been revamped by this crisis. Here are six more widely held opinions that Saddam Hussein blasted away early that morning.

• **Israel was wrong to destroy Iraqi nuclear facilities.** Remember the worldwide outrage against Israel back in June 1981 after the Israelis bombed the plant at Osirak? The U.N. Security Council unanimously pronounced its condemnation; Washington ostentatiously held up its delivery of armaments to Israel. A decade later, however, the Israel strike looks awfully good. Had Saddam Hussein been armed with nuclear weapons during the war with Iran, much of Tehran would by now be obliterated and large sections of Iran annexed to Iraq. More Iraqi forces might have rolled straight from Kuwait into Saudi Arabia — long before American forces could have arrived. By now, Hussein could already control five of the oil-rich countries and thereby over half the world's oil reserves. Economic disaster would be one result; and American troops would have no good place to land.

• **Saddam Hussein had learned a**

Then there were those (including me) who thought Hussein had been humbled after his blitzkrieg against Iran turned into eight years of terrible war, all of which ended in stalemate. The soothing statements from Baghdad along with a seemingly improved domestic scene made it appear that Hussein had shed his wild ambitions. Now it is clear he was dissembling; but those of us fooled once won't be fooled again.

• **The United States should arm the (friendly) Arabs.**

It's now obvious that the pro-

that the arms might end up in unfriendly hands, for this is just what happened with much of the Kuwaiti arsenal. They were also right to argue that the Saudis could not, on their own, withstand an external military threat. Of course, American forces have benefited greatly from finding fully equipped bases on the ground in Saudi Arabia. The lesson is clear: Sell the Saudis all the military infrastructure they want and lease them the planes and tanks.

• **Convicted spy Jonathan Pollard did terrible damage to U.S. inter-**

Secretary of Defense Caspar W. Weinberger thought that "Pollard should have been shot" for passing U.S. secrets to Israel. There is no defending a spy, of course, but it should be noted that much of the information Pollard gave the Israelis concerned Iraq, specifically Hussein's chemical warfare capabilities. That no longer looks like quite the crime Weinberger perceived.

• **Yasir Arafat accepted Israel's existence.**

In December 1988, Secretary of State George P. Shultz and many others (including much of the Israeli left) accepted Arafat's renunciation of terrorism and recognition of Israel's existence. This led to the opening of a dialogue between the United States and the Palestine Liberation Organization. But Arafat's ardent support for Iraqi threats to "destroy one half of Israel" made it clear that he always hoped to destroy the Jewish state. Moreover, after his endorsement of the invasion and annexation of Kuwait — a country that long supported his cause — how can any Israelis believe that the PLO will live in peace with their country?

• **The Palestinian issue drives Middle East politics.**

Since the Intifadah began in December 1987, conventional wisdom held that the Palestinian issue was the central problem in the Middle East. But stone-throwing and bone-breaking in Nabulus lost urgency the moment hundreds of thousands of Iraqi and American troops faced off in the sands of Arabia. That 24 years of Intifadah could be so thoroughly sidelined points to its relative unimportance to the region's politics.

It is now clear that armed conflict, civil strife and disrupted oil supplies exist independently of the Arab conflict with Israel and would remain even if that conflict were resolved. The real issue is the behavior of many Arab states — the lack of democratic legitimacy, the brutal treatment of their own citizens, their relentless hostility toward Israel and their reluctance to respect international borders.

No longer can Israel be portrayed as the great threat to the Arab. The events of August show that the problem facing Arabs is not the United States or Israel but the own rulers.

Daniel Pipes is director of Philadelphia's Foreign Policy Research Institute. He is the author of "The Rushdie Affair" and "Great Syria."



TENERELLI

Special to The Inquirer / JOE TENERELLI

THE UNIVERSITY OF NOTRE DAME

International Committee on Laboratory Animals
Comite International sur les Animaux de Laboratoire
Virus Reference Centre
Centre de Reference sur les Virus

File to David

Mailing address:
Lobund Laboratory
University of Notre Dame
Notre Dame, Indiana 46556, U.S.A.
Telephone: (219) 239-7564

November 13, 1990

Robert J. L.

Rabbi Alexander M. Schindler
Union of American Hebrew Congregations
838 Fifth Avenue
New York, New York 10021

Dear Rabbi Schindler,

Our son Jonathan has expressed his great pleasure on your correspondence with him. His outgoing mail is uncertain in that much of it goes through censors in Washington.

We are much concerned for him after 5 years in a solitary environment, earlier for 10½ months in a mental hospital in Springfield, Missouri, in which Prison Director stated that he was not there as a patient; and more recently in Marion, Illinois.

You may know that a Motion For Withdrawal of The Guilty Plea was denied by Judge Aubrey Robinson; and now it is being prepared for appeal. The Motion was based on legal violations which were found in the court record. The specifics are defined in the enclosed essay by David Kirshenbaum, Esq. More recently, Dr. Lawrence Korb published a statement on Caspar Weinberger which was highly uncomplimentary. In response to my query on Weinberger, Dr. Korb made a very succinct statement (enclosed), which confirms our suspicions that the sentence was "unfair." Judge Robinson admitted that while Weinberger was biased, his Memorandum to the Court was instrumental in determining a life sentence for Jonathan. This Memorandum was denied to our attorneys which was disturbing to Lee Hamilton.

I have enclosed a set of documents relative to the above references.

We are concerned that Jonathan was "sandbagged," in the words of his attorney. He was assured of leniency if he cooperated in effecting damage control. Having done so the Government admitted that he revealed much information previously unknown, which was then used to assess the life sentence. We hope that the exercise of true justice will prevail.

Page Two
Rabbi Alexander M. Schindler

This is not a Jewish problem. It concerns a miscarriage of justice, as guaranteed by our Constitution. Constitutional guarantees of due process were abandoned. While one person is in prison under such circumstances, no one is secure. If Jonathan is in prison for having "made Israel too strong," what should happen to those in the U.S. Government who contributed to the brutish strength of Iraq?

We are blessed with help from many quarters, by individuals exemplified by Fr. Theodore Hesburgh and Philip Klutznick who recognized defects in the prosecution of this case from its onset.

Thank you again for your kind communication with our son.

Sincerely yours,

Morris Pollard
Coleman Professor
and Director

MP:cr
enclosure(s)



Federal Bureau of Prisons

Office of the Director

Washington, DC 20534

FEB 15 1989

Honorable Lee H. Hamilton
House of Representatives
Washington, D.C.

Dear Congressman Hamilton:

Thank you for your letter of January 23, 1989, with the attached correspondence from your constituent, Mrs. Pollard, whose son, Jonathan Pollard, is currently incarcerated at the United States Penitentiary, Marion, Illinois.

In her letter, Mrs. Pollard requests statistical data regarding the types and numbers of bed space available at the United States Medical Center for Federal Prisoners, Springfield, Missouri. Mrs. Pollard's purpose for requesting the information is to "determine if [the] facility could have provided a place for [their] son other than the psychiatry ward." The information could certainly be provided, however, it would serve little purpose in answering Mrs. Pollard's question. Jonathan Pollard was admitted to Springfield shortly after his commitment to the Bureau of Prisons. Mr. Pollard was housed in an area of the institution that provided the appropriate level of security and protection. This same area of the institution also provides the security level required for some psychiatric evaluation cases. Mr. Pollard, however, was never classified or managed as a psychiatric patient.

If you have additional questions, please do not hesitate contacting us.

Sincerely,

J. Michael Quinlan
Director

LEE H. HAMILTON, Indiana
 GUS VAIRO, Pennsylvania
 STEPHEN J. EGANZ, New York
 GERRY E. STODDS, Massachusetts
 HOWARD WELPE, Michigan
 GEO. W. CROCKETT, Jr., Michigan
 SHARON GEDDISON, Connecticut
 MELVIN M. DYMALY, California
 TOM LANTOS, California
 PETER H. ROSTMAYER, Pennsylvania
 ROBERT G. TOTTEN, New Jersey
 LAWRENCE J. SMITH, Florida
 HOWARD L. DEAN, California
 MEL LEVINE, California
 EDWARD F. FEIGHAN, Ohio
 TED WEISS, New York
 GARY L. ACKERMAN, New York
 MORRIS K. UDALL, Arizona
 JAMES MCCLURE CLARKE, North Carolina
 JAIME D. FUSTER, Puerto Rico
 WAYNE OWENS, Utah
 HARRY JOHNSTON, Florida
 ELIOT L. ENGEL, New York
 ENI F.H. FALEOMAVAEGA, American Samoa
 DOUGLAS H. COSCO, California
 FRANK MCCLOSKEY, Indiana
 DONALD M. PAYNE, New Jersey

JOHN J. BRADY, JR.
 Chief of Staff

One Hundred First Congress
 Congress of the United States
 Committee on Foreign Affairs
 House of Representatives
 Washington, DC 20515

DONALD A. GILMAN, New York
 ROBERT J. LAGOMARSINO, California
 JIM LEACH, Iowa
 TUDY ROTH, Wisconsin
 OLYMPIA J. SNOWE, Maine
 HENRY J. HYDE, Illinois
 DOUG BERUTER, Nebraska
 CHRISTOPHER M. SMITH, New Jersey
 MICHAEL DEWINE, Ohio
 DAN BURTON, Indiana
 JIM MEYER, Kansas
 JOHN MILLER, Washington
 DONALD E. "BOB" LUKENS, Ohio
 BEN GLAZ, Guam
 CLYDE GALLAGHER, California
 ANDREW HIGHTON, New York
 PORTER J. GOSS, Florida
 REAMIA ROSLENTIN, Florida

JOHN R. SINCLAIR
 Deputy Chief of Staff

September 24, 1990

Dr. Morris Pollard
 Lobund Laboratory
 University of Notre Dame
 Notre Dame, IN 46556

Dear Dr. Pollard,

Thank you for your letter of September 16th to which you attached a copy of the Korb article from the Washington Monthly. I look forward to perusing it.

I agree with you that the Weinberger statement was a key document and that your lawyers should have had access to the document, especially when they had obtained the appropriate clearances. That would appear to be an extraordinary denial.

I appreciate your keeping me informed. I know that the legal process continues and I hope you will stay in touch. I would like to be helpful if I can.

With best regards,

Sincerely,



Lee H. Hamilton
 Chairman
 Subcommittee on Europe
 and the Middle East

The Brookings Institution



1775 MASSACHUSETTS AVENUE N.W. / WASHINGTON D.C. 20036-2188 / TELEPHONE: (202) 797-6000

Center for Public Policy Education

October 19, 1990

Mr. Morris Pollard
Coleman Professor and Director
Lobund Laboratory
University of Notre Dame
Notre Dame, Indiana 46556

Dear Professor Pollard:

It was with great sadness and empathy that I read your letter of September 24, 1990. It must be so very difficult for you to deal with your son's situation.

I am not aware of exactly what Weinberger told the Court about the impact of the information Jonathan passed to Israel. I do know that Weinberger had an almost visceral dislike of Israel and the special place it occupies in our foreign policy. In my opinion, the severity of the sentence that Jonathan received was out of proportion to his alleged offense.

I wish there were something I could do to help you, but I am afraid all I can offer you are my prayers and empathy.

Sincerely,

Lawrence J. Korb
Director

Cap the Knave

Reagan's longtime secretary of defense is out to rewrite history

by Lawrence J. Korb

The appointment of Caspar Weinberger, Cap the Knife, as secretary of defense in early 1981 was hailed by both supporters and critics of the incoming Reagan administration. The conventional wisdom was that Weinberger, who had served with apparent distinction in such key jobs as director of the OMB and secretary of HEW in the Nixon-Ford years, was the right choice to manage the defense buildup begun by Carter and certain to be continued by the hard-line Reagan administration. Moreover, unlike some of Reagan's other appointees, Weinberger was believed to be a moderate and a pragmatist rather than a zealot—that is, a man who would work well with other members of the national security team and Congress. Indeed, this reputation was the reason I eagerly accepted Weinberger's offer to become his assistant secretary of defense for manpower, reserve affairs, and logistics, a post I held until September 1985.

When Weinberger left office in November 1987, after serving longer than all but one (Robert McNamara) of his 14 predecessors, his reputation was in tatters. The defense buildup proceeded without any clearly defined sense of strategy or purpose; the Pentagon was racked by some of the most severe procurement scandals in its history; and the defense budget and programs that he bequeathed to his successor, Frank Carlucci, were so far out of balance that his five-year plan had a shortfall of \$500 billion. (In his first month in office, Carlucci had to make some \$200 billion in reductions.)

Weinberger proved himself so narrow-minded, obstinate, and rigid that he lost the confidence of Congress and ultimately of the president himself.

Lawrence J. Korb is director of the Center for Public Policy Education and a senior fellow for Foreign Policy Studies at the Brookings Institution.

Congress slashed Weinberger's proposed budgets and passed—over his objections, but with the support of the president—the most sweeping reorganization of the Department of Defense in history, the Goldwater-Nichols Act of 1986. President Reagan, Weinberger's long-time mentor, was forced to appoint the Scowcroft Commission to straighten out the mess Weinberger had made of the strategic modernization program and the Packard Commission to straighten out the mess Weinberger had made of the procurement system.

I found Weinberger exceedingly difficult to work for. He seemed to have fixed ideas on every issue, and those who did not accept his interpretation of the facts were branded as disloyal. His staff meetings, like his press conferences and congressional appearances, rarely involved two-way conversation. Weinberger seemed to feel that if he repeated an opinion often enough, repetition alone would make it come true.

Weinberger's memoir* takes Manichaeism and hyperbole to an extreme. Individuals who support his world view are described in such glowing terms that it is almost sickening. His hero, Ronald Reagan, is magnificent, warm, decent, selfless, patient and politically courageous, easy to brief, extraordinarily firm, and possessed of phenomenal memory. Even Ed Meese is described as well-informed and effective in argument. On the other hand, members of Congress or the administration who opposed Weinberger or the president represent narrow parochial interests or special interest groups, and are ultimately disloyal.

Weinberger's Manichaeism and hyperbole also extend to nations, their leaders, and international events. The Soviet Union is and always will be the evil em-

**Fighting for Peace: Seven Critical Years in the Pentagon. Caspar Weinberger. Warner Books, \$24.95.*

pire, whose military power is still increasing despite the collapse of the Warsaw Pact. The Shah of Iran's fall resulted from U.S. harassment and demands that he release his political prisoners. On the other hand, Weinberger holds the Ayatollah responsible for the war with Iraq, even though Iraq attacked first. Moreover, he asserts that Iran was able to hold its own in the war only because Iraq had decided it did not want to commit the substantial resources required for a military victory. The former secretary conveniently forgets that Iraq resorted even to chemical weapons.

Most memoirs are somewhat self-serving, but Weinberger carries his to the extreme. In the opening chapter, he portrays himself as reluctantly taking up Reagan's offer to become secretary of defense, when in fact he campaigned vigorously for a high-level post with the president-elect. Throughout the book, he simply dismisses the problems that plagued his tenure in office and undermined support for rational defense.

Weinberger is at his disingenuous best in his Iran-contra discussion. He blames the whole affair on the incompetence of McFarlane, conveniently overlooking the fact that he joined Clark, Meese, and Casey to block Jim Baker's appointment as national security adviser, making McFarlane's appointment possible. More seriously, he ignores the implications of the fact

that—unknown to the president and the other members of the national security establishment—Weinberger had contemporaneous intelligence reports about the secret November 1985 arms shipment to Iran, as these memoirs reveal.

Why did Weinberger not act upon this knowledge, given his adamant opposition to sending arms to Iran? Why did he tell the Senate Select Committee on Intelligence that he did not learn about the CIA shipment of arms to Iran until early 1986?

The answer to both questions is that Weinberger basically is not the person he appears to be. Had he acted upon his knowledge of the November 1985 shipment, he would have jeopardized his place in the administration or jeopardized the Reagan administration itself. Given his zealous devotion to Reagan and his agenda, he could do neither. Just as he ignored the inconvenient facts that undermined the case for his defense buildup and the weaknesses of his management style in the Pentagon, he ignored the intelligence reports and may even have perjured himself before Congress. Ironically, a book he wrote to vindicate himself confirms our worst fears about him and makes me wonder how so many (including me) could have been so mistaken about his appointment in 1981. □

The Logic of Congressional Action

R. Douglas Arnold

In this important and original book, R. Douglas Arnold offers a theory that explains how legislators make decisions across the whole range of domestic policy, showing why organized interests frequently triumph and why the general public sometimes wins.

"This will be one of the most influential books on Congress—and hence on American politics—for the next ten years."
—Richard F. Fenno

"No student of Congress can ignore this work."
—David Mayhew \$29.95

Yale University Press
Dept. 3777, 92A Yale St.
New Haven, CT 06520



Now available in paperback

Signals from the Hill

Congressional Oversight and the Challenge of Social Regulation

Christopher H. Foreman, Jr.

Combining analysis and anecdote, Christopher H. Foreman, Jr. looks into the oversight tools available to Congress, the variety of interest groups involved, and the personal networks that affect relations between them.

"Foreman has made a solid contribution toward understanding the nature of day-to-day congressional oversight."
—Burdett Loomis, *Journal of Politics*

Winner of the 1980 D.B. Hardeman Prize, sponsored by the Lyndon Baines Johnson Library
\$11.95

Political Ambition

Who Decides to Run for Congress

Linda L. Fowler and Robert D. McClure

How do politicians decide whether or not to run for Congress? Using extensive interviews and analyses of district data and opinion polls, Fowler and McClure look at what motivates some individuals to enter a House race and why others choose to remain on the sidelines.

"A splendid reminder that politics is really the most human of endeavors, and nothing is more central to its human dimension than plain old ambition."
—David S. Broder, *The Washington Post*
\$12.95

The Motion To Withdraw Pollard's Guilty Plea

By David Kirshenbaum, Esq.

Earlier this year, Jonathan Pollard's defense counsel, Hamilton P. Fox, III, submitted to the District Court in Washington, D.C. a motion to withdraw Pollard's guilty plea. I received a copy of the motion from Jonathan's father, Dr. Morris Pollard, who suggested that the readers of THE JEWISH PRESS would be interested in learning the contents of this motion.

As a brief background, Jonathan Pollard pled guilty to one count of conspiracy to violate a Federal statute that prohibits a person from communicating to a foreign government information relating to the national defense, either with intent or reason to believe that the information will be used to the injury of the United States or to the advantage of a foreign nation.

Pollard was never charged with intent to injure the United States. He was charged with "having intent and reason to believe that the [information] would be used to the advantage of Israel..."

In March, 1987, Pollard was sentenced to life imprisonment, with the sentencing judge adding a recommendation that Pollard never be paroled.

This sentence was a travesty and perversion of justice that raises numerous unavoidable and troubling questions.

What was it about the Pollard affair that resulted in a sentence that was not only grossly deviant from sentences meted out to other individuals who passed classified information to American allies, but even more harsh than the punishments imposed on Americans who spied for American adversaries, causing massive damage, including the compromising of American operatives in Communist countries and the death of Americans.

As Allen Dershowitz has argued over the past few months, "History provides, at least, some relevant

parameters which allow one to conclude, with reasonable confidence, that if comparable information had been provided by a French-American to France or a Swedish-American to Sweden, it is unlikely that the sentence would have been as severe."

One must also ask what benefit Pollard received by pleading guilty to the charges against him, fully cooperating with the government in its investigation and saving the government the expense of a trial.

Not since the Rosenbergs passed to the Soviet Union, during the Korean War and the height of the Cold War, classified information about America's atomic weapons program, has anyone been executed in this country for espionage activities.

The execution of the Rosenbergs, of course, remains highly controversial even today and none of the Americans who spied for the Russians since have received death sentences. It is therefore safe to assume that a death sentence was not a real option in the Pollard case.

Thus, in the world of real possibilities, what could have been a worse result than a life sentence with a recommendation against parole?

The motion submitted by Pollard's counsel persuasively argues that one reason Pollard did not receive any benefit from the plea agreement was because the government violated the plea agreement in three ways.

The government promised that it would not ask for a life sentence but rather would limit its recommendation to asking for a "substantial" sentence.

Notwithstanding this promise, Secretary of Defense Caspar Weinberger submitted two declarations to the sentencing court (the first being classified and detailing the nature and extent of the purported harm Pollard may have caused to national security) that could plainly be interpreted as advocating a life sentence.

(Continued on page 4)

The Jewish Press August 1990

Pollard

Continued from page 4)

Weinberger, for example, wrote in his declaration to the court the day before sentencing, "It is difficult for me, even in the so-called 'year of the spy' to conceive of greater harm to national security than that caused by the defendant..."

The "year of the spy" referred to by Weinberger included the conviction of John Walker who sold secrets to the Soviet Union for 17 years and received a life sentence.

As Pollard's motion argues, in stating to the court his opinion that Pollard caused greater harm to national security than the likes of a John Walker, Weinberger was sending a very clear message to the sentencing judge. If Walker got life and Pollard caused as much or greater damage to national security, Pollard too should receive a life sentence.

The government was clearly and improperly using the Weinberger memoranda to circumvent perhaps the most important promise of the plea agreement. The Weinberger memoranda, in fact, probably had more persuasive value than had the same arguments been made by the prosecuting attorney.

The Pollard motion gives examples of a number of inflammatory inaccuracies in Weinberger's memoranda and Pollard's counsel contends in the motion that he has information that the classified memorandum contained false or exaggerated claims about the damage done by Pollard.

Were this true, it would provide further grounds for withdrawing the guilty plea.

The government however, has been dragging its feet in providing Pollard's counsel with access to the full text of Weinberger's classified declaration.

The government also argued that it would limit its arguments before the court to the facts and circumstances of the case. It did not do so, but rather dedicated a significant portion of two memoranda submitted to the court at sentencing to a character assassination of Pollard, characterizing him as a "recidivist," "unworthy of

trust," being "contemptuous of the court's activities," and calling his conduct "traitorous."

Caspar Weinberger's memoranda to the court and the government's oral statement at sentencing each contained more of the same vituperatives.

Thirdly, the government had promised to advise the court of Pollard's cooperation and the value of the information he provided to the government's investigation.

The government, however, after telling the court of Pollard's cooperation and its importance, went on to cast aspersions on Pollard's motives for cooperating, stressing his lack of remorse and elaborating on the fact that some of Pollard's alleged co-conspirators had fled the country.

This effectively discounted the value to Pollard of the government's third promise.

At sentencing, the government not only breached its side of the plea agreement, but argued that Pollard broke his undertaking by giving two interviews to Wolf Blitzer of *The Jerusalem Post*.

But as Pollard's motion clearly establishes, "Not only did the Department of Justice know of the interview, it approved and facilitated it."

Furthermore, the Blitzer interviews were given four months before sentencing. If the government believed that Pollard had breached the plea agreement, its remedy at that point should have been to petition the court for a hearing to determine whether in fact the agreement had been breached.

If it was found that Pollard had, in fact, breached the agreement, the remedy would have been to release the government from its promises under the plea agreement, and allow it to fully prosecute Pollard.

The government, however, did no such thing in November, but continued to obtain the benefits of the plea agreement, securing Pollard's continuing cooperation and the forfeiture by Pollard of his constitutional right to a trial.

The government then sought (quite successfully, it turns out) to deprive Pollard of his benefits of the plea agreement by belatedly asserting just at the time of the

government's promised performance, the alleged breach by Pollard four months before.

Finally, Pollard's motion points out that Federal rules of criminal procedure require that a judicial inquiry be made into the voluntariness of a guilty plea.

Moreover, when pleas are linked or when the defendant's guilty plea is made in consideration of a third party receiving a lenient sentence, special care must be taken and a higher standard must be applied to assure the voluntariness of a guilty plea.

Anyone familiar with the Pollard case is well aware of the terrible conditions in the cell where Jonathan's wife, Anne, was imprisoned following her arrest, the physical threats she was subject to and the devastating physical deterioration she suffered while in prison.

The government threatened to bring additional charges against her (she was charged with being an accessory after the fact to her husband's possession of national defense documents and with conspiracy to receive embezzled government property) if she did not plead guilty.

Jonathan feared the effects of a prison sentence on his wife and felt the safest way to avoid a jail sentence for Anne would be for her to plead guilty to the initial charges brought against her.

The government, however, linked the guilty pleas, forcing Jonathan to plead guilty to the charges brought against him in order to insure that his wife's life would not be endangered.

Thus, even though Federal rules required that inquiry be made into the voluntariness of Pollard's plea and the facts surrounding Pollard's plea agreement screamed out for a serious examination of the possibility of coercion, the court relied solely on the statement of Pollard's counsel at the time of sentencing, and never asked Pollard himself whether he was entering his plea voluntarily or whether the plea was the product of force, threats, or promises.

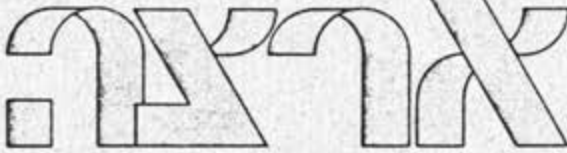
Pollard's petition to the court makes a powerful case, and it can only be hoped that justice will finally be done and that the court will grant Pollard's motion and permit him to withdraw his guilty plea.



838 FIFTH AVENUE, NEW YORK, N.Y. 10021-7064
TEL: (212) 249-0100, FAX: (212) 517-7968

ASSOCIATION OF REFORM ZIONISTS OF AMERICA

An Affiliate of the Union of American Hebrew Congregations



OFFICERS

President
Norman D. Schwartz

Vice Presidents
Marcia Cayne
Judy Goldenberg
Elsa Konigsberg
Fred Richter

Michael B. Rukin
Rabbi Herman Schaalman

Secretary
Billie Gold

Treasurer
Phillip Meltzer

Associate Treasurer
Norman Eichberg

Founding President
Rabbi Roland B. Gittelsohn

Past President
Rabbi Charles A. Kroloff

Executive Director
Rabbi Eric H. Yoffie

Assistant Director
Deborah Siegel

TO: HARRIS GILBERT

FROM: DEBORAH SIEGEL *DS*

CC: DAVID SAPERSTEIN ✓

*Check by RAS
D. Siegel*

Just prior to the ARZA Executive Committee meeting on Sunday, January 27, Norman Schwartz received the enclosed letter from Jonathan Pollard requesting ARZA to file an amicus brief on his behalf. After discussion by the Executive Committee, it was decided that the proper UAHC body to consider this issue is the Social Action Commission and therefore we are forwarding the request to you. In your committee's deliberations, we would appreciate your consideration of the attached Resolution which was passed by the ARZA National Board in November, 1988.

DS/jkl

Enc.

3:02
December 27, 1990
Marian, IL

Dear Mr. Schwartz,

As you undoubtedly know, my case will shortly be presented to the Appellate Court in Washington. According to Alan Dershowitz, this may represent my last legal means of securing a more appropriate sentence. In light of this fact, would your organization consider submitting an amicus brief on my behalf? If you are amenable to this, I would appreciate your contacting my sister, Carol, who can put you in touch with my lawyers. Her address is as follows: Citizens for Justice, Inc., P.O. Box 3257, New Haven, CT, 06515 (203) 389-1119.

As I have said time and time again, Mr. Schwartz, I am not seeking exoneration, only a measure of justice. I can only hope that you'll be willing to help me obtain that. After all, the issue involved with my case effect not only me, but also the entire American Jewish community, as well.

Sincerely,
Jonathan

Enclosures

RESOLUTION
ANNE & JONATHAN POLLARD

WHEREAS, serious questions have been raised regarding the sentencing procedure and conditions of incarceration of Jonathan Pollard-- for life without parole, and

WHEREAS, we are seriously concerned about the treatment being received by Anne Henderson Pollard, during her incarceration, especially in view of her serious medical condition, therefore

BE IT RESOLVED, that the Executive Board of ARZA urges the UAHC Board and other affiliated Reform organizations to become fully acquainted with the sentencing and incarceration conditions of the Pollards and, if warranted, to use its good offices to encourage the United States government to reevaluate the Pollard sentencing, and to insure that they be treated with fairness and equity during their incarceration.

passed by ARZA National Board
November 7, 1988



file

RABBI ALEXANDER M. SCHINDLER • UNION OF AMERICAN HEBREW CONGREGATIONS
PRESIDENT 838 FIFTH AVENUE NEW YORK, N.Y. 10021 (212) 249-0100

September 17, 1990
27 Elul 5750

Mr. Jonathan Pollard/09185-016
P.O. Box 1000
Marian, IL 62959

Dear Mr. Pollard:

Just a note to advise that your letter of August 16th to Rabbi Schindler was received this morning.

He is out of the office today, and will not return until next week. Thus, I write merely to acknowledge receipt of your letter and to extend warm good wishes for a good New Year.

Needless to note your letter will be brought to Rabbi Schindler's attention on his return.

Sincerely,

Edith J. Miller
Assistant to the President

502
August 16, 1990
Marion, IL

Dear Rabbi Schindler,

Many thanks for your letter of August 2nd. With regard to my decision to divorce Anne, I think it's important for me to stress how complex the situation was that lead up to this development. As you may have already heard, once Anne was released from prison our marriage totally fell apart. Statements made by Anne in which she tried to blame my family for this unfortunate turn of events are wholly without foundation. In point of fact, Rabbi, it was my wife who, on 3 separate occasions, threatened to divorce me if I did not agree with her legal and political agendas. The last such ultimatum I received, which was communicated to me through Anne's lawyer, was the final straw as far as I was concerned. Obviously, no marriage could have survived for very long within that kind of corrosive setting. The fact that Anne refused to come out and see me just added insult to injury.

Need less to say, Anne's decision to sensationalize our divorce has absolutely infuriated me. What did she possibly hope to gain by indulging in such behavior? Indeed, all she seems to have accomplished by publicizing our separation has been to momentarily divert the Jewish community's attention away from my campaign to secure a fair sentence. Clearly, if Anne really loved me as much as she's claimed in the press, then she would have handled our divorce as discreetly as possible. That my wife has done just the opposite merely confirms my worst assumptions about her ulterior motives. Certainly, Anne's blatant distortion of what actually occurred when she was served tends to reinforce this rather uncomplimentary assessment of my wife.

Rabbi, you simply couldn't even begin to imagine what Anne has been doing to me over the past 6-7 months. To say that both Anne and her father made my life a living hell during this period of time would be an understatement of monumental proportions. My parents and sister, in particular, were subjected to a level of verbal abuse, Rabbi, which was simply intolerable. As for myself, Anne's calls were so traumatic that the prison felt compelled to have a chaplain visit me to make sure that I was holding up emotionally under the strain. As I'm sure you can appreciate, Rabbi, living in isolation for 23 hours a day is rather difficult for me. However, I am trying to cope with this intolerable situation as best I can. What I assuredly don't need, though, is for someone like my wife to yell and scream at me on a daily basis - all that does is just make my imprisonment worse than it already is. Given the fact that Anne was once a prisoner herself, she should have known this. Yet virtually every time I talked to her, she would lay on a dose of "guilt" so thick that afterwards I could barely stand to look at myself in the mirror. Believe me, Rabbi, I'm well aware of what Anne went through as a result of my activities. And God only knows how deeply I regret having involved her with the operation. But it must be said in all fairness, Rabbi, that other members of my family have also suffered as a result of this affair. No one, though, has a right to use their sacrifice as a psychological weapon against me. Unfortunately, Anne didn't quite see things

that way. You see, whenever Anne couldn't get her way, she would promptly remind me of how much pain and misery I'd caused her over the past 5 years. Frankly, Rabbi, that routine got old rather fast, particularly when I realized that Anne was going to use this kind of emotional blackmail on me for the rest of our married life. Just out of curiosity, Rabbi, how would you like to be constantly reminded of what a "slime" you were for destroying someone's career? Mind you, I am the one in prison, not Anne. I also tried, by the way, to convince my wife to see a marriage counselor, but that suggestion was like pouring gasoline on a raging fire.

As you know, Rabbi, I opted to delay my legal "counterattack" until Anne was out of harm's way. Once that occurred, I immediately submitted a motion to withdraw my guilty plea and prepared for a lengthy, drawn out battle to reopen the case. But that didn't ^{sit} very well with my wife, who wanted a disproportionate share of our legal efforts devoted, instead, to reversing her conviction. It was the opinion of every lawyer consulted, though, that that objective was not only impossible to achieve, but that it was also totally irrelevant as far as the central issue of my freedom was concerned. Needless to say, I took an extremely dim view of Anne's legal priorities. Moreover, given the rather precarious state of our financial resources, we simply couldn't afford to wage a "two front war" as it were, which was something that Anne absolutely refused to accept. It got so bad at one point, Rabbi, that my wife threatened to publicly denounce my withdrawal motion as a "fraud" unless we capitulated to her demands. Although my lawyers were able to dissuade Anne from carrying out this threat, none of us enjoyed living under what amounted to a sword of Damocles. For obvious reasons, Rabbi, I tried to keep this growing rift as quiet as possible, but Anne eventually forced my hand by engaging in some activities that were totally beyond the pale. Suffice it to say, our Israeli friends were absolutely appalled by Anne's conduct, which they feared would derail the campaign we've put together to secure my repatriation to Eretz. At that point, Rabbi, I had to act before it was too late.

I guess when you came right down to it, Rabbi, my wife no longer respected me. To her, I was just a piece of clay that she wanted to mold according to her needs. The arguments we had over a possible movie bear this out, Rabbi. You see, while I wanted to use this project as a vehicle for exposing Caspar Weinberger's undeclared intelligence embargo against Israel, Anne, in contrast, wanted the movie to concentrate almost exclusively on her. This absolutely enraged me, Rabbi, since I saw this movie as an opportunity to help Israel, not me or our selves per se. From my perspective, then, Anne's ego was more important to her than was the cause for which I risked everything. This is a terrible admission to make, Rabbi, but there is no point in avoiding the truth. Oh, sure, she's put on quite an act in public regarding her concern for

my welfare. But behind the scenes, Rabbi, I don't think you could have stomached what was going on. When I asked Anne one time, for example, not to contradict what my lawyers were saying about the case, she responded by threatening to implicate my parents (!) in the operation unless I withdrew my objections to her statements. On another occasion when I literally begged her not to appear on a certain TV show, she let me know rather bluntly that she had her own agenda that she intended to pursue irregardless as to its effect on me. Of course, Anne would probably swear that she never said such things, but the prison tape recordings of our conversations, Rabbi, tell another story.

It's a fact of life, I suppose, that no divorce is ever pleasant. And Lord knows I didn't want to precipitate such a controversial action at a time when I was finally beginning to make some real headway within the Jewish community. But it came to a point, Rabbi, where I just couldn't take any more of my wife's irrational behavior. Believe me, my friend, I feel absolutely awful about the divorce, but Anne never really gave me much of a choice in the matter.

As you can well imagine, Rabbi, I've been paying very close attention to developments in the Gulf since it was the previous administration's calculated refusal to warn Israel about Iraq's ^{then} secret poison gas manufacturing program which compelled me to pass information pertaining to this threat on to Jerusalem. Well, it may have taken 5 years, but it now seems that an increasing number of people within our community are finally coming to the realization that what I've been saying about this whole gas related issue is true. Namely, that elements within the Reagan administration deliberately misled Israel as to the status of Iraq's growing chemical arsenal. As you can imagine, this shift in public support for me has not gone unnoticed by the White House. Just last week one of my attorneys was told that several members of the President's inner circle are extremely concerned that if my case is reopened my testimony regarding the government's cover up of Iraq's chemical weapons program could be politically devastating at this point in time. After all, the same Iraqi gas which I tried to warn Israel about 5 years ago is now being used to threaten the American expeditionary forces in Saudi Arabia. Then again, it could also be very embarrassing for the administration to try to explain why it was that Abdelkader Helmy, the Egyptian-American engineer who was responsible for extending the range of Iraq's gas armed SCUD-B ballistic missile, received such a lenient sentence in comparison to what I was handed. Well, I guess I'll just have to wait and see whether these issues find their way in to the press. Believe me, I'm not going to hold my breath. You see, for some strange reason, Rabbi, such commentators as Abe Rosenthal, Bill Safire, and Charles Krauthammer have been extremely reluctant to touch this subject. I suspect it's true, then, what they say about "expediency" being the better part of valor!

In any event, let me take this opportunity to wish both you and your family a healthy,

happy New Year. As it is said in Tekullim:

בְּיָמֵינוּ יִשְׁמַח מֶלֶךְ הַבָּשָׂר וְיִשְׁמַח מֶלֶךְ הַבְּרִיָּה
וְיִשְׁמַח מֶלֶךְ הַבְּרִיָּה וְיִשְׁמַח מֶלֶךְ הַבְּרִיָּה

Best wishes,

Avraham

The Motion To Withdraw Pollard's Guilty Plea

By David Kirshenbaum, Esq.

Earlier this year, Jonathan Pollard's defense counsel, Hamilton P. Fox, III, submitted to the District Court in Washington, D.C. a motion to withdraw Pollard's guilty plea. I received a copy of the motion from Jonathan's father, Dr. Morris Pollard, who suggested that the readers of THE JEWISH PRESS would be interested in learning the contents of this motion.

As a brief background, Jonathan Pollard pled guilty to one count of conspiracy to violate a Federal statute that prohibits a person from communicating to a foreign government information relating to the national defense, either with intent or reason to believe that the information will be used to the injury of the United States or to the advantage of a foreign nation.

Pollard was never charged with intent to injure the United States. He was charged with "having intent and reason to believe that the [information] would be used to the advantage of Israel..."

In March, 1987, Pollard was sentenced to life imprisonment, with the sentencing judge adding a recommendation that Pollard never be paroled.

This sentence was a travesty and perversion of justice that raises numerous unavoidable and troubling questions.

What was it about the Pollard affair that resulted in a sentence that was not only grossly deviant from sentences meted out to other individuals who passed classified information to American allies, but even more harsh than the punishments imposed on Americans who spied for American adversaries, causing massive damage, including the compromising of American operatives in Communist countries and the death of Americans.

As Allen Dershowitz has argued over the past few months, "History provides, at least, some relevant

parameters which allow one to conclude, with reasonable confidence, that if comparable information had been provided by a French-American to France or a Swedish-American to Sweden, it is unlikely that the sentence would have been as severe."

One must also ask what benefit Pollard received by pleading guilty to the charges against him, fully cooperating with the government in its investigation and saving the government the expense of a trial.

Not since the Rosenbergs passed to the Soviet Union, during the Korean War and the height of the Cold War, classified information about America's atomic weapons program, has anyone been executed in this country for espionage activities.

The execution of the Rosenbergs, of course, remains highly controversial even today and none of the Americans who spied for the Russians since have received death sentences. It is therefore safe to assume that a death sentence was not a real option in the Pollard case.

Thus, in the world of real possibilities, what could have been a worse result than a life sentence with a recommendation against parole?

The motion submitted by Pollard's counsel persuasively argues that one reason Pollard did not receive any benefit from the plea agreement was because the government violated the plea agreement in three ways.

The government promised that it would not ask for a life sentence but rather would limit its recommendation to asking for a "substantial" sentence.

Notwithstanding this promise, Secretary of Defense Caspar Weinberger submitted two declarations to the sentencing court (the first being classified and detailing the nature and extent of the purported harm Pollard may have caused to national security) that could plainly be interpreted as advocating a life sentence.

(Continued on page 45)

Pollard

(Continued from page 4)

Weinberger, for example, wrote in his declaration to the court the day before sentencing, "It is difficult for me, even in the so-called 'year of the spy' to conceive of greater harm to national security than that caused by the defendant..."

The "year of the spy" referred to by Weinberger included the conviction of John Walker who sold secrets to the Soviet Union for 17 years and received a life sentence.

As Pollard's motion argues, in stating to the court his opinion that Pollard caused greater harm to national security than the likes of a John Walker, Weinberger was sending a very clear message to the sentencing judge. If Walker got life and Pollard caused as much or greater damage to national security, Pollard too should receive a life sentence.

The government was clearly and improperly using the Weinberger memoranda to circumvent perhaps the most important promise of the plea agreement. The Weinberger memoranda, in fact, probably had more persuasive value than had the same arguments been made by the prosecuting attorney.

The Pollard motion gives examples of a number of inflammatory inaccuracies in Weinberger's memoranda and Pollard's counsel contends in the motion that he has information that the classified memorandum contained false or exaggerated claims about the damage done by Pollard.

Were this true, it would provide further grounds for withdrawing the guilty plea.

The government however, has been dragging its feet in providing Pollard's counsel with access to the full text of Weinberger's classified declaration.

The government also argued that it would limit its arguments before the court to the facts and circumstances of the case. It did not do so, but rather dedicated a significant portion of two memoranda submitted to the court at sentencing to a character assassination of Pollard, characterizing him as a "recidivist," "unworthy of

trust," being "contemptuous of the court's activities," and calling his conduct "traitorous."

Caspar Weiberger's memoranda to the court and the government's oral statement at sentencing each contained more of the same vituperatives.

Thirdly, the government had promised to advise the court of Pollard's cooperation and the value of the information he provided to the government's investigation.

The government, however, after telling the court of Pollard's cooperation and its importance, went on to cast aspersions on Pollard's motives for cooperating, stressing his lack of remorse and elaborating on the fact that some of Pollard's alleged co-conspirators had fled the country.

This effectively discounted the value to Pollard of the government's third promise.

At sentencing, the government not only breached its side of the plea agreement, but argued that Pollard broke his undertaking by giving two interviews to Wolf Blitzer of *The Jerusalem Post*.

But as Pollard's motion clearly establishes, "Not only did the Department of Justice know of the interview, it approved and facilitated it."

Furthermore, the Blitzer interviews were given four months before sentencing. If the government believed that Pollard had breached the plea agreement, its remedy at that point should have been to petition the court for a hearing to determine whether in fact the agreement had been breached.

If it was found that Pollard had, in fact, breached the agreement, the remedy would have been to release the government from its promises under the plea agreement, and allow it to fully prosecute Pollard.

The government, however, did no such thing in November, but continued to obtain the benefits of the plea agreement, securing Pollard's continuing cooperation and the forfeiture by Pollard of his constitutional right to a trial.

The government then sought (quite successfully, it turns out) to deprive Pollard of his benefits of the plea agreement by belatedly asserting just at the time of the

government's promised performance, the alleged breach by Pollard four months before.

Finally, Pollard's motion points out that Federal rules of criminal procedure require that a judicial inquiry be made into the voluntariness of a guilty plea.

Moreover, when pleas are linked or when the defendant's guilty plea is made in consideration of a third party receiving a lenient sentence, special care must be taken and a higher standard must be applied to assure the voluntariness of a guilty plea.

Anyone familiar with the Pollard case is well aware of the terrible conditions in the cell where Jonathan's wife, Anne, was imprisoned following her arrest, the physical threats she was subject to and the devastating physical deterioration she suffered while in prison.

The government threatened to bring additional charges against her (she was charged with being an accessory after the fact to her husband's possession of national defense documents and with conspiracy to receive embezzled government property) if she did not plead guilty.

Jonathan feared the effects of a prison sentence on his wife and felt the safest way to avoid a jail sentence for Anne would be for her to plead guilty to the initial charges brought against her.

The government, however, linked the guilty pleas, forcing Jonathan to plead guilty to the charges brought against him in order to insure that his wife's life would not be endangered.

Thus, even though Federal rules required that inquiry be made into the voluntariness of Pollard's plea and the facts surrounding Pollard's plea agreement screamed out for a serious examination of the possibility of coercion, the court relied solely on the statement of Pollard's counsel at the time of sentencing, and never asked Pollard himself whether he was entering his plea voluntarily or whether the plea was the product of force, threats, or promises.

Pollard's petition to the court makes a powerful case, and it can only be hoped that justice will finally be done and that the court will grant Pollard's motion and permit him to withdraw his guilty plea.

VIA TELEFACSIMILE

June 21, 1990

Mr. Phil Baum
American Jewish Congress
Stephen Wise Congress House
15 E. 84th Street
New York, NY 10028

Dear Phil:

The following is a summary of the major points I presented at yesterday's meeting.

Jonathan Pollard pleaded guilty to spying for Israel. He cooperated extensively in the Defense Department's damage assessment and provided the Justice Department with valuable information about his co-conspirators. In exchange for waiving his right to a trial -- a long and expensive trial that would have required the Government to disclose potentially damaging information -- and in consideration of his valuable cooperation, the Government agreed to ask for a sentence of less than life imprisonment.

In light of the unbroken history of lenient sentences for defendants who have pleaded guilty to spying for American allies, Pollard had every reason to expect that his

sentences would fall within the range of prior sentences in cases involving allies.¹

This was especially so, since Israel is more than a mere passive ally; it shares the most sensitive National Security information with the United States on an ongoing and mutual basis, and was lawfully entitled under various exchange agreements to much of the information provided to it by Pollard.

Prior to sentencing, however, Secretary of Defense, Casper Weinberger submitted a sworn declaration specifically addressed to "defendant's self-serving contentions that his espionage activities were intended only to aid Israel..." In his declaration, Weinberger made the following assertions:

A) "It is difficult for me, even in the so-called 'year of the spy,' to conceive of a greater harm to national security than that caused by the defendant..."

B) He then demanded a sentence that reflects "the perfidy of the individual's actions, the magnitude of the treason committed, and the needs of national security."

[emphasis added]

1 No person who pleaded guilty to spying for a trusted ally during peacetime had ever, to our knowledge, recieved a sentence in excess of ten years. Typically the sentences are less than five years.

C) He said that Pollard's "loyalty to Israel transcends his loyalty to the United States," pointing to the fact that Pollard hopes to emigrate to Israel.

D) Weinberger then predicted that Pollard "will continue" to disclose United State's secrets to Israel and demanded "a period of incarceration commensurate with the enduring quality of the national defense information he can yet impart."

The statements clearly communicated Weinberger's view that Pollard should be sentenced to life imprisonment, notwithstanding the government's promise to ask for a less severe sentence. Life is the only sentence that would indeed be commensurate with the greatest possible harm to national security (if Pollard's crimes were truly in that category) and the only sentence that could assure that Pollard would never be let out while he could "yet impart" valuable information.

These statements also strongly suggested that spying for Israel was the equivalent -- in terms of damage to the United States -- of spying for the Soviet Union and other "enemies" of the United States during the cold war. It is clearly untrue that no other spy case had caused "greater harm" than the Pollard case, since other recent cases in-

volving long term spy rings for our enemies had caused massive damage -- including the death of Americans. Indeed, Weinberger's explicit characterization of Pollard's crime as "treason" plainly suggests that it was carried out on behalf of an enemy, since our Constitution declares that "treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort." [emphasis added]

In its sentencing memorandum, the Government suggested that a moderate sentence imposed on a defendant who spied ^{an ally such as} for Israel might well "invite similar unlawful conduct by others." In subsequent public statements the United States Attorney stated that Americans who spy for Israel must receive even harsher sentences than those who spy for other countries since many Americans strongly support Israel, whereas few Americans support other foreign countries. These comments have been widely perceived as thinly veiled references to the old canard of "dual loyalty." They suggest that American Jews need greater deterrence against spying for Israel than do other Americans in relation to other countries.

These unusual elements in this case, especially when evaluated against the background of the unprecedented life sentence in this case of spying for a trusted ally, raise important questions of concern to the Jewish community. Foremost among them is the unsettling question whether the

sentence in this case would have been as harshly disparate for other comparable defendants if Pollard had not been Jewish and had the nation he spied for not been Israel? This is a complex and difficult question to answer. It certainly cannot be answered by inappropriately advertising the Jewish backgrounds of several of the prosecutors, as the Government has done here (and as it did in the Rosenberg case.) History provides, at least, some relevant parameters which allow one to conclude, with reasonable confidence, that if comparable information had been provided by a French-American to France or a Swedish-American to Sweden, it is unlikely that the sentence would have been as severe.

At the very least, these facts shift the burden of persuasion to the government to justify why there has been so great a deviation in this case from the prior history of sentences imposed on defendants who have pleaded guilty to spying for allies. The facts also demand that the government justify the unprecedented sentence imposed on Anne Pollard and the designation of Jonathan Pollard to a super-maximum security prison designed primarily for violent recidivist.

The Pollard case raises serious questions of concern to the Jewish Community. Thus far, few satisfactory answers have been provided. Part of the reason is that the major Jewish organizations have not raised these questions.

Indeed, efforts by grass-root Jews to engage in a dialogue with government officials about the Pollard case have been hindered because such officials have noted the apparent lack of concern by the major Jewish organizations. This plays right into the hands of those Government officials who tried to keep me out of the case because I am active in the Jewish community, and who told Pollard that the Jewish organizations did not care about him.

For all of the above reasons, the American Jewish Congress should support the demand for full and open hearings in appropriate governmental forums of the serious questions raised about the Pollard case.

Alan Dershowitz

Forward July 27, 1990

AUG-26-90 SUN 12:15 ABSI NOTRE

Pollard, Wife Part

By JEFFREY S. BENKOE

FORWARD STAFF

NEW YORK — Confessed spy Jonathan Pollard filed for divorce from his wife Anne Henderson Pollard after their estrangement deteriorated into a bitter dispute over control of strategy to win his freedom, according to relatives, friends and lawyers.

Mr. Pollard released a statement through his rabbi, Avraham Weiss, last weekend, seeking to deflect reports that his relatives and lawyers had influenced his decision.

Mr. Pollard purportedly filed for divorce after his estranged wife herself threatened divorce on three occasions unless she and her father were allowed "to take charge of the case," Morris Pollard, Jonathan's father, charged. Bernard Henderson, Anne Pollard's father, vehemently denied the assertion.

The divorce decision comes as a grass-roots effort is mounting to enlist support for Mr. Pollard in the organized American-Jewish community. There has been considerable debate over the life sentence given to the former U.S. Navy intelligence analyst, who pleaded guilty in 1985 to spying for Israel.

Mr. Pollard's strategy to "maintain a low profile" while the judge considers the motion may backfire, according to a family friend. Ms. Pollard was served with divorce papers while a patient in Mt. Sinai Medical Center in New York, where she is being treated for a serious stomach ail-

ment. She was "shocked," her lawyer, Mark Baker, said. "She had no idea it was coming."

Love And Respect

Mr. Pollard was concerned over interviews his wife would give in Israel, where she is scheduled to go later this month for more treatment. "Jay was afraid (the interviews) would hurt his chances for a lessened term," Morris Pollard said. Neither Jonathan nor Anne Pollard were available for interviews.

Mr. Pollard's lawyer, Alan Der-showitz, filed a motion on March 12 before U.S. District Judge Aubrey Robinson to have his guilty plea withdrawn.

There are different versions on her intentions in Israel. Morris

Please turn to Page 12

Spy Pollard Sues Wife for Divorce

Continued from Page 1

Pollard's version goes this way: "When Jonathan learned that Anne was going to Israel, without consulting with him as to what her agenda was, he decided that was enough. His statement was, 'If there's no respect, there's no love, and if there's no love, there's no marriage.' That was the end of it."

Her lawyer, Mr. Baker, offered this account: Mr. Pollard sought a written agreement from his wife that "whatever she said in Israel had to be cleared first." Mr. Henderson said, "No one can decide what Anne is going to do . . . no one else decides."

Ms. Pollard, who is suffering from pancreatitis or another form of stomach dysfunctioning, has been in Mt. Sinai for four weeks as doctors try to diagnose her condition, Mr. Baker said. She has been experiencing "excruciating abdo-

minal pain," he added. She is scheduled to fly to Israel on July 31 for tests at one of the Hadassah hospitals. An Israeli insurance company has agreed to cover her medical expenses, up to \$25,000. The amount of the Mt. Sinai bills was not known.

The U.S. Parole Commission, which released her on probation on March 31 after serving two and a half years in federal prison, gave her permission to stay in Israel for ten weeks.

The couple has been estranged since she was released; she has not visited him in prison. Ms. Pollard claims that his family wanted a lawyer present for the visit. His side claims she insisted on the same condition.

The domestic situation has deteriorated even further into charges and countercharges. Morris Pollard asserted that Ms. Pollard and her father have pressured Jonathan to follow their course. "When Anne got out of prison in March, she called Jay (Mr. Pollard's middle name) on three or four occasions and told him she and her father wanted to take charge of this case and wanted to be responsible for the whole thing," Morris Pollard said. "If he didn't comply, she said she would divorce him. Her father sent a letter which said if Jay did not comply, there would be dire consequences." He declined to release the letter.

Mr. Henderson angrily denied the letter's existence. "There is no such letter," he said. "It is an outrageous and absolute, total lie."

Difficult Reflection

Morris Pollard said he told his daughter-in-law "her performance on some of the talk shows was not good and caused her to lose credibility." He asserted that at sentencing time five years ago, Judge Robinson was "very incensed. There was a lot of media coverage, and it antagonized the judge."

Ms. Pollard feels her husband "is not thinking soundly," according to Mr. Baker. "He's reflecting the thinking around him."

That thinking apparently includes the view that "his best option is now to maintain as low a profile as possible," said the family friend. Ms. Pollard, the friend added, is considered "far more public-minded than Jonathan. All he wants to be right now is quiet."

In the statement released by Rabbi Weiss, spiritual leader of Hebrew Institute of Riverdale in the Bronx, Mr. Pollard said: "The decision to seek a divorce is mine and mine alone. It was reached after long and agonizing reflection. I was not influenced by any party, be it my parents, my sister, or my lawyers . . . My decision was based on long, meticulous and difficult reflection. I have concluded that unfortunately our agendas and directions no longer converge."

He added: "There are many other issues of a private nature which I pray that people will accept on face value."

Mr. Pollard remains in solitary confinement all but two hours of the day. His basement cell at the federal penitentiary in Marion, Ill. has reached 110 degrees over the last few weeks, according to family members. "All the rumors and innuendoes about him being unba-

lanced are absolutely false," said Rabbi Weiss, who visited him several weeks ago.

Meanwhile, in recent weeks there has been increased formal recognition among several national American-Jewish groups. The American Jewish Congress has recommended a reexamination of the sentence. On July 4 a regional convention of B'nai B'rith International in California passed a resolution declaring unequivocally that Mr. Pollard's treatment "was unduly harsh and excessive in that his sentence was unprecedented and far more severe than those historically meted out to most persons convicted of espionage." The local group voted to present a resolution to the International convention next month. And the International Association of Jewish Lawyers and Jurists has passed a resolution urging that the case be reopened.

Talk About Being Prepared!

Something is radically wrong at the Pentagon! We were warned about Iraq's use of poison gas on Iran and their chemical warfare potential early last year, yet, preparations for such an attack in this country have been nil.

We have been told that the equipment American military forces will have to use against a chemical attack are heavy and so confining our troops would not be able to operate effectively.

For the past two years, the Defense Department has asked for a tremendous increase — for what? They claimed more planes and sophisticated stealth bombers were needed. But they, of all people should know that no war has ever been won with airpower alone. It is still the ground forces that assert control over a given area.

The irony of all this is that years ago Jonathan Pollard, who was convicted of spying for Israel, was the one who first blew the whistle and alerted the entire world that Arab nations were arming themselves with chemical weapons. So there is no question about Pentagon officials having sufficient warning. It was at that time, they should have sought allocations and begun preparations for protective gear for soldiers fighting in desert climates. So what did the army purchase? Protective gear for cold weather areas!

Something is radically wrong with President Bush's advisors.

If there is a chemical attack on American soldiers, the President has promised retaliation. Will he really use atomic weapons? We doubt it very much! Thousands of innocent people will become victims and the entire world will be united against this country for using

(Continued on Page 24)

EDITORIALS

(Continued from page 5)

such a weapon just as the world came down on President Truman when an atomic bomb was used against Japan. True, that bomb took thousands of lives and is still claiming lives to this very day, but it did save thousands of American G.I.'s who might have died because of the Japanese.

We pray the President is not forced to use the "doomsday weapon" — just as we pray Iraq and the other Arab nations contain their chemical weapon warfare.

Once the genie is out of the bottle, it'll be hard to recap it.

Rabbis of northern London ask Thatcher to help Pollard

LONDON — Rabbis representing three branches of Judaism in Britain are asking Prime Minister Margaret Thatcher to intervene with United States president George Bush on behalf of convicted spy Jonathan Pollard.

The rabbis, all residents of Finchley, northern London, planned to hand the prime minister a letter asking that she convey to Bush the "deep concern" felt by "Jewish people everywhere" about the life sentence imposed on Pollard in 1985 and the way he has been treated ever since.

Pollard has been imprisoned in solitary confinement and strictly limited in who may visit him and in corresponding with people outside the prison.

Four of the eight signatories are Orthodox rabbis, three are Reform and one is from the Progressive branch.

They charge that Pollard, a former civilian intelligence analyst employed by the U.S. Navy, was the victim of harsh and vindictive treatment when he was sentenced to life imprisonment for spying for Israel.

Their letter states, "We appreciate that the United Kingdom government cannot intervene in the United States' internal affairs, but human rights are an international matter," and "we therefore respectfully ask you" to raise with the U.S. administration "the concern which is felt by

your constituents about the plight of Jonathan Pollard."

The rabbis acknowledge that Pollard was convicted for passing classified information to Israel, but "at no time was it alleged, or was he convicted, of passing United States' secrets," they wrote.

They claim that "all the information was specifically about the Arab front line states" and was intended to help Israel defend itself against chemical weapons such as are manufactured by Syria and Iraq.

The rabbis note that after more than five years in prison, Pollard is still in solitary confinement and, they say, suffers "mistreatment more befitting the KGB Gulags of pre-Gorbachev Russia."

London Jewish Chronicle/JTA

WAS HE POISONED AGAINST ME?

from Yediot Achronot
by Zadok Yeheskely
July 17, 1990

Anne Pollard lies like a baby in Mount Sinai Hospital, still thin after many months outside jail, her face pale and lifeless. A red balloon and some large, joyful greeting cards mock her. "What's left for me now?" She quietly says. "You ask whether I cried? Sure I did. What would anybody else do if she received something like that from a man with whom she had lived for five years, for whom she had spent 40 months in jail? I am still shocked."

Indeed, this scene invites only sympathy for the 30 year old woman, who blindly followed her husband, was sentenced to jail in dreadful conditions, went to jail, is in poor physical condition, fought like a lion for his liberation, -- and finally faced a divorce claim.

But as you will find out, the story is much more complex. It includes mutual accusations and criticism relating to Anne Pollard's personality, her unstable behavior, her possible madness. It includes long months of struggles, sometimes rude and loud, between the two camps around Anne and Jonathan Pollard.

It is not a beautiful story. We prefer the former one: the story of their brave love, still loving after so many years in prison. We prefer the young broken wife stating she won't rest until her husband is free and they can make Aliyah and live in the country for which Jonathan dared to do everything.

But something went wrong. Both parties tried to hide it, hoping it would be satisfactory, until Jonathan made a final step, applying for divorce. Still he tries to be discrete and to not expose the background, but this seems to be in vain.

Last Passover, Jonathan spent the "seder" with his family, having a 30 minute telephone call to his sister's home. Anne was alone that time, in her father's tiny apartment. Jonathan says that he tried to talk to Anne, but he couldn't. Then, in April, their relationship was worse. But even before Anne left jail, something went

wrong, especially between Anne's father, Bernard Henderson, on one hand, and Jonathan's sister, parents and Amnon Dror, the chairman of the committee for Jonathan in Israel, on the other hand. Bernard accused them of not financing his work and his lawyers. In fact, say the Pollards, Bernard wanted to control the public campaign and take it from Amnon Dror.

"His declarations of not being financed are not true," says Dror, and this is a moderate expression. Among the complaints against Anne's father are: wasting money, over drinking, and inciting Anne against the Pollards.

Henderson loses his patience upon hearing it: "I never told my daughter what to do. When she said she loved Jonathan, I went with her. I love her and I do what she asks, but the Pollards and Amnon Dror have done the last two months whatever they could to hurt her."

Anne and her father are sometimes violent. During one of the meetings, Bernard tried to hit Amnon Dror. Pollard's family suspect that Anne's fights in jail were derived from her impatience and her temper. "It's true that I am aggressive," says Anne, "I am not as shy as Jonathan. I am like the Israelis. I immediately say what I think, but Jonathan liked it." The Pollards could live with it when she was in jail, but afterwards the road to disputes was short.

The first explosion was between Anne and Carol Pollard, Jonathan's sister. Carol was the dominant figure in the struggle for the couple. She visited Anne many times in prison. Due to Anne's behavior, Carol suggested she should get mental treatment. Anne "exploded" upon hearing it, and stopped speaking to Carol, calling her a "witch", and once even a "C.I.A. agent." Bernard Henderson claims: "The Pollards tried to get rid of my daughter by getting a psychiatric report without my daughter's knowledge. They invited a psychiatrist to dinner with Anne, so she could see her and make the report." The Pollards deny this.

Shortly afterwards Anne stopped talking to Morris Pollard, Jonathan's pleasant father. This time it was due to the same background that caused Jonathan's decision concerning the divorce. Soon after she left jail, Anne took control of the public campaign in favor of her husband. She was interviewed for "A Current Affair," and the Larry King show on CNN. Anne, as usual, attacked the administration. Jonathan and family, especially his lawyers, were raging, and tried to convince Anne to keep a "low profile" in order to enable diplomatic efforts to release Jonathan, and steps aimed at the vacating or

cancelling the verdict against him. Anne refused. She also did not always tell the truth in the interviews. For example, she said that Weinberger's prosecution of Jonathan was derived from his being a Jew. Weinberger, it was found out, is not a Jew. "You are harmful," said Jonathan to his wife in one of their talks on the telephone, but she insisted on continuing. "Your way is not my way," he said, but she still insisted, "This is my way."

When Morris Pollard asked her to "go off the television" she refused, and stopped talking to him. When he sent her flowers for her birthday, she threw them away. The family says that Anne threatened she would divorce Jonathan if they did not accept her management of the campaign. Anne denies this: "This is the last thing that I want."

[A section with description of their background, when and where they met, their excellent relationship, etc.]

Even when they were arrested, Jonathan and Anne were fully loyal to each other. "I sacrificed everything for him, these 40 months in jail. If I had cooperated, they would not have arrested me. The case against me is based on our relationship having been so close."

Nobody denies this description, but Jonathan's family and friends claim that during the years they were apart, it went wrong, and this accelerated after she was freed.

By then, five months ago, Jonathan began to consider the divorce. "He was depressed by her behavior, especially by her not visiting him," says Morris Pollard. "I think that if she had visited him, this divorce would not have occurred," says Carol Pollard.

YA: Anne, could you really not find the time to see your husband?

AP: There is nothing I wanted more than that. But after I finally got permission, the problems began, I was hospitalized three times. I could not have visited him. How can one claim that I neglected him? Every day I acted to make him free.

The relatives disagree. Morris Pollard says she had airline tickets and reservations, but she refused to use them. For 4 months, they say, she didn't accept his calls. Jonathan was especially insulted when he tried twice to call her on her birthday, unsuccessfully. Anne: "His family, Amnon Dror, and the people in jail wanted to destroy our marriage. They saw that he doesn't call. The worst was that I tried to call and they laughed at me in jail."

In March, a new lawyer's office began to deal with Pollard's matters. This office, hired to deal with the public campaign to release Jonathan, was increasingly busy with the divorce. Anne, her father, and their lawyer say they accelerated the divorce. The quarrel became uglier everyday, until Baker warned Morris Pollard on behalf of Anne that he "will have to act if the Pollards don't stop chasing Anne." He accused the family, especially Carol, of being obsessive by telling lies and half-truths about her mental state and her relations with her family. He was especially angry because of a conversation between Carol and Anne's probation officer, in which she tried to convince the prison authority to prevent Anne from going to Israel. Carol acknowledges the existence of the conversation but claims that it was initiated by the officer, and she did not say anything against Anne.

Doubts were raised as to whether Anne is ill, as she claims. There were questions like how, after so many hospitalizations, do physicians not have one, common, diagnosis. "I think she is sick and needs treatment," says Morris Pollard, "but we don't know just what she is suffering from."

Bernard Henderson claims tha the Pollards tried to convince the doctors in the hospital that Anne is not sick. "This is a scandal," he says. "My daughter was dying when she was hospitalized on June 30."

But the greatest dispute concerned Anne's visit to Israel. Jonathan and family were afraid she would use it for an embarrassing campaign against the government of Israel. The demanded that she refrain from that. She refused. Baker claims that in order to force her to agree they had three conditions and if she disagreed her visit to Jonathan's prison on July 10 would not take place. Among the conditions: accepting Amnon Dror's instructions. Anne refused. Jonathan decided on July 5, the divorce was submitted, but by Jonathan's request, service would wait until Anne felt better. Almost two weeks afterwards, the papers were handed to Anne. Anne refuses to believe: "It isn't him," she repeatedly says, counting every detail in his short letter. "He never called me 'dear Anne.' He used to call me Annie. And he never signed 'Jonathan' but always 'J'. After five years, is that all he has to write as an explanation to the divorce?"

Jonathan indeed is short, dry, and strict, almost like in his divorce claim. "It is obvious to both of us, that the differences between us are too great to be bridged. After a long time and thought, and in spite of the warm feelings, it seems that our marriage has come to its end."

"Is that what we had," cries Anne, "warm feelings?"

YA: Are you angry with him?

AP: No, Maybe just a little, for letting others influence him, to poison him against me. But I cannot stop loving or understanding him. Others made him do that. This is his lawyers and family. Until 4 months ago everything was alright. It makes me want to see him.. I am dying to talk to him, to the Jonathan I knew and married. Not that from the letter. The man that I married admired me. Worshipped me. Begged me for years to get married.

YA: Maybe you hurt him. Your way wasn't his. He didn't agree with you.

AP: I want to hear it from him. What did I do? I said that the USA was not at war with Israel, and shouldn't withhold the information that Jonathan was forced to deliver to Israel. He told me himself that he had thousands of letters in favor of my interviews.

YA: So what are you going to do?

AP: I'll go to Israel for sure, and soon afterwards I'll visit him, my husband. To get an explanation. Anyhow, I will go on fighting for him. He does not deserve being in prison. I don't believe we will divorce. Don't believe that he wants that. I still dream the same dreams: I want to go with him to Israel, to raise our children together. From my point of view, nothing has change.

YA: If he calls, what will you tell him?

AP: That I love him, and what can I do for him. That if there are differences, they are bridgable. That I don't mean to stay out of his life just like that. Believe me, that if I see him, and he sees me, love will bloom and things will be alright.

Nobody believes that story but Anne. Last week Jonathan's personal Rabbi Avi Weiss visited him. "It was very hot, 45 degrees and the prison was burning. He was very depressed," says Weiss, who stayed an extra-long time due to Jonathan's mood. Pollard explained his motives for the divorce. "He struggled for long months. It was a difficult decision, but it was his own." Weiss, whom Anne wouldn't see for months, went to see her in New York, to explain Jonathan's motives. She was not convinced.

During the weekend his parents visited him. "The decision was not mine," Jonathan explained, "It was, in fact, Anne's." For the first time he talked about what he defined as threats and being taken advantage of by his wife and her father. "They threatened me," explained Jonathan, and said that he had received some letters and phone calls from them, including divorce threats and "painful projections", if he didn't agree to their demands.

One of Henderson's demands, says Pollard, was to give him full control of the campaign in favor of Jonathan. One of Anne's demands was that he stop all communication with his parents. Another -- selling his rights for a film about his life and capture. "They wanted to get rich by means of this movie," Pollard accused his wife and her father. "I demanded that the income from this film, will be used for charity. They rejected that."

Jonathan says that the calls were so loud and extreme, and in some cases the authorities sent the prison chaplain to calm him down. "She lost any respect for me. Without respect there is no love, and there is no use in marriage." The Pollards heard his decision, they say, with deep sorrow. Carol: "I am very sorry for Anne. I know she blames us, but she needs to blame herself."

YA: Did you have anything to do concerning his decision?

CP: Not at all. Nobody can force Jonathan to do anything. It was his own decision. We didn't have any part in it.

Conciliation prospects, everybody agrees, are poor. The nice story has ended. What's left is the truly important: "My son out of jail -- that's what is now important," says Morris Pollard.

To that, everyone agrees.

A number of years ago, I found myself in the Jerusalem office of a travel agent trying to book a flight home to the States. The office was located in one of Jerusalem's indoor shopping malls--actually, it's the only indoor shopping mall--and while waiting for the agent to confirm the reservation, my eyes were drawn to the hustle and bustle of people going in and around the various stores.

In truth, I wasn't that engrossed in what the other people in the mall were doing until I spotted what I thought was an unbelievable and terrible sight. It was a man beating a child. For a brief second, I thought the man was some father just disciplining his son for some infraction or misbehavior. In Israel, people are a lot less hung up about giving their kids a zetz or two in public. But, the beating didn't stop with one or two slaps. As a matter of fact, not only was the man hitting the child, who was only 7 or 8 years old, but he started kicking him as well.

Well, I couldn't take it anymore, and I ran out of that office screaming at the top of my lungs in my broken Hebrew: Stop! What are you doing? You're hurting the kid. You can't do this!

Well, strangely enough, the man immediately stopped beating the child. Even stranger was the fact that he had no response to my outburst. He didn't lash out at me, either physically or verbally. Maybe, it was because he knew his actions were endangering the kid. Then again, maybe, after listening to my broken Hebrew, he thought I'd never understand any explanation he might offer.

Whatever the reason, I truly believed that this was the end of the matter. I certainly figured that this was the case when one of the security men in the building came running up to us. As far as I was concerned, let him take care of

things--let him make sure that the man wouldn't change his mind and start beating the kid again or me for that matter.

Yet, instead of addressing the parent, he turned to me and angrily asked, "What business is it of yours? Who do you think you are anyway? What are you so sensitive about?"

I was floored. I didn't expect to be thanked for my actions, but I certainly didn't expect to be castigated either. I also couldn't understand why no one came to my aid or offered support from the group of people that had gathered during the course of the whole scenario and now formed a rainbow arc around the four people involved. Surely, they knew of the injustice that had been and was now being carried out.

I left the scene totally bewildered. I couldn't make any sense of anyone's reaction until I walked back into the travel office and the agent greeted me with, "I never knew you were such a Pinchas."

Right then and there, I understood what had happened in the hall of the mall. I had been viewed as a zealot. I had been viewed as another Pinchas.

How is this possible?

You know the story of Pinchas--how confronted with the harlotry of B'nei Yisrael with Moabite women, when faced with the immorality and indecency of Zimri, prince of the tribe of Shimon, with Cozbi, a Midianite princess, Pinchas picks up a spear and kills them.

For his actions, Pinchas is rewarded by God, according to this week's Torah reading, with not only the High Priesthood, but also BRIT SHALOM - "My Covenant of Peace"--peace in the sense of peace of mind and body, so says the Midrash, from any thoughts or attempts at revenge on the part of Zimri's relatives.

Yet, the Torah Temima, the commentary, indicates that it was not just Zimri's relatives that Pinchas needed protection from. Rather, it was the other leaders and authorities of B'nei Yisrael. They looked askance at Pinchas' actions. They had not necessarily witnessed what had transpired, so they were not convinced that his actions were motivated by genuine zeal for G-d or by the injustice or immorality that he saw. The covenant of peace, therefore, was peace between himself and the other leaders to convince them of the genuineness of his actions and motivation.

Certainly, the statements of the security guard, "What are you doing? What business is it of yours? Who do you think you are anyway?" can be seen as a reflection of disbelief in the genuineness of my actions. He had not witnessed what had taken place and probably thought I was just another mixed-up, misdirected American tourist. Why else would he ask: "What are you so sensitive about?"

Well, the security guard may not have observed what had transpired, which is why he mistrusted my actions, yet certainly some of the people in the mall had witnessed what happened, were knowledgeable of the facts, were aware of the original injustice and knew the unfair treatment I was receiving at the hands of the local authority. Why didn't they speak out - why weren't they willing to extend to me a BRIT SHALOM - a covenant of peace?

Why indeed?

There is another situation where BRIT SHALOM is not being offered, neither by the authorities nor by the people. The situation is the case of Jonathan Pollard. I am sure I need not make you aware of the fact that Jonathan Jay Pollard was charged with espionage for the government of Israel and passing on

classified information. As you probably also know, the information which Pollard passed on was data on Syrian and Iraqi chemical warfare capabilities, the location of Libyan radar installations, and warnings of planned PLO attacks on Israel.

What you may or may not know, however, is that when Pollard approached the American authorities with why this information vital to the security of an ally was being withheld—he was told, "Stay out of this. This is none of your business. You Jews are always so sensitive when it comes to gas."

What you may or may not know is that when Pollard decided he could no longer stand by and allow the injustice of such an attitude prevail, and after he was caught and convicted of the charges to which he himself plead guilty, he was sentenced to life imprisonment without possibility of parole--this despite the fact that he cooperated with government authorities, this despite the fact that he was promised leniency, this despite the fact that he was NOT charged with endangering U.S. operatives or endangering U.S. security.

What you may or may not know is that his wife, Anne, was cruelly denied adequate medical treatment during the period of her incarceration, a fact which has left her physically disabled--that for part of 4 1/2 years, Jonathan has spent in solitary confinement. Ten and one-half months of that time was spent in a mental institution, even though there was no medical justification.

Something is very, very wrong here, people. This doesn't sound like America. It sounds more like Russia. It doesn't sound like the CIA. It sounds more like the KGB. Whatever happened to due process under the law? Whatever happened to the prohibition of cruel and unusual punishment? Whatever happened

to the U.S. Constitution--the Covenant of Peace--under which all citizens of the United States are entitled to live?

Just moments earlier, I introduced the facts regarding the Pollard case with the phrase "you may or may not know". I did so, because although the case has been in the media for the past 4 1/2 years, most of the information I just related was not known. It certainly was not known by me until I heard it two weeks ago from Dr. Morris Pollard, Jonathan's father. Dr. Pollard has only recently taken to touring the Jewish communities of this country, like Atlanta, to try to drum up support for his son's cause, because he is convinced that Jonathan has been denied the due process that the Covenant of Peace supposedly guarantees all citizens of this country.

For some strange reason, however, Dr. Pollard has not received the most enthusiastic reception from the Jewish communities he has visited. Instead, the reactions and responses to his presentation of his plea have run along the lines of "You do the crime, you do the time!" or "It's not high on the agenda of the Jewish community".

Well, why isn't justice for Jonathan Pollard high on the agenda of the Jewish community? Certainly, one reason has to be the troublesome notion of dual loyalty--a notion and an issue that has plagued Jews everywhere from the time the ghetto walls came tumbling down and emancipation was granted to us. We're proud Americans, and we claim to be loyal citizens of the country where we reside. Pollard's spying for Israel has embarrassed us, because it raises the fact that one of our own was not so loyal. We're uncomfortable that others might think that all American Jews are like Jonathan Pollard.

Yet, is it possible that our embarrassment and our uncomfortableness may be due to a different factor? The Midrash indicates that one of the reasons it was necessary that G-d grant Pinchas a BRIT SHALOM--a Covenant of Peace--was because the other Israelites, having witnessed the immorality that was taking place, nonetheless stood by idly until Pinchas acted. At that point, they were not only embarrassed but also somewhat resentful of Pinchas, because he alone acted even though they knew they should have.

Could it possibly be, then, that members of the American Jewish community are not rushing to Pollard's defense because in some way they're resentful of his having acted on something they should have--on something we have always known but not wanted to admit or confront--that when it comes to American foreign policy towards Israel, it is not always just nor is it necessarily moral.

The same Midrash I alluded to earlier goes on to state that G-d was not content to bestow upon Pinchas some abstract covenant of peace. Instead, at the moment Pinchas killed Zimri and Cozbi, the clouds which had hung over the Israelite camp disappeared and a rainbow appeared in the sky.

Why a rainbow? Why the symbol which G-d set in the sky following the flood? Well, the rainbow, which is its own BRIT SHALOM and BRIT OLAM, its own eternal covenant, was not meant just to be a reminder that G-d will never again destroy the earth. Rather, our sages tell us, when mankind looks upon the rainbow, it is supposed to remember that G-d was prompted to bring the flood because injustice and immorality were so rampant.

As such, our existence on this earth is to try to not allow the injustices and immorality from ever becoming so all encompassing again, by not only

refraining from committing injustice but by preventing injustice and combatting immorality as it affects all of G-d's creatures.

Last Thursday, around 7-8 P.M. following the thunder storms that we so desperately needed to fill our reservoir and quench our parched lawns, there was a rainbow that appeared in the sky. I hope that most of you were able to catch it, because I cannot remember seeing a more beautiful rainbow. It was a complete arc, encompassing the entire sky, linking heaven and earth from one end to the other. As Maureen and I admired this phenomenon first from our car and later on when we stopped and got out to look, I couldn't help but think that we are all G-d's creatures under His heaven. I could not help but feel, therefore, the bond that unites all of us, that insists that we not permit injustice and immorality to be perpetrated on anyone.

I left the travel agency finally, with my ticket in hand but still very much confused at what had transpired. As I approached the arc-shaped exit about, which was painted a rainbow design, I spotted someone standing in the passage way who looked like one of those people who had been part of the crowd earlier. I had no idea whether the person wanted to speak to me or not, but the last thing I wanted was another confrontation. As I tried to quickly exit the building, however, the person grabbed my arm and proceeded to rattle off in Hebrew something the gist of which was that he had been waiting there hoping to catch me, wanting to tell me that he had seen what had taken place earlier. He saw the injustice that I acted against, and he saw the injustice that had been done to me. He apologized for not speaking up then, but he was too embarrassed. He hoped that his having waited for me would set my mind at ease, would make me feel more at peace with myself and what I had done.

Well, there is someone else waiting to have his mind set at ease, someone else who has been waiting for peace, a Covenant of Peace, to be extended for the injustices he tried to prevent and the injustice he has suffered. Isn't it time he stopped waiting?

Marvin Richardson
Sermon Delivered 21 Tammuz 5750 (7/14/90).

Atlanta, GA -



RABBI ALEXANDER M. SCHINDLER • UNION OF AMERICAN HEBREW CONGREGATIONS
PRESIDENT 838 FIFTH AVENUE NEW YORK, N.Y. 10021 (212) 249-0100

August 27, 1990
6 Elul 5750

Mr. Morris Pollard
The University of Notre Dame
Lobund Laboratory
Notre Dame, Ind. 46556

Dear Mr. Pollard:

Your letter of August 21st to Rabbi Schindler was received this morning. I write to advise that Rabbi Schindler is out of the city and not expected to return for two weeks.

Be assured that your letter will be brought to his attention when he is back at his desk.

With kindest greetings, I am

Sincerely,

Edith J. Miller
Assistant to the President

EJM/mb



RABBI ALEXANDER M. SCHINDLER • UNION OF AMERICAN HEBREW CONGREGATIONS
PRESIDENT 838 FIFTH AVENUE NEW YORK, N.Y. 10021 (212) 249-0100

August 2, 1990
11 Av 5750

Jonathan Pollard/09185-016
P.O. Box 1000
Marion, IL 62959

Dear Jonathan:

I have your letter of June 21st. As my assistant told you, I was out of the country - in Israel in fact - and on returning, I had to go on several domestic trips. Indeed, tomorrow morning I am off to Texas for another weekend jaunt.

Let me say at once that my reaction to Mr. Mandela is not unlike yours. To be sure, I left almost immediately after his arrival and only read what he had to say as it was printed in the Jerusalem Post and in the Herald Tribune; nor did I have a chance to see the Ted Koppel Show concerning which you wrote, although some of my associates were there and they gave me a full report.

I, too, "wanted to give him the benefit of a doubt" and I, too, am bitterly dissappointed.

Still in all, even with the benefit of hind sight, I would not have altered our approach precisely for those tactical reasons to which you alluded in your earlier letter. Concerning the future, your counsel is well taken.

I know that life cannot be easy for you, all the more so because of your recent decisions concerning your marriage. I hope you will have the strength that you must have. Certainly your mind has lost none of its mettle.

With kindest greetings, I am

Sincerely,

Alexander M. Schindler

502
April 11, 1990
Marion, IL

Dear Rabbi Schindler,

Many thanks for your letter of March 27/1 Nisan. I've taken the liberty of attaching two articles which I think you'll find rather interesting in light of our recent discussion concerning the need to establish some kind of dialogue with Mandela. While I'm in no position to comment on Mr. Schwartz's credentials, I do know quite a bit about Steve Davis having been a classmate of his at The Fletcher School of Law and Diplomacy. All I can tell you, Rabbi, is please treat him very, very carefully. His commitment to Israel is superficial at best and his awareness of the PLO-ANC military link is extremely limited, to say the least. For example, Davis' contention that the two groups had "almost nothing" to do with each other is discredited by the fact that when the Israeli army overran several Fatah training camps during Operation Peace for Galilee, scores of ANC guerrillas were captured. As it turned out, Rabbi, these individuals were high ranking ANC military cadres, some of whom had actually fought alongside Fatah against the Phalange. Moreover, when Davis claims that the ANC has never engaged in PLO-style terrorism I think he's forgetting the rather bloody urban bombing campaign the organization unleashed two years ago against "soft" targets in Pretoria, Johannesburg, and Durban. Lastly, speaking as someone who served with Davis on the Tufts University divestment committee, I have to say in all candor, Rabbi, that I found his need to grandstand with the press rather unseemly and counterproductive. This apparent character flaw of his is important to bear in mind, Rabbi, because it might ultimately compromise any meeting that is arranged with Mandela in this country. Indeed, when you come right down to it, I really think it might be preferable to conduct such a meeting in South Africa, where some degree of ^{privacy} could be assured. You see, Rabbi, if you do opt for a local venue, I have a terrible feeling that people like Davis - and others, will, at the very least, turn the event into a media circus. At worst, Rabbi, they could attempt to establish "common ground" with Mandela at the expense of Israel. And that would almost certainly prompt certain Jewish groups to organize a number of noisy demonstrations which would all but destroy whatever opportunity might have existed to positively influence Mandela. I don't want to even guess what such protests would do to our already strained relations with the black community in this country. All things considered, then, I think this is an instance where quiet diplomacy should be practiced behind closed doors - overseas. The alternative, Rabbi, would oblige you to conduct your meeting with Mandela under the glare of network TV cameras, which would be a recipe for disaster. Obviously, I don't know whether or not you agree with this assessment, but I thought you should at least ^{be given the} opportunity to consider it.

No doubt by now you've heard that my lawyers in Washington have submitted a motion to withdraw my guilty plea. While I don't know what will come of this initiative, I've

been assured by some rather well placed sources that the administration is absolutely bound and determined to prevent me from arguing this case in open court. It seems that the Pentagon is scared to death that if the truth were known about the extent to which it withheld intelligence from Israel, Congress would immediately step in and force the Department to honor its 1983 commitment to share such material with the Jewish state. Of course, the fact that a great deal of the information in question dealt with Iraq's secret poison gas manufacturing program could raise some potentially embarrassing questions as to why Israel was not warned about this threat. I've tried, by the way, to broach this matter with William Safire, who, as you know, has been quite vocal in his opposition to the administration's policy towards Iraq, but he will simply not respond to any of my letters. In any event, the motion itself is really first rate and emphasizes the fact that I never spied "on" or "against" the United States. Unfortunately, The Washington Post completely overlooked this critical piece of information in its coverage of the motion. But then what can you expect from a paper that routinely condemns Israel everytime she tries to defend herself? I suppose I should just be thankful, then, that my motion wasn't used as a club with which to beat Israel over the head. That will no doubt come later when and if my case is reopened.

Apart from all the legal manoeuvrings which have been going on over the past few months, our agenda in Israel seems to have suffered a momentary set back due to the "fears" of the now defunct National Unity government. To be sure, the Knesset, President Herzog, and the Chief Rabbi have been paragons of decency and support. But the cabinet, Rabbi, has been positively vile. In fact, just before we submitted the motion, Mr. Shamir torpedoed my request for honorary Israeli citizenship, which for reasons that I can't explain fully, is closely linked to our overall legal strategy. Although the Prime Minister was well aware of just how important the citizenship issue was to me, he nevertheless waited until the last moment to renege on what was essentially a "done deal." From what I've been told, most of the 71 Knesset members who had submitted the petition on my behalf were mortified by Shamir's duplicity. There was, however, a "positive" statement made at the time by one of the cabinet ministers, which I think you'll find rather illuminating. According to sources whose reliability can only be described as excellent, this official said - in all seriousness mind you - that the government would not oppose my burial in Israel since that would not anger the Bush administration. As I'm sure you'll agree, Rabbi, such spinelessness does not augur well for Israel's diplomatic future. No doubt if this august minister were aware of my desire to be buried in East Jerusalem he would have refrained from making his magnanimous offer.

Luckily, the people of Israel have not deserted me. In fact, I'm receiving so much mail

from Eretz that I'm literally running out of room in which to store it. Just a few weeks ago, though, I got a letter from some Ethiopian child that absolutely devastated me. Not knowing the nature of my confinement, these fellows implored me to speak out on behalf of their parents, who are evidently languishing in some malaria-infested refugee camp on the shores of Lake Tana. How could I tell them that I can't even speak out on my own behalf, let alone make a public statement about their relatives? Well, I don't know whether or not it will do any good, but I've asked some of my friends in Zahal to see if a Jewish Legion could be formed within the Ethiopian Army. My logic was that if we can't get our Ethiopian brethren out of the country, then perhaps we should take steps to protect those who are currently being dragged into the so-called "Peoples Militia." From what I've read, many of the Jewish men conscripted into these units are being singled out for suicide missions on the Eritrean front. As you can imagine, their casualties have been enormous. Of course, any of them who wind up being captured by the Muslim insurgents are given no quarter for obvious reasons. Well, assuming that the local Israeli military mission could organize an independent Jewish formation along the lines I've suggested, it just might be possible to locate the unit out of harm's way near a military airfield in Gondar. Not only would this provide a measure of security for the province's Jews, but it would also put the Israeli government in a position to fly food and other assistance directly to them. I realize that this is a long shot, Rabbi, but ideas are just about the only thing I have to offer our people at this point in time.

Well, I'm rambling on and I'm sure that you've got much more pressing business to take care of. Let me just take this opportunity to wish both you and your family a healthy, happy Pesach. May the coming year bring peace to the Land, blessings upon her people, and the liberation of all Zion's captives wherever they may be.

Kol Tov,

Jonathan Pollard

There is a vast distance between the U.S.A. and South Africa, yet the media—in particular television—have brought us right into your home.

You have not only seen scenes of South Africa and its people, but your Congress has passed laws which affect our country and judgment has been passed by Americans on laws and practices, behavior and occurrences pertaining to South Africa.

South Africa has become a domestic political issue in the U.S.A., perhaps not a very important one to Americans but an issue nevertheless.

The overwhelming majority of South Africa Jews has always been opposed to apartheid. This has been demonstrated by the words and actions of community leadership, the position of prominent individual Jews in the struggle against apartheid, and also by electoral voting patterns in areas predominantly Jewish.

South Africa has changed over the years and dramatically in the last few months. The country is now firmly on the path of dismantling an unacceptable system and creating a non-discriminatory society. There is still a long way to go, but at least an unequivocal start has been made.

The new president, F. W. de Klerk, has by a few firm and courageous decisions changed the course of South Africa. Apartheid, though not dead, is in the last throes before disappearing.

The sincerity of the president, his integrity and his intentions are accepted even by his opponents, both black and white, but of course it takes two to tango.

One is still awaiting reaction from the liberation movements not only to negotiation itself but to the participation by others in the process, and even more the end result sought to be obtained. We are looking for a non-racial multiparty democracy with equality of opportunity,

Heritage (Los Angeles) 3/30/90

AN OPEN LETTER FROM SOUTH AFRICA

protection of basic human rights and a just economic society.

We hear noises from people seeking nationalization of many private enterprises, of reviving socialist systems which have failed elsewhere and of one-party systems. We have not fought apartheid for most of our lives to find its successor to be contrary to what both we and west-

I have known
Nelson Mandela for
many years . . .
and have visited
him in prison.

ern democratic states find acceptable both in politics and in economics.

The road ahead is not easy and there will be times of elation and of depression, but at least we are full of hope.

We have had the rod on our backs from many countries, including America—sanctions, refusals of foreign loans, restriction on trade, disinvestment by U.S. companies. It has affected the growth rate of the economy and has caused increased unemployment and other adverse social consequences.

We have had the stick. Is it not time, now that change is coming, and at a fast pace, for a little carrot? Improved economic conditions will make political change easier.

We ask for no handouts, only normal business and commercial relations. The country's credit record is good; it pays for what it buys and repays what it borrows, unlike many others. All we seek is normalization to assist a process that will create a true democratic society and an acceptable economic system.

As Jews, we in South Africa are a small section of the total population, but we have contributed more than our share to its culture, its well-being and to democratic politics.

We have drawn attack from right-wing organizations because of our opposition to apartheid. At meetings the Mogen David is spat upon, trampled and burnt, slogans attacking Jews are displayed, swastikas are flown and SS symbols displayed. But the community has stood firm.

We have problems from Arab money used in propaganda campaigns in our country, and more recently the embracing of Arafat and Mandela and seeking to equate the situations in Israel and South Africa, and the statement that if South African Jews don't like it, it is just too bad.

I have known Nelson Mandela for many years—at university, as one of the counsel in the Rivonia Trial, and have visited him in prison. I do not believe him to be anti-Semitic, but there was a link and identity of method between the PLO and the ANC, which one hopes will end with the legitimization of the ANC in

South Africa

It would be a tragedy if a community which is attacked by right-wing whites for its opposition to apartheid were to find itself rejected or worse by those whose cause it has supported. But all of this will not deter one from opposing apartheid and working for a free and democratic society. This I and others do because we believe it to be right, not to please anyone or to seek favor.

The Jewish community has other problems. It raises money for Israel, for Russian Jews, but it is short for its Jewish day schools, which are among the best in the world, and for its aged, which is increasing as a proportion of the total community.

But we have our pluses. We are a well-organized community. We have institutions of which we can be proud, we put our money where our mouths are in respect to our love for Israel, and we are not afraid.

We will continue to build our institutions, we will continue to maintain our love for Jerusalem, and we will work for a society in South Africa in which we as Jews can exist in peace with all other sectors of the community. We believe democracy is good for Jews because it is good for all others.

We do not ask for anything from our brethren in the Diaspora, including those in America, except that we remain brethren, that we maintain our contacts, that we together uphold Jewish values and culture and that we try to understand each other.

I greet you from a distant land, but as part of *Klal Yisrael*.

Yours sincerely,

Harry Schwartz

□ Harry Schwartz is chairman of the International Affairs Committee of the South Africa Jewish Board of Deputies and a Democratic Party member of Parliament.

Mandela and the PLO

The recent embrace of Arafat could divide anti-apartheid ranks

By Stephen M. Davis

NOT Mandela too!" exclaimed a friend recently after seeing the photographs — printed in newspapers across America — of the released African National Congress (ANC) leader embracing Palestinian Liberation Organization (PLO) chief Yasser Arafat in Zambia. "I had been prepared to love Mandela, but that picture was like a stab in the heart."

Yet the Mandela-Arafat bear hug signifies much less than it appears. The ANC and PLO differ in such fundamental respects that it has been hard to view their relationship over the years as anything more than a reluctant kinship.

Unlike the PLO, the ANC never adopted terrorism. For nearly 50 years, the ANC countered race discrimination with nonviolent protest until the organization was banned in 1960. When finally the ANC took up armed resistance, its military wing shunned attacks on civilians. The ANC high command has never ordered aircraft hijacked or women and children killed, and it has condemned terror strikes when they have occurred.

The two movements have also held contrasting visions of their opponents. The PLO charter advocates the destruction of Israel and the expulsion of Jews. The ANC, on the other hand, has welcomed South African whites into its ranks and reassured them that they would be safe under an ANC government. Nelson Mandela himself spoke against both "black domination" and "white domination" first at his 1964 trial, and again at his freedom rally in Cape Town in February.

Worried about protecting its moral position, the ANC has taken pains to keep the PLO at arms length, and has done little more than pay lip service to the Palestinian cause. In any case, ANC leaders have spent sparse time on the problems of the Middle East, a region they view as peripheral to the anti-apartheid struggle.

Then why didn't Mandela dodge Arafat? Why did he hug the PLO leader, "wish him success in his struggle" and then say that "if the truth alienates the powerful Jewish community in South Africa, that's too bad"? When Mandela visits the United States later this year, he will doubtless face scores of questions on the PLO and Israel. Is the ANC heading into a painful conflict with Jews — one that could divide

the anti-apartheid movement as well as aggravate black Jewish tensions in the US — or can the anxieties aroused by the Mandela-Arafat embrace be overcome?

To find answers, one must first dredge some facts from the murky ties between South Africa and the Middle East.

American Jews have been a key element in the anti-apartheid coalition. South African Jews, too, have a distinguished history of supporting antigovernment parties; many of the white South Africans most active in the ANC itself are Jewish.

But Israel long ago chose a different course. Targeted by an extensive Arab economic boycott and desperate for trade partners

same patrons — the Soviet Union and its allies — for arms, training, and political support. The ANC and PLO often crossed paths in the same diplomatic wilderness.

Yet the ANC has had almost nothing to do with the PLO. Ironically, the Mandela-Arafat embrace has knotted the ANC to the Palestinian-Israeli conflict to a degree it has always sought to avoid. Unless some urgent untangling measures are taken, a nasty rupture looms between South Africa's anti-apartheid movement and some of its strongest supporters in the West.

Now is the time for dialogue. The ANC leadership may not yet appreciate why and how deeply the Arafat encounter affected the Jewish community.

HERE AND ON PAGE 1, NEAL J. MENSCHEL — STAFF



NELSON MANDELA AND YASSER ARAFAT

in a hostile world, Jerusalem joined with Pretoria in secret military cooperation agreements, in violation of a United Nations arms embargo. Some experts believe that Israel even helped South Africa develop and test an atomic bomb.

Israel is by no means the only, nor even the most important, country helping to sustain Pretoria. Arab oil, European capital, and Japanese trade have all played key roles. Indeed, many other countries have much greater volumes of commerce with South Africa than does Israel.

But by supplying weapons and military advisers, Israel gave itself a uniquely high profile reputation as an ally of Pretoria and, by extension, an enemy of the anti-apartheid resistance.

Now, as white rule crumbles, the costs of Israeli policy are coming due. Black resentment is one reason behind Nelson Mandela's recent embrace of Yasser Arafat in Zambia.

A second reason is that the ANC and PLO underwent similar experiences as exiled liberation movements. For many years the two organizations relied upon the

Many Jews, on the other hand, seem to discount how resentful South African blacks feel about Israel's provision of military assistance to Pretoria. Delegations should be meeting to open communication and avoid a split that could only benefit supporters of apartheid.

Now is also a time for change in Israel's policy toward South Africa. Jerusalem should be making overtures to the ANC, which is about to negotiate a new constitution with Pretoria. Similarly, it is time for the ANC to exchange its heretofore unquestioned — if superficial — endorsement of the PLO for a more nuanced policy toward the Middle East.

Talks now, before positions harden, can avert potentially serious disunity within the West's anti-apartheid coalition. Nelson Mandela and Jewish leaders must make time to begin them.

■ Stephen M. Davis, author of *"Apartheid's Rebels: Inside South Africa's Hidden War,"* is a senior analyst at the Investor Responsibility Research Center in Washington. He recently moderated "American Jews and the ANC," a debate aired on C-Span.

#4
July 3, 1990
10 Tammuz 5750

Jonathan Pollard/09185-016
P.O. Box 1000
Marion, IL 62959

Dear Mr. Pollard:

Just an note to acknowledge receipt of your letter of June 21 to Rabbi Schindler. He is out of the country and not expected to return to his desk for another two weeks. Be assured your letter and the materials shared will be brought to his attention on his return.

With kindest greetings, I am

Sincerely,

Edith J. Miller
Assistant to the President

Dear Rabbi Schindler,

Having just watched Ted Koppel's "Town Meeting" with Nelson Mandela I have to admit that I was profoundly disappointed with Mr. Mandela's performance. In all honesty, Rabbi, he struck me as being autocratic, bombastic, inflexible, and unprincipled. Indeed, for a man who ostensibly claims to represent a "democratic" national liberation movement, Mandela's totalitarian predispositions were particularly disturbing. While I have no way of determining whether or not Mandela's mind set was a product of his lengthy imprisonment, what I can say is that he definitely has the potential of being an extremely dangerous man. And I say this, Rabbi, as one who really wanted to give him the benefit of the doubt.

His response to Henry Siegman was totally unacceptable. Mandela essentially said that he would deal with the devil if that would further his agenda. Rabbi, in an era which has been witness to such atrocities as Auschwitz, Biafra, the Killing Fields of Cambodia, Italoja, and Tiananmen Square, how could Mandela say that it was not "proper" either for him or anyone else for that matter, to hold the Cubans and Libyans accountable for their long record of human rights abuses? By his logic, Rabbi, no one really has the right to object to Apartheid, since that would presumably constitute unwarranted interference in the internal affairs of South Africa. Moreover, if Mandela can take the position that the ANC is justified in working with anyone so long as they assist the anti-Apartheid struggle, then how can he possibly condemn Israel for her alleged military cooperation with the South African government? After all, for Israel such collaboration, however repugnant, may be as critical for her security as is the ANC's collaboration with Fidel Castro. Above all else, though, Mandela's fawning characterization of Yasser Arafat as a "comrade-in-arms" was outrageous coming as it did just weeks after an abortive attempt by PLO terrorists to slaughter Jewish civilians.

Rabbi, I really don't care at this point what Mr. Mandela said in Geneva about Israel's right to exist within her 1967 borders. In view of his statements tonight, I am absolutely convinced that Mandela's belated recognition of Israel's legitimacy was as disingenuous as Arafat's renunciation of terrorism. So forget Geneva. Mandela has left no doubt that he identifies with Mr. Arafat unconditionally. By implication, Rabbi, that also means that he endorses the PNC Covenant which, as you know, calls for the destruction of Israel. If Mandela had followed his own "non-interventionist" philosophy by simply stating that he favored Palestinian self-determination, then I would be able to advocate the continuation of talks with him. As it is, though, I really don't think that anything meaningful could flow from such a dialogue. ~~Accordingly, I think we~~ ^{Accordingly, I think we} ~~would be entirely~~ ^{would be entirely} justified in insisting that Mandela abide by his own self-professed non-interventionist beliefs. In other words, Rabbi, if he honestly feels that people do not have the right to interfere in the internal affairs of other states then we should hold him to this principle with regard to Judaea, Samaria,

and Gaza which, contrary to Mr. Mandela's opinion, were never legally part of any Arab state. Having said this, I want to go on record as endorsing Henry Siegman's statement that our opposition to Apartheid will continue irrespective of whether or not we happen to approve of such individuals as Mr. Mandela. I would only add that we should also cultivate a relationship with Chief Mangosuthu Buthelezi. By doing so, Rabbi, we would show Mr. Mandela that we, too, can play his game. After all, if he is going to inject himself into the Palestinian national movement by endorsing Mr. Arafat above all others, then it's only fair that we should attempt to open a dialogue with other leaders of the anti-Apartheid movement.

Stay well,

/Austrian

Enclosures

"In an Elegiac Mood" by Benno Weber Varon.
The Boston Jewish Times, March 8, 1990

Varon

From page 2

strife." Weeks ago, *Pamyat* announced a kind of national pogrom day for May 5. It took six weeks until the authorities reacted, saying that "rumors of Jewish pogroms in the mass media have no grounds whatsoever."

(The situation reminds me of a joke from Tsarist days: A Jew comes home, all excited, and tells his wife to start packing. "Why?" she demands. "There are posters on the walls. Fifty rubles for whomever shoots a bear." "What has this to do with us?" asks the wife. "Well," answers the man, "once they have shot us, how will we be able to prove we are not bears?")

I notice that even the generous space my editor allows me is almost used up, so I have to leave Eastern Europe - though I have only scratched the surface - to comment on another glorious

event which is turning sour for us: the release of Nelson Mandela and all the hopes it has engendered.

Many Jews in South Africa are in the forefront of the whites who fight apartheid. Several cousins of my wife's are among them. One had to have a very callous soul not to be moved by the sight of the old man, who was robbed of one-third of his life, coming out of jail. One relative wrote us recently, jokingly, "No, I don't claim that I alone did it." But he sounded exuberant.

I wonder how he - and all the other Jewish anti-apartheid activists - must have felt when they saw last week Mandela embrace Yasir Arafat in Lusaka. Or when they heard him say, in a voice tinged with hatred, "You are fighting a unique form of colonialism. I wish you succeed."

Several years ago, I was the first columnist to label Bishop Tutu an anti-Semite after he

insulted a crowd at the Jewish Theological Seminary in New York who had come to honor him for receiving the Nobel Peace Prize. The speech was downplayed by his embarrassed hosts and passed largely unnoticed. I published my article in New York's *Jewish Week*. Later events, (the latest during Tutu's visit in Israel, in which, i.e., he refused to meet with Ethiopian Jews) have corroborated my evaluation. Tutu is not only a *sonah-Israel*, an enemy of Israel, but a visceral and theological anti-Semite. This somewhat inoculated me against illusions about what a black-ruled South Africa would bode for Israel.

I grant that Mr. Mandela has no particular reasons to be a *chovev-tsiyon*, a lover of Zion. Israel was and is on good terms with Pretoria and the defense industries of both countries collaborated with each other. In this and other aspects Israel

behaved like most Western powers. Had Mandela expressed dissatisfaction about this relationship it might have been understandable. But he used a term which in the Third World is *treif*: colonialism. Colonialism was the demon of which the nations of Africa and Asia managed to rid themselves and the implication is that if there still are vestiges of it, good riddance! Whatever business the U.S., Great Britain, France, etc. has been doing with Pretoria will be forgotten. But "colonialism" is the mark of Cain and this mark will stick. Seen from this angle, Mandela's wish expressed to Arafat to "succeed" is ominous. To succeed means to erase that "unique colonialism," to erase Israel.

Jails are not the best universities. Hitler wrote *Mein Kampf* while jailed. Mandela got a distorted view of the Israeli-Arab conflict while in jail. Absorbed by the sufferings of his

own people, he lost sight of the unspeakable sufferings out of which Israel was born. The shirt is closer than the jacket. The other's pain is never as sharp as one's own. The Jews had their Holocaust? So what? In South Africa they share the privileges of the whites!

A few days after his Lusaka statement, Mandela was asked how he thought South Africa's Jews might feel about it. He answered that truth hurts, and if South Africa's Jews felt hurt, "it's just too bad."

I have no solution to offer. I just wanted to make the point that there may be a jinx in being Jewish. There remains one question mark: how intensely should we pay for a speedy assertion of black majority rule in South Africa, so that the emerging black colossus be able to add its basso voice to Israel's numerous detractors at the UN and in other conclaves?

VIEWPOINTSTEVE BERMAN
MICHAEL ROSENZWEIG*Atlanta Jewish Times*
May 25, 1990

Pollard: A Case Of Misunderstanding

In his recent article on the Pollard case (*AJT*, April 20), Lewis G. Regenstein totally misconstrues both the case and the reasons a growing number of Jews support a sentence reduction for Jonathan Pollard.

First, nobody questions Pollard's guilt or contends that he should not be punished for his spying. What we do question are the severity of his sentence and the outrageous conduct of the United States government in connection with his sentencing.

Pollard's espionage activity was in aid of Israel, one of this country's closest allies. In other cases where espionage convictions have been obtained, the length of sentence has varied substantially, depending on

the country on whose behalf the espionage was committed. When the espionage has benefitted an ally rather than an enemy, particularly where (as here) the defendant has cooperated with the government, lesser sentences are imposed. Pollard's sentence of life imprisonment is a glaring exception to this rule, and is simply unjustified.

Particularly offensive, not only to Jews but to anyone who cherishes our Bill of Rights, is the government's conduct in the Pollard case. The government and Pollard entered into a plea agreement in connection with which the government made and broke three separate promises.

First, although the government promised not to seek a life sentence, the entire tenor of its written and oral submissions at sentencing amounted to a request for exactly such a sentence.

Especially egregious (and inexplicable) were declarations by former Secretary of Defense Caspar Weinberger which, among other things, falsely accused Pollard of having committed treason and requested a sentence consistent with an offense

Pollard believed that further incarceration might severely damage his wife's health.

that Weinberger claimed was more deserving of severe punishment than any other crime.

The government also promised that it would limit its sentencing statements to the court to the facts and circumstances of Pollard's offenses, but in those statements accused Pollard

of greed, decried his "high lifestyle," claimed he was without remorse and asserted that he was being deceitful, vengeful and arrogant.

Finally, despite the government's promise to advise the court of Pollard's cooperation and the considerable value of that cooperation, the government told the court that that cooperation was motivated entirely by self interest and came too late to facilitate apprehension of Pollard's Israeli co-conspirators, who has fled the country. The government, in short, "sandbagged" Pollard in order to ensure that he would receive a life sentence.

There is also good reason to believe that Pollard's plea was, in any event, coerced. When he entered his plea, his wife was gravely ill and had suffered greatly from her pre-trial incarceration. Pollard believed, justifiably, that further incarceration

might severely damage his wife's health and perhaps threaten her life. Yet despite his wife's substantially lesser culpability, the government threatened to prosecute her for multiple offenses unless she pled guilty, and refused to accept her guilty plea unless Pollard also entered such a plea. Under the circumstances, Pollard's plea was hardly voluntary.

We are disturbed that any American Jew would feel it inappropriate to speak out against this sort of conduct. Is Mr. Regenstein really serious in suggesting that supporters of Pollard's attempt to withdraw his guilty plea are misguided and embarrassing? Frankly, we are more embarrassed by Jews who would loudly and publicly proclaim their support for so obvious a miscarriage of justice. □

Michael Rosenzweig is an Atlanta attorney. Steve Berman is in the commercial real estate business.

"Shofar" Springfield MA.
3/9/90

Editorial

"Justice, Justice Shalt Thou Pursue": The Pollard Spy Case

As the Rabbi of the synagogue in South Bend, Indiana to which the Pollard Family belonged when Jonathan and Ann Pollard were apprehended for Jonathan's alleged involvement in espionage in Israel, I was understandably very interested in the development of the case from the outset. I must tell you that it was very hard for me to deal with the whole issue for quite some time, considering that I am a fiercely proud American. I often wear my patriotism on my sleeve.

At first, I was very angry at all that I had read of Jonathan's crime. As a Jew, I felt betrayed by Jonathan's apparent sellout. My only thought was to act out my role as Rabbi-comforter to a family besieged by a phalanx of media from all over the world. My job, as I saw it, was to help the family deal with a most grievous reality as its consoling pastor.

As I got more involved, though, I came to realize that all was not as it seemed. This was another contemptible example of media distortion and manipulation. While Jonathan's acts were unquestionably wrong, the picture painted in the press did not accurately portray the essence or magnitude of his crime. While Jonathan took the law into his own hands, as he now painfully regrets having done, he did not betray American security interests by his acts. This is clear and incontrovertible. In fact, when the prosecutor, Joseph DiGenova, brought the indictment against Jonathan, it did not even allege that his espionage in behalf of Israel caused any damage to United States security. This conspicuous omission makes Jonathan's crime different in kind from the gross violations of the Walkers and others whose treacherous acts against the state seriously threatened American primary security interests and even endangered the lives of American intelligence operatives behind the Iron Curtain.

I do not condone Jonathan's crime. He deserves to be punished. But, the severity of his sentence and the G-dawful conditions of his treatment behind bars for well nigh five years in solitary confinement demand our interest and our compassion. As Americans, we are, in the immortal words of Abraham Lincoln, "the last best hope on earth." We honor that image of ourselves only when we muster the courage to stand up against injustice even in the delicate or complicated situation. We are a government of laws and rights that apply even to the errant sons of our society. It is with the condemned that we see our system in its truest light.

I ask that we as Jews become more involved in the Pollard story: that we become better informed about it; that we express our willingness to advocate for a more humane treatment for Jonathan and for a reconsideration of what appears to be an unconscionably harsh sentence.

Ely J. Rosenzweig, Rabbi
Congregation Kodimoh

Cap cries wolf on Pollard case

ALAN DERSHOWITZ

LIKE the little boy who cried "wolf" too often, Secretary of Defense Caspar Weinberger has lost his credibility on the subject of the damage done to American security by the recent spate of spy scandals. In seeking the maximum punishment for Jonathan Pollard, who pleaded guilty to spying for our ally Israel, Weinberger grossly exaggerated the damage done by Pollard.

Here are Weinberger's own words: "It is difficult for me to conceive of a greater harm to national security than that caused by (Pollard)."

The secretary of defense cannot, of course, substantiate his hyperbole. When asked to become specific, he hides — quite understandably — behind the curtain of secrecy that must inevitably cover any public discussion of national security matters. His letter to the sentencing court, which imposed the maximum life sentence, is classified.

What we do know about the information sold to Israel by Pollard is that it was primarily regional and tactical, rather than global and strategic. It involved data used to assess and neutralize threats by the Palestine Liberation Organization, Syria, Pakistan and other sworn enemies of Israel.

The Israelis have denied claims that they bartered the Pollard information to the Soviet Union or its allies. Such claims, in any case, are preposterous on their face. It seems utterly irresponsible for the Defense Department to make these serious charges without backing them up with specific evidence. In a democracy, it is dirty pool for the government to make charges and then to hide behind the curtain of national security when asked to substantiate them. If charges cannot be substantiated publicly, then they should not be made publicly. The Defense Department cannot expect the American people to accept its gross exaggerations at face value, especially when they fly in the face of common sense.

Another charge leveled by American authorities is that Pollard caused us to be embarrassed in the eyes of our Arab allies because the Israelis used some of his information to bomb the PLO's headquarters in Tunis. But it turns out that we brought the embarrassment upon ourselves, because we were the ones who leaked the fact that Israel obtained the PLO coordinates from Pollard.

The secretary of defense does not have "to conceive of" or speculate about greater harms than those caused by Pollard. All he has to do is read the cables from Moscow — or even the newspapers. The actual harm to our national interests caused by the breakdown of security at our most important embassy are incalculably greater than those caused by Pollard.

Defense Department sources have indicated that, as a result of the Marine sex-and-spy scandal, it is likely that the KGB has been able to decode messages between Washington and the Moscow embassy for a considerable time, including the period surrounding the October 1986 summit meetings in Iceland between President Reagan and General Secretary Mikhail Gorbachev. If this is true, then our negotiating positions would have been known in advance. It would be as if one poker player could see his opponent's cards.

Other diplomatic and strategic interests were also endangered by the Moscow scandal. It is believed that the KGB may have set a so called "trap door" that could have blacked out communications between the embassy and Washington in the event of a crisis. Such a blackout, even for a few hours, could

prove catastrophic to world peace. By gaining access to the most secret areas of the embassy — the "bubble" and the vault — the KGB may have been able to intercept our most closely guarded secrets for a period of nearly two years.

The Marine Corps is also alleging that its guards provided the Soviets with names, addresses and telephone numbers of covert U.S. intelligence agents in the Soviet Union. A recent report from Moscow that several Soviet citizens, accused of spying for the United States have been executed may or may not relate to the most recent scandal. But it is clear that, if our spies in Moscow have been uncovered, they will be treated harshly indeed.

By crying wolf about the relatively benign and limited Pollard affair — for reasons that are still open to speculation — Secretary Weinberger has made it difficult to posit any credibility to his assessment, and those of other officials who also exaggerated Pollard's crimes, of the far more serious breaches in Moscow.

Not only do these spy scandals endanger our external national security, they also pose dangers to open and candid debate about our intelligence and counterintelligence apparatuses.

It is difficult to conduct a public debate with government officials who make public allegations that cannot be supported by published evidence.

The words "trust me" should not — in a democracy — mark the end of debate about important issues of public policy. They will not end the debate about the recent spying episodes, because many Americans simply do not trust their government officials to be frank with them about national security. Secretary Weinberger's exaggerated reaction to Jonathan Pollard's crimes feeds that distrust.

MEMORANDUM

DATE: August 2, 1990
FROM: Rabbi Alexander M. Schindler
TO: Allan B. Goldman

For some months now, I have been carrying on a correspondence with Jonathan Pollard. The enclosed is his most recent letter, and I thought it might interest you.

Certainly it reflects the sharpness of his mind. He would have made one hell of a lawyer. Perhaps I think so because I agree with him substantially.

MEMORANDUM

DATE: August 2, 1990
FROM: Rabbi Alexander M. Schindler
TO: Albert Vorspan

The enclosed letter from Jonathan Pollard may interest you.

What is your reaction?

May 3, 1990
8 Iyar 5750

Jonathan Pollard
09185-016
P.O. Box 1000
Marion, IL 62959

Dear Jonathan:

Thank you for your letter of April 11. Let me say that I fully agree with you concerning the Mandela problem. Unfortunately, the hot heads will have their way. There are already rumblings to that effect within our community but your analysis is sound.

I reciprocate your good wishes. Pesach has passed, of course, and your letter never made it to me before then but there are other holidays coming up. I hope they will be sweet, if not for you then at least for those you love.

Kindest greetings.

Sincerely,

Alexander M. Schindler

B

cc Ae ✓ 3/29/90

3:07
March 11, 1990
Marion, IL

Dear Rabbi Schindler,

After reading your response to Nelson Mandela's outrageous "Zionism-is-colonialism" declaration in Lusaka, I think that you should be commended for having upheld the honor not only of Israel, but also of all those Jewish South Africans who have fought so hard over the years to end the scourge of Apartheid. I realize, Rabbi Schindler, that you are regularly criticized from certain quarters due to your position on the Arab-Israeli peace process. I can only hope that your forthright condemnation of Mandela's anti-Zionist pronunciamento will serve to remind the more conservative elements within our community that Alexander Schindler is as much of a Jewish nationalist as they are.

My best wishes for a happy Purim.

Sincerely,

Jonathan Pollard
Jonathan Pollard

am
P.S. Just out of curiosity, Rabbi, have you considered leading an interdenominational delegation of Rabbis over to South Africa to correct Mr. Mandela's erroneous understanding of Zionism? I know this would be a long shot, but if we don't make the effort to counter Arafat's influence over the man we will have lost the "battle", so to speak, by default. It might even be useful to have the Histadrut offer a number of labor "scholarships" to COSATU just to make sure that the organization has someone who will be sympathetic to Israel. Stay well...

Shamir 'Dangerous, Cruel,' Sharon Says

■ Israel: 'I will never forgive [him] for putting this nation to sleep,' resigned minister says of premier. He admits his own mistakes in Lebanon camps massacre.

From Reuters

JERUSALEM—Hard-line Israeli politician Ariel Sharon—who organized the 1982 invasion of Lebanon and admitted his mistake in allowing Christians to slaughter Palestinians in refugee camps—has called Prime Minister Yitzhak Shamir "dangerous."

In an interview with the daily newspaper Yedioth Ahronoth published Friday, the 61-year-old architect of Israel's 1982 Lebanon invasion admitted that his misjudgment led to the slaughter of Palestinians by Christians in Lebanon's Sabra and Chatilla refugee camps. Israeli troops had surrounded the camps at the time.

"Yitzhak Shamir is a dangerous man. I will never forgive Yitzhak Shamir for putting this nation to sleep," Sharon said in the interview published four days after he announced his resignation as trade minister.

"Yitzhak Shamir is definitely a cruel man," said Sharon, who has vowed to launch a campaign against a government proposal for Israeli-Palestinian negotiations after he formally resigns at a weekly Cabinet meeting Sunday.

The harsh adjectives to describe Shamir, 74, contrasted with Sharon's earlier pledge to focus on issues rather than personalities.

Claiming victory over Shamir at a chaotic meeting last Monday of their rightist Likud Party, Sharon told the newspaper, "I still believe I will be prime minister of Israel."

Sharon admitted his misjudgment in the Lebanon war while defending his criticism of what he called Defense Minister Yitzhak Rabin's failure to quash a 26-month-old Palestinian uprising in the occupied territories.

An Israeli judicial inquiry in 1983 found Sharon, then defense minis-

ter, indirectly responsible for the slaughter of hundreds of Palestinian men, women and children by Christian militiamen at the two Beirut area refugee camps surrounded by Israeli troops.

The inquiry forced him to resign the Defense Ministry.

"So I paid the heaviest price for not figuring the Christians would slaughter the Muslims. That was my indirect responsibility. But Rabin must pay for his direct responsibility for this big failure," Sharon told the newspaper.

To support his accusation that Shamir is cruel, Sharon cited the case of Jonathan Pollard, an American jailed for life by the United States for stealing U.S. secrets for Israel.

"Jonathan Pollard might have been saved from life imprisonment in the United States," Sharon said.

"Pollard performed a great service to Israel, and I thought something must be done to release him. But in a meeting of a group of ministers, Shamir said, without batting an eyelid, 'You need to know how to sacrifice the man for the greater goal.'"

FEB 17 - LA TIMES

Israel To Proceed With VOA Project

By Hugh Orgel

TEL AVIV (JTA) — Israeli leaders are determined to go ahead with construction of powerful Voice of America radio transmitters in the Arava region of the Negev, despite strong protests from environmentalists and evidence that the transmitters could pose a hazard to aircraft navigation.

Prime Minister Yitzhak Shamir assured Malcolm Forbes Jr., chairman of the U.S. Board of International Broadcasting, that despite the "problems," Israel would honor its 3-year-old agreement for construction of the station. The transmitters still require permits from the National Planning and Building Councils.

Shamir stressed that Israel wants to strengthen its relations with the United States.

Forbes and U.S. Ambassador William Brown got similar assurances from Finance Minister Shimon Peres.

While some 200 environmentalists demonstrated outside the Finance Ministry in Jerusalem, Peres pledged that the government would do everything possible to speed up the start of the \$400 million project.

At a news conference with Forbes and Brown, Communications Minister Gad Ya'acobi stressed that the transmitter complex would be an economic boon for Israel. He claimed it would provide 550 jobs over the three-and-a-half-year start-up period, and 200 professional positions on a permanent basis.

Environmentalists, led by the Society for the Protection of Nature in Israel, the Nature Preserves

Authority and residents of the Arava region, are determined to block the project. They say the 2,000-acre area of the station, with its nearly 900-foot high antennas — almost as tall as the Eiffel Tower — would ruin one of the few remaining nature preserves in the Negev, blocking scenic hiking trails and destroying the landscape.

They say the electromagnetic radiation generated by the transmitters would endanger the health of residents of the region and disrupt the flight of migrating birds.

Moreover, the Israeli air force has acknowledged the radiation could affect the delicate electronic systems of advanced aircraft.

It has been learned here that high-frequency magnetic radiation from VOA broadcasting stations may have caused the recent crash of two of the West German air force's advanced Tornado jets. The United States reportedly withheld the information from the Israeli air force, which obtained the information from other sources.

Consequently, the Israeli air force plans to move its training base and firing ranges further south, thereby extending the environmental damage.

Israeli and American environmentalists have already urged President Bush to cancel the project. In a letter to the president on Feb. 6, they noted that apart from "serious environmental problems," the project's strategic value is "highly questionable" in view of dramatic events in Eastern Europe and the warming of relations with the Soviet Union.

This is the type of thing I use to see all the time, Rabbi...