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To cite this article: Lee Lukoff (2018): Pardon me? An assessment of Jonathan Pollard's quest for presidential clemency, Journal of Intelligence History, DOI: [10.1080/16161262.2018.1425032](https://doi.org/10.1080/16161262.2018.1425032)

To link to this article: <https://doi.org/10.1080/16161262.2018.1425032>



Published online: 15 Jan 2018.



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ARTICLE



Pardon me? An assessment of Jonathan Pollard's quest for presidential clemency

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ABSTRACT

On 4 March 1987, Jonathan Pollard was sentenced to life in prison for spying for Israel. Five U.S. presidents have considered pardoning Pollard. This study examines the factors affecting presidential decision-making toward pardoning Jonathan Pollard. The paper argues that Pollard endured thirty years of a life sentence because the American defense and intelligence community viewed him as a spy from a belligerent nation despite spying for an ally. Furthermore, I find evidence that Pollard was used by the United States as a bargaining chip to enhance its position vis-à-vis Israel during the Oslo Accords and in the approval process of the Joint Comprehensive Plan of Action.

ARTICLE HISTORY

Received 28 September 2016
Accepted 16 October 2017

KEYWORDS

Pollard; espionage; Israel; pardon; counterintelligence; spy; Year of the Spy

Introduction

On 24 July 2015, the *Wall Street Journal* confirmed reports that Jonathan Pollard was set to be released from Butner Federal Corrections Institute on parole effective 21 November 2015.¹ A spy for Israel, Pollard waged an extensive public relations campaign from inside his prison cell to secure his release unlike any in American history. This paper examines Jonathan Pollard's three-decades-long quest for presidential clemency. First, I explain the nature of Pollard's espionage. Second, I describe the legal process that culminated in his lifetime prison sentence. Third, I employ a case study analysis of the tactics employed by Pollard's supporters during each presidential administration. Fourth, I critique the success of the *Free Pollard Lobby* and discuss the circumstances that led to Pollard's release. This paper advances our understanding of a unique espionage case and a key source of conflict in American-Israeli bilateral relations.

Pollard in historical perspective

Previous assessments of Jonathan Pollard's espionage case have been written by a number of reputable journalists and political activists. Writings from Blitzer²,

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¹Devlin Barrett, "Israeli Spy Pollard Will Be Released in November, Lawyers Say," *The Wall Street Journal*, June 28, 2015.

²Wolf Blitzer. *Territory of Lies: the Exclusive Story of Jonathan Jay Pollard, the American Who Spied on His Country for Israel and How He was Betrayed* (New York : Harper & Row, 1989).

Goldenberg³, Henderson⁴, Goldenberg⁵, Shaw⁶, and Goldenberg⁷ are rich with personal interviews carried out with Pollard and his closest allies. Wolf Blitzer's book, entitled *Territory of Lies*, is the most well-known of these writings owing to the influence it had on Pollard's prison sentence. Blitzer, then a journalist for the *Jerusalem Post* and with close ties to Israeli sources, was handpicked by Pollard to tell his side of the story in the aftermath of his arrest. From his prison cell, Pollard revealed key details of the nature of his espionage and the relationship he had with his Israeli spy handlers Aviem Sella, Yosef Yagur, and Rafael Eitan.

The evolution of Pollard's public persona from that of an American traitor to an international *cause célèbre* is documented in a sociological study of the media coverage of the Pollard case (Zelizer⁸), and in a doctoral dissertation *Four Models of Relations Between Israel and the American Jewish Community as Defined by the Pollard Affair* (Bor).⁹ Pollard's positive image as a martyr for Zionism and stalwart defender of the Jewish state of Israel who committed espionage to save the lives of his fellow co-religionists is sharply critiqued in *Capturing Jonathan Pollard* (Olive¹⁰). Ronald Olive, a former special agent in charge of foreign counterintelligence at the Naval Investigative Service played a major role in uncovering Pollard's identity as an Israeli spy. Sharply critical of Pollard, Olive argues that he 'did irreparable damage to the national defense of the United States.'¹¹

An assessment of the Pollard affair is documented in Kumaraswamy¹², who uses process-tracing to describe how Pollard's quest for presidential clemency shaped Israeli-American diplomacy from 1985 to 1996. Kumaraswamy's article sets the foundation which this study builds upon. Subsequent political and legal developments necessitate a reexamination of the Pollard affair and its impact on American-Israeli bilateral relations.

The key hypothesis

Outside enemies of intelligence are described by Richard Betts as a nation's main foreign adversaries, actual or potential.¹³ These enemies of intelligence include belligerent nations and non-state actors with hostile intentions and a desire to inflict material or physical harm to their strategic adversary. Actors in this group are seen as posing the greatest threat to a country's national security and thus, are a prime concern for policymakers and key decision makers in the defense and intelligence community. Inside enemies of intelligence are described as individuals who have fallen down on

³Goldenberg, *The Spy Who Knew Too Much*.

⁴Henderson, *The Spy's Story*.

⁵Goldenberg, *The Hunting Horse*.

⁶Shaw, *Miscarriage of Justice*.

⁷Goldenberg, *Spy of David*.

⁸Zelizer, "Defending the American Dream."

⁹Bor, "Four Models of Relations."

¹⁰Olive, *Capturing Jonathan Pollard*.

¹¹Ronald J. Olive, *Capturing Jonathan Pollard: How One of the Most Notorious Spies in American History Was brought to Justice* (Annapolis, MD: Naval Institute Press, 2006), VIII.

¹²Kumaraswamy, "The Politics of Pardon."

¹³Richard K. Betts, *Enemies of Intelligence: Knowledge and Power in American National Security* (New York: Columbia University Press, 2007), 7.

the job and whose narrow-minded and self-serving actions led to an intelligence failure that could have been prevented in hindsight.¹⁴ These individuals do not perceive their actions to be malicious and their motives are not calibrated to damage national security.

The espionage of Jonathan Pollard is unique because it falls within the framework of both theoretical camps. The American defense and intelligence community perceives Pollard to be an outside enemy of intelligence, akin to that of a spy from a belligerent nation, despite the fact that he spied for Israel, a state that has a formal status as a major non-NATO ally of the United States and has been the largest cumulative recipient of American foreign assistance since WWII.¹⁵ Pollard stressed his benign intentions as a reason to look at his espionage operation differently than those carried out by rogue nations hostile to the United States.¹⁶ Pollard has argued that he did not spy *against* the United States so much as he spied *for* Israel.¹⁷ He has stated that he even deprived his Israeli handlers of intelligence documents not specifically relevant to their own national security.¹⁸ Furthermore, Pollard has stated that his case ought to be analyzed with an understanding that his motivations for committing espionage were cemented in 1982 when he observed that the U.S. delegation to a U.S.-Israeli scientific and technological intelligence exchange conference withheld information vital to Israeli security interests in violation of established transfer protocols.¹⁹ Seeing that the United States was denying Israel intelligence vital to its survival, and that the weak American response in the wake of the 1983 Marine barracks bombing in Beirut was a sign of weak American resolve in the Middle East,²⁰ Pollard made the decision that he had to unilaterally act to provide Israel with vital intelligence so that it could defend itself against looming threats from an influx of advanced Soviet and European weapons to Arab powers in the Middle East.²¹

Israeli officials have argued that Pollard's espionage did not damage U.S.-Israeli relations or compromise an intelligence-sharing agreement signed between the two states in 1983. Because neither political nor intelligence relations were compromised by Pollard's actions, Israeli officials have questioned the legitimacy of claims made that Israel's handling of Pollard caused grave damage to American security interests. Dr. Josef Olmert, who served as Director of Communications under Prime Minister Yitzhak Shamir, and represented Israel in the 1991 Madrid Peace Conference, stated that 'Pollard's espionage did not impact Israel's relationship with successive American administrations between Reagan and Obama.'²² Former Israeli Intelligence and Atomic Energy Minister Dan Meridor has argued that the intelligence Israel procured

¹⁴Ibid.

¹⁵Congressional Research Service, *US. Foreign Aid to Israel* (Washington, DC: Library of Congress, 2015), 2.

¹⁶Olive, *Capturing Jonathan Pollard*. This book is a critical analysis of Pollard's intentions. Olive was head of the counterintelligence office of the Naval Criminal Investigative Service that investigated Pollard prior to his arrest. Olive was present for Pollard's polygraph examinations and cites compensation as a primary motive of Pollard's espionage.

¹⁷Bernard R. Henderson, *Pollard: The Spy's Story* (New York: Alpha Books, 1988), 51.

¹⁸Jonathan Jay Pollard, *Second Memorandum to the Court in Aid of Sentencing*. United States of America v. Jonathan J. Pollard (United States Court for the District Court of Columbia, February 27, 1987), Section V.

¹⁹Central Intelligence Agency, *The Jonathan Jay Pollard Espionage Case. A Damage Assessment* (Washington, DC: Director of Central Intelligence. Foreign Denial and Deception Analysis Committee, 1987), 12.

²⁰Ibid.

²¹Jonathan Jay Pollard, *First Memorandum to the Court in Aid of Sentencing*. United States of America v. Jonathan J. Pollard (United States Court for the District Court of Columbia, February 27, 1987), 10.

²²Dr. Josef Olmert, former Director of Communications for Israeli Prime Minister Yitzhak Shamir and Israeli Representative at the 1991 Madrid Peace Conference, interview by Lee Lukoff, June 2017, Jerusalem, Israel.

from Pollard did not 'harm the community of interests between the United States and Israel or impact the sharing of information, operations, assessment, sources, things (on intelligence) we did together.'²³ Sallai Meridor (Israel's Ambassador to the United States from 2006–2009) noted that

the Pollard case was to be seen as a symbol that everyone should know that if something of that kind was done in the future there will be no mercy and that in light of Pollard's espionage cooperation between the United States and Israel boomed in future years.²⁴

Opposition from inside the intelligence community was seen by Zalman Shoval (Israel's Ambassador to the United States from 1990 to 1993 and 1998 to 2000) as the primary reason why Pollard was not released during his service in Washington.²⁵

The following hypothesis explains why Jonathan Pollard was denied presidential clemency: *Jonathan Pollard didn't receive presidential clemency because he has been viewed as a belligerent spy, despite spying for an allied country.*

I employ process tracing and use a constructed case study analysis to describe the events that impacted Pollard's quest for presidential clemency. Process tracing is an effective method to employ because it can help unveil causal mechanisms linking deductive theory to case outcomes and can reveal deviant cases and spurious relationships that may undermine the validity of a theory. It also facilitates the development of a narrative that describes the political and societal dynamics at play both in the United States and Israel between 1985 and 2015.

Pollard's espionage

In September of 1979, Pollard was hired as an intelligence research specialist at the Navy Field Operational Intelligence Office (NFOIO) in Suitland, Maryland. He graduated from Stanford University with a BA in political science in 1976 and briefly pursued graduate studies at Tufts University before securing his first job in the Navy Intelligence Service. At NIS, Pollard worked on a portfolio that included monitoring Soviet naval and air movements in and over the Norwegian Sea, the North Atlantic, the Baltic Sea, the Caribbean, and the South Atlantic.²⁶ He was described by one of his superiors as a 'sharp analyst' and by another as being 'bright, very positive, and had good information.'²⁷ Pollard earned promotions from GS-7 to GS-12 over the course of his six-year tenure in the NIS and even received two letters of commendation and a special citation from the Secretary of the Navy.²⁸ An avid reader with a photographic memory, Pollard's intellectual capabilities and competence as an analyst made him a top candidate for a position at the newly created Anti-Terrorist Alert Center (ATAC) at NIS in 1984.

²³Dan Meridor, Israel's Minister of Intelligence and Atomic Energy (2009–2013), interview by Lee Lukoff, June 2017, Jerusalem, Israel.

²⁴Sallai Meridor, Israel's Ambassador to the United States (2006–2009), interview by Lee Lukoff, June 2017, Jerusalem, Israel.

²⁵Zalman Shoval, Israel's Ambassador to the United States (1990–1993, 1998–2000), interview by Lee Lukoff, June 2017, Jerusalem, Israel.

²⁶Elliot Goldenberg, *The Spy Who Knew Too Much: The Government Plot to Silence Jonathan Pollard* (New York: S.P.I. Books, 1993), 37.

²⁷Olive, *Capturing Jonathan Pollard*, 33.

²⁸Henderson, *The Spy's Story*, 30.

Despite his intellectual prowess, Pollard had many flaws that raised alarm bells in counterintelligence offices at NIS, which made him a subject of added scrutiny at NIS. Pollard's Central Intelligence Agency (CIA) Damage Assessment performed after his arrest revealed that 'his employment history was replete with incidents of irresponsible behavior that point to significant emotional instability.'²⁹ He developed a reputation at NIS for telling phony stories and his superiors were aware that he once stated that he was a Mossad agent being groomed for a career as mole in the U.S. government.³⁰

Early in his tenure at NIS, Pollard approached Richard Haver, the Technical Director of NFOIO, with an unusual proposal to run a back channel intelligence collection operation against the South African government in order to monitor illicit trade and arms shipments in the South Atlantic. Pollard claimed he had made personal connections with an agent of the South African government and was well situated to monitor the project.³¹ Haver was alarmed and wanted Pollard fired for illegally contacting a foreign government without prior approval. In an effort to entrap Pollard, Special Agent Sherman Bliss, Deputy Director at NIS, made a fake overture to Pollard to procure his services as a double-agent against South Africa. Pollard agreed to take the fake position and was lulled by counterintelligence officers at NIS into taking a polygraph exam, which would certainly prove his guilt and justify his expulsion from the agency.

Subsequently, Pollard had a nervous breakdown during his polygraph exam. This led the exam to produce null results and inconclusive findings despite some evidence that showed that Pollard made unauthorized contacts with foreign governments, abused drugs, and was mentally unstable.³² The inconclusive test results couldn't provide the NIS with the smoking gun needed to terminate Pollard's employment. A separate investigation conducted by the CIA also flagged Pollard as a potential security risk. Despite the fact that Pollard was on the radar of counterintelligence officers in NIS and CIA, the intelligence community failed to prevent his espionage before it took place. In an era before high-speed Internet and smart phones, the disparate intelligence agencies were not able to share intelligence and mitigate the security risk posed by Pollard. Despite warnings that he was a security threat, positive performance reports authored by Pollard's commanding officer Captain Chauncey Hoffman allowed Pollard to maintain his TSC/SCI security clearance and continue working in his position at ATAC.³³

At ATAC, Pollard worked at the Caribbean/Continental United States Desk and was responsible for monitoring terrorist activities in the region. He showed an intense interest in the Middle East and became highly critical of the Reagan Administration's foreign policy in the region for being insufficiently supportive of Israel. This, along with his own ideological belief in Zionism, led Pollard to volunteer his services to Israel as a walk-in. Pollard approached Israeli war hero Aviem Sella, a legendary aviator in Israel

²⁹Jeffrey Richelson, *The Jonathan Pollard Spy Case: The CIA's 1987 Damage Assessment Declassified: New Details on What Secrets Israel Asked Pollard to Steal* (Washington, DC: George Washington University National Security Archive, 2012), 4.

³⁰Olive, *Capturing Jonathan Pollard*, 194.

³¹*Ibid.*, 11.

³²*Ibid.*, 20.

³³U.S. Navy Judge Advocate General. *Manual Administrative Investigation*, March 5 1987, 17, encl. 31.

known for bombing the Osirak Nuclear Facility in Iraq in 1981, who then connected him with Israeli officials Yosef Yagur and Rafael Eitan. At their behest, they paid Pollard \$45,000 for his services,³⁴ and tasked him to obtain documents on Soviet and Syrian weapons systems and strategic information on Libya, Algeria, Iraq, and Pakistan.³⁵ Eventually, Pollard got sloppy with his spy craft and was caught by a co-worker carrying documents outside of his office. This led to a joint NIS-FBI investigation which culminated in his arrest outside of the Israeli embassy on 21 November 1985.

Pollard was given a polygraph exam by FBI Special Agent Barry Colvert on 29 January 1987. Under the guidance of his legal counsel, Pollard volunteered to tell his inquisitors the nature of the intelligence he gave Israel. Pollard subsequently revealed that he provided the Israelis with a treasure trove of TOP SECRET/NOFORN intelligence documents pertinent to Israel's national security interests. Pollard netted his Israeli handlers over one million classified intelligence documents, capable of filling an area of roughly 360 cubic feet.³⁶

The true damage Pollard's espionage caused to American national security interests was outlined in a 50-page affidavit that Defense Secretary Caspar Weinberger submitted to the Court. The contents of the Weinberger Affidavits remain mostly classified. However, a redacted version declassified in 2012 shows that Pollard gave the Israelis satellite photos of chemical-warfare production facilities in Iraq and Syria, descriptions of the headquarters of Palestinian Liberation Organization (PLO) Unit 17 in Tunisia, Soviet Arms shipments to Arab States, details of Pakistan's nuclear program, and classified U.S. intelligence assessments on Soviet fighter jets.³⁷ The affidavits Caspar Weinberger submitted to the Court also stated that Pollard had revealed American intelligence 'sources and methods'.³⁸

It was later found that the sources and methods referred to a 10-volume manual called *Radio and Signals Intercept Notations (RASIN)*, a bible of American signals intelligence and one of the most secretive documents in the intelligence community.³⁹ Furthermore, Weinberger stated that Pollard's actions not only damaged American foreign policy but that they put the lives of American troops at risk.⁴⁰ The Weinberger Affidavits not only impacted Pollard's sentencing but also harmed his image in the court of public opinion. The classified nature of the affidavits negated any ability of Pollard's lawyers or his supporters to rebut each claim Weinberger levelled against Pollard because Weinberger prohibited their dissemination to all parties outside of the intelligence community afterwards.⁴¹

³⁴Richard Best and Clyde Mark, *CRS Report for Congress: Jonathan Pollard: Background and Considerations for Presidential Clemency* (Washington, DC: Library of Congress, January 31, 2001), 2.

³⁵United States of America v. Jonathan Jay. Pollard, *Defendant Jonathan J. Pollard's First Memorandum in Aid of Sentencing* (United States Court for the District Court of Columbia, February 27, 1987), 20–21.

³⁶Olive, *Capturing Jonathan Pollard*, 214.

³⁷Caspar Weinberger, *Declaration of the Secretary of Defense (Redacted Version)* (Washington, DC: General Counsel of the Department of Defense, January 7, 1987), 1–50.

³⁸*Ibid.*

³⁹Elliot Goldenberg, *Spy of David: The Strange Case of Jonathan Pollard and the Two Decade Battle to Win his Freedom* (Rock Hill, SC: Strategic Media, 2014), 106.

⁴⁰Weinberger, *Declaration of the Secretary of Defense*, 44–46.

⁴¹*Ibid.*, 4–5.

Legal proceedings

Pollard was arrested during the 'Year of the Spy.'⁴² In 1985, roughly 20 spies were arrested and charged with espionage including well-known American traitors John Walker, Ronald Pelton, and Larry Wu-tai Chin. There was a general sense in Washington that the American intelligence community was rife with moles, and that the Soviets and other foreign countries had thoroughly infiltrated into the highest echelons of the intelligence community. Joseph diGenova, the U.S. Attorney who prosecuted Jonathan Pollard's case, corroborated this state of affairs: 'I don't think Mr. Pollard could've picked a more inauspicious time to have committed espionage against the United States. His draw that evening at the table was pretty bad.'⁴³ The historical calamity of the Pollard affair was dually noted in a declassified Defense Intelligence Agency (DIA) training video, *Jonathan Pollard: A Portrayal*, which revealed that Pollard's espionage was one of the most salient counterintelligence crises experienced by the intelligence community during the 'Year of the Spy.'⁴⁴ In the years to come, the biggest opponents of Pollard's quest for presidential clemency would come from key leaders in the defense and intelligence community who served in Washington during the 'Year of the Spy'.

Pollard pleaded guilty to one count of delivering classified intelligence to Israel on 5 June 1986. On 4 March 1987, he was sentenced to life imprisonment. The legal proceedings that culminated in his life sentence have been thoroughly criticized by many of the most noteworthy scholars and practitioners of American jurisprudence. Legal scholars such as Harvard Law Professors Alan Dershowitz, Charles Ogletree, and Philip B. Heymann, as well as former Solicitor General Theodore Olson and former Attorney General Michael Mukasey, all support the view that Pollard's life sentence was disproportionate for the crimes he committed.⁴⁵

Pollard's most ardent supporters see him as akin to Alfred Dreyfus, a French military officer wrongfully imprisoned on accusations of treason premised on falsified evidence and deep-seated anti-Semitic beliefs on the part of his accusers.⁴⁶ Jewish communal groups such as the Anti-Defamation League (ADL), and the National Jewish Community Relations Advisory Council (NJCRAC),⁴⁷ investigated allegations of anti-Semitism in the Pollard trial and determined that anti-Semitism played no part in Pollard's sentencing.⁴⁸

Pollard's critics are adamant that he was guilty as charged and deserved a life sentence. From their perspective, Pollard pled guilty and forfeited his right to a free and fair trial. Judge Aubrey Robinson had the legal authority to sentence Pollard to life imprisonment under U.S. law and he chose to make that decision on his own accord.

⁴²The year 1985 has been referenced to as the "Year of the Spy" in official sources from the FBI and DIA. To view official references. Federal Bureau of Investigations, FBI History: Famous Cases & Criminals Year of the Spy (1985) Washington, DC, <https://www.fbi.gov/history/famous-cases/year-of-the-spy-1985>; and *Jonathan Pollard: A Portrayal*. Defense Intelligence Agency Counterintelligence Branch Training Video. Washington, DC (Declassified 2012).

⁴³Wolf Blitzer, *Territory of Lies: The Exclusive Story of Jonathan Jay Pollard, The American Who Spied on His Country for Israel and How He Was Betrayed*, 1st ed. (New York: Harper & Row, 1989), 315.

⁴⁴*Jonathan Pollard: A Portrayal*. Defense Intelligence Agency Counterintelligence Branch Training Video.

⁴⁵Justice for Jonathan Pollard. *After More Than 26 years in Federal Prison "Now is the Time to Free Jonathan Pollard,"* <http://www.jonathanpollard.org/2011/051711.jpg>

⁴⁶Dr. Oscar Fleishaker. "Pollard Case Same as Dreyfus One," *The Jewish Post and Opinion*, September 28, 1988.

⁴⁷National Jewish Community Relations Advisory Council, *NJCRAC Statement on Pollard Case* (June 1991), 1–2.

⁴⁸Mark Shaw, *Miscarriage of Justice: The Jonathan Pollard Story*, 1st ed. (St. Paul, MN: Paragon House, 2001), 190.

The fact that Judge Robinson had retained his right to invoke the maximum life sentence, his critics argue, occurred because Pollard broke his plea bargain agreement by sitting for an interview with journalist Wolf Blitzer before his trial. They also highlight the fact that the Weinberger Affidavits submitted to the court were placed in the record in accordance with established legal norms on espionage cases related to U.S. national security. They categorically reject calls that discriminatory views toward Israel, or Jews, influenced any part of the legal process in Pollard's case.

The legality of Pollard's initial sentence been upheld at each phase of the federal appellate process, going all the way up to the Supreme Court. In 1990, U.S. District Court Judge Aubrey E. Robinson, Jr ruled against Pollard.⁴⁹ Pollard's lawyers requested that the Court withdraw his initial plea bargain, that his lawyers receive the classified versions of the Weinberger Affidavits, that the Government's *ex parte* contact with the Court⁵⁰ constituted a breach of the law, and that the Court had disqualified itself from ruling on the case under 28 U.S.C. § 455.⁵¹ Judge Robinson argued that the claims about *ex parte* contact amounted to hearsay and that his recusal was unwarranted.⁵² He stated that Pollard's guilty plea was not unlawfully compelled because it did not constitute a 'wiring' to Anne Pollard's sentence and that a pretrial interview conducted by Wolf Blitzer constituted a breach of the agreement because it was not cleared with the Director of Naval Intelligence.⁵³ Pollard also didn't offer any evidence to the court that contradicted any specific allegations made in the classified Weinberger Affidavits.⁵⁴

Pollard appealed to the U.S. Circuit Court of Appeals. He then hired Former Solicitor General Theodore Olson and Harvard Law Professor Alan Dershowitz as his lawyers. In March 1992, the U.S. Circuit Court of Appeals upheld the legality of the U. S. District Court's ruling.⁵⁵ In a 2-1 decision, the lone dissenting judge, Stephen Williams, argued that the Weinberger Affidavits were prejudiced because they 'wheeled out the heaviest rhetorical weapons calling for a life sentence in all but name.'⁵⁶ Furthermore, he criticized the Court's handling of Pollard's plea agreement as constituting 'a fundamental miscarriage of justice' under 28 U.S.C. § 2255 and that Pollard's sentence ought to be vacated and his case retried before a new judge.⁵⁷ Ultimately, Pollard's legal fate was sealed on 20 March 2006, when the Supreme Court denied certiorari to his appeal for a retrial.

⁴⁹747 F. Supp. 797, "United States of America, Plaintiff, v. Jonathan Pollard, Defendant. Crim. No. 86-0207-AER" (United States District Court, District of Columbia, September 11, 1990).

⁵⁰Alan Dershowitz claimed in an affidavit that he had a conversation with Supreme Court Justice Arthur Goldberg before he died where Goldberg told him Judge Robinson made a biased decision upon learning that Pollard provided Israel with American satellite photographs proving that Israel had tested Jericho missiles in South Africa and had provided South Africa with missile and nuclear technology.

⁵¹747 F. Supp. 797, "United States of America, Plaintiff, v. Jonathan Pollard, Defendant. Crim. No. 86-0207-AER" (United States District Court, District of Columbia, September 11, 1990).

⁵²Ibid., 3.

⁵³Ibid., 6.

⁵⁴Ibid., 5.

⁵⁵959 F.2d 1011. 295 U.S.App. D.C. 7, "United States of America v. Jonathan Jay Pollard, Appellant. No. 90-3276" (United States Court of Appeals, District of Columbia Circuit, Argued September 10, 1991, Decided March 20, 1992).

⁵⁶Ibid., 20.

⁵⁷Ibid., 22.

A look at the Pollard case across administrations

The Reagan administration (1985–1989)

When Jonathan Pollard was arrested and charged with spying for Israel, Israeli cabinet officials were thrust into diplomatic crisis mode. In an effort to mitigate the damage Pollard caused to U.S.-Israeli relations, Prime Minister Shimon Peres initiated a policy of plausible deniability where his government was to collaborate with federal investigators on one hand and simultaneously refuse to admit responsibility for Jonathan Pollard on the other. The talking points from Jerusalem stated that Pollard was part of a ‘rogue operation’ and not a spy handled by their government. Peres brushed off allegations of Israel’s role in the Pollard scandal as ‘attempts to foul the atmosphere between the two countries.’⁵⁸ Three factors influenced Israel’s decision to deny their connection to Jonathan Pollard:

- (1) Admitting responsibility for Pollard would damage U.S.-Israeli bilateral relations;
- (2) Pollard’s botched espionage mission would damage the credibility of the Israeli defense and intelligence community;
- (3) Pollard was not yet an Israeli citizen and the cabinet had no legal responsibility to prod Washington for his release.

In response to Pollard’s arrest, Israeli officials dismantled the Bureau of Scientific Relations, known in Hebrew as Lekem, the obscure Israeli outfit that oversaw Pollard’s espionage. Prime Minister Yitzhak Shamir decided not to extradite Aviem Sella and Rafael Eitan to the United States to stand trial. In what was a slap in the face to the Reagan Administration, Israeli officials transferred them to plum jobs as Commander of the Tel Nof Air Force Base (Israel’s largest) and Chairman of the Board of Israel Chemicals, respectively.⁵⁹ This act angered Secretary of State George Shultz so much that he urged a boycott of Israel’s air base in Tel Nof so long as Sella remained commander.⁶⁰ Israel’s policy of plausible deniability continued into 1987, when Prime Minister Shamir addressed the media after Pollard was formally sentenced to life in prison:

The State of Israel has no connection with Pollard or his family. The State of Israel did not hire him and did not assign him espionage missions. Therefore, the situation of his family may be a human problem, or a moral problem, but not a problem with which the state, as such, has to concern itself.⁶¹

Pollard’s plight was the least of concerns for American Jewish political leaders in the wake his espionage conviction. Jewish leaders were more concerned with deflecting charges of dual-loyalty and rebuilding the public relations image of the community sullied by Pollard’s treason. These tasks took precedence over waging a full-scale campaign to press the White House for a presidential pardon on Pollard’s behalf. Morris B. Abram, Chairman of the Conference of Presidents of Major American Jewish

⁵⁸Barbie Zelizer, “Defending the American Dream: Coverage of the Jonathan Pollard Spy Case,” *Qualitative Sociology* no. 2 (2001): 213.

⁵⁹Glenn Frankel, “Indicted Officer Gets Strong Israeli Backing,” *The Washington Post*, March 4, 1987.

⁶⁰P. R. Kumaraswamy, “The Politics of Pardon: Israel and Jonathan Pollard,” *Arab Studies Quarterly* 18, no. iii (1996): 26.

⁶¹Thomas L. Friedman, “Shamir Says Pollard’s Fate Is No Concern of Israel,” *The New York Times*, March 11, 1987.

Organizations, reflected the commonly held view that Pollard was deserving of his sentence and that the Jewish community wouldn't rush to his defense: 'The espionage activity for which Jonathan Pollard was justly sentenced was a serious crime and should never have taken place.'⁶²

Pollard's reputation as a spy without allies change would soon change. Spearheaded by his sister Carol Pollard, *Justice for Jonathan* was created with the goal of securing clemency for her brother and raising public awareness of his plight in Israel and the United States.⁶³ Despite the fact that Israel failed to recognize Pollard as one of their own spies, a grassroots movement in Israel quickly grew around the American spy who sacrificed his freedom for their security.⁶⁴ In 1987, Knesset member Shulamit Aloni, a lawyer and the head of the Citizens Rights' Movement Party, drafted a petition that drew broad support from 70 Members of the Israeli Knesset (MKs) asking President Reagan to pardon Pollard.⁶⁵ Without the support from the highest echelons of the Israeli political establishment, a small cadre of MKs had little leverage over swaying officials in the Reagan Administration who could have recommended pardoning Pollard. Weinberger was apparently so angered by Pollard's espionage that he called him a traitor who deserved to be shot.⁶⁶

When allegations surfaced in an article written by Bob Woodward and Walter Pincus that implied Israel had been managing another spy in the United States, dubbed 'Mr. X', at the same time they were handling Pollard, Attorney General Edward Meese hardened in his opposition to releasing Pollard.⁶⁷ The identification of a mysterious 'Mr. X' led to accusations that Pollard, and possibly other Israeli spies, had deeply penetrated the highest levels of the American defense and intelligence establishment and were actually involved in a more extensive spy ring than initially thought. It was initially believed that sources compromised by in Pollard's espionage were responsible for the deaths of American intelligence assets inside the Soviet Union. Acclaimed journalist Seymour Hersh stated that the sources revealed in Pollard's treason were eventually murdered by the Soviets.⁶⁸ In truth, the 10 murdered Soviet agents⁶⁹ were actually the handiwork of CIA employee Aldrich Ames who outed their identities to the Soviets in 1985.⁷⁰

The Ames–Pollard connection intrigued intelligence observers because it intertwined the legacies of two of the most prominent Cold War spies and further tarnished Pollard's reputation in the court of public opinion by linking him with a well-known spy from an enemy state. It was not until 2005 that the Ames–Pollard connection was debunked

⁶²Ari Goldman, "Jews in America Upset over Israel," *New York Times*, March 15, 1987.

⁶³Edward T. Pound, "Pollard Sister Campaigning to Free Spy for Israel Serving Life Sentence," *Wall Street Journal*, June 7, 1991.

⁶⁴Thomas L. Friedman, "Shamir Says Pollard's Fate Is No Concern of Israel," *The New York Times*, March 11, 1987.

⁶⁵Robert I. Friedman, "Pollard's Prison Letters: A Portrait of a Fanatic," *The Washington Post*, June 19, 1988.

⁶⁶William Stevenson, "A 20th-century Dreyfus? U.S. Navy Man Knew of Iraq's Secret Weapons: Was Warning Israel Really Such a Crime?" *The Toronto Sun*, October 21, 1991.

⁶⁷Bob Woodward and Walter Pincus, "Mr. X In Pollard Spy Case Still Hunted U.S. Probers Feel Sure Israel Was Using Another American," *Washington Post*, February 19, 1988.

⁶⁸Seymour M. Hersh, *The Samson Option: Israel's Nuclear Arsenal and American Foreign Policy* (New York: Random House, 1991), 300.

⁶⁹Victor Cherkashin and Gregory Feifer, *Spy Handler: Memoir of a KGB Officer: The True Story of the Man who Recruited Robert Hanssen and Aldrich Ames* (New York: Basic Books, 2005), 109.

⁷⁰United States Senate, *Report for the Staff on the Select Committee on Intelligence. An Assessment of the Aldrich H. Ames Espionage Case and Its Implications for U.S. Intelligence*. 103rd Cong., 2nd sess., November 1, 1994.

when Ames's KGB handler Victor Cherkashin revealed in his memoir that the Soviets had 'nothing to do with him (Pollard)' while they were handling Ames.⁷¹

The George H. W. Bush administration (1989–1993)

In October of 1989, 150,000 members of the National Religious Party of Israel signed a petition asking American embassy officials to pardon Jonathan Pollard's wife, Anne; who had been sentenced to five years in prison for her role as an accessory in her husband's espionage case.⁷² Behind the scenes, Israel's policy of plausible deniability was beginning to give way. Covertly, Israel paid \$85,000 worth of Pollard's legal fees and hired former Republican White House Counsel Leonard H. Garment in hopes that he could work to secure Pollard's release.⁷³ In 1990, Dan Meridor visited U.S. Attorney General Dick Thornburgh. In their meeting Meridor said, 'We need to put the Pollard affair behind us. I want to look for a way to see if we can do something to put it behind us. He did not react at all. There was no will.'⁷⁴ Concomitantly, the Israeli Foreign Ministry asked the U.S. Ambassador to Israel to release Anne Pollard from prison on humanitarian grounds.

That same year, the Zionist Organization of America, a group closely linked with the National Religious Party of Israel, declared that Jonathan Pollard was disproportionately punished for his crimes; two years later they openly supported a commutation of his sentence.⁷⁵ In May 1991, U.S. Attorney Joseph diGenova debated Pollard's legal counsel Alan Dershowitz at an event organized by the National Jewish Community Relations Advisory Council (NJCRAC). The NJCRAC forum was organized to determine whether or not the American Jewish community should support Pollard. Dershowitz wasn't able to decisively sway the Jewish community to coalesce around Pollard's plea for clemency.⁷⁶

With no viable legal options available after his second appeal failed, Pollard's supporters focused on trying to convince President George H.W. Bush to grant a pardon.⁷⁷ Pollard's supporters hoped a pardon would be issued as an act of compassion during the waning months of the Bush presidency.⁷⁸ In June of 1992, Nobel laureate Ellie Wiesel and Evangelist Pat Robertson held a rally in New York City in an effort to build up public support for Pollard's release. The rally was followed up by a personal letter from Prime Minister Shamir to President Bush in July which formally requested the United States free Pollard.⁷⁹ The requests of Pollard's supporters fell on deaf ears at the white house and Bush exited office in January of 1993 without pardoning Pollard.

⁷¹Cherkashin and Feifer, *Spy Handler: Memoir of a KGB Officer*, 225.

⁷²Reuters, "150,000 Israelis in Petition Ask U.S. to Free Anne Pollard," *The New York Times*, October 6, 1989.

⁷³Zalman Shoval, Israel's Ambassador to the United States (1990–1993, 1998–2000), interview by Lee Lukoff, June 2017, Jerusalem, Israel.

⁷⁴Dan Meridor, Israel's Minister of Intelligence and Atomic Energy (2009–2013), interview by Lee Lukoff, June 2017, Jerusalem, Israel.

⁷⁵Zionist Organization of America, *Resolution 20: Resolutions Adopted by the Zionist Organization of America at 88th Convention* (New York, NY, November 24, 1991), 19–20.

⁷⁶Samuel Rabinove, *The Pollard Case Revisited* (New York: The American Jewish Committee, Institute of Human Relations, 1992), 5.

⁷⁷The Jerusalem Post, "American Rabbis Ask Bush to Give Pollard Clemency. Times Ad Unites Broad Segment of American Jewry in Coalition," *The Jerusalem Post*, October 25, 1992.

⁷⁸Editorial, "In Pursuit of Justice," *The B'nai Brith Messenger*, July 17, 1992.

⁷⁹Kumaraswamy, "The Politics of Pardon," 28.

In a meeting with President George H.W. Bush twenty-two years later at a Counterintelligence Conference at the George Bush School of Government at Texas A&M University, former FBI Special Agent Ronald Olive broached the topic of Jonathan Pollard with the 41st President and sought his opinion on why he failed to release the ex-Israeli spy. Bush replied: 'He belongs just where he is in jail. You do know there are a lot of people trying to get him out. That really burns me up.'⁸⁰ Luckily for Pollard, his successor Bill Clinton agreed to reassess his case, upon his election in November of 1992.⁸¹

The Clinton administration (1993–2001)

President Clinton won 80% of the Jewish vote in the 1992 presidential election.⁸² Pollard's supporters hoped that he would accede to their demands for a pardon out of fear of angering Jewish voters.⁸³ Their strength would be put to the test against Pollard's adversaries inside the Clinton Administration, which included senior defense and intelligence officials such as Attorney General Janet Reno, Secretary of Defense Les Aspin, Secretary of State Madeline Albright, and DCIs R. James Woolsey and George Tenet.

By 1993, Carol Pollard announced at a speech before the Jewish Students Network in Toronto that she had obtained 30,000 signatures in Britain, France, and Holland asking President Clinton to free her brother. Among the signatories included 1000 rabbis and 2000 lawyers and judges from the United States and Canada.⁸⁴ That same year, Pollard's supporters won over the support of Israeli Prime Minister Yitzhak Rabin. To a certain extent, Rabin bore personal responsibility for the plight of Jonathan Pollard because as Minister of Defense, Rabin was criticized by Eban Commission for his role in mismanaging the Defense Ministry at the time when his subordinates Rafael Eitan and Aviem Sella bungled Pollard's espionage operation.⁸⁵ When Rabin became Prime Minister in 1993, he attempted to absolve himself of responsibility for Pollard's plight by asking President Clinton to release him as a gesture of good will.⁸⁶ After receiving Rabin's personal request to free Pollard, Clinton issued the following statement to the media:

I explained that under our procedure here, I cannot make a decision on the Pollard case until the Justice Department makes a recommendation to me. Under the U.S. Constitution, I do not have to follow the recommendation of the Justice Department, but under our procedure I have to get one. When I get one, which won't be too long in the future, I will then review it and make a decision.⁸⁷

President Clinton decided against pardoning Jonathan Pollard after receiving pushback from his Attorney General Janet Reno, National Security Advisor Anthony Lake, CIA

⁸⁰Olive, *Capturing Jonathan Pollard*, 241.

⁸¹Stephen Labton, "White House Is Last Chance as Court Refuses Pollard," *The New York Times*, October 18, 1992.

⁸²Jewish Virtual Library, "U.S. Presidential Elections: Jewish Voting (1916–Present)," <http://www.jewishvirtuallibrary.org/jsource/US-Israel/jewvote.html>.

⁸³Thomas L. Friedman, "Clinton Is Asked By Rabin to Cut Spy's Jail Term," *The New York Times*, November 11, 1993.

⁸⁴Wendy Darroch, "Sister Fights to Free Man Jailed for Life," *The Toronto Star*, December 23, 1993.

⁸⁵Eyal Bor, "Four Models of Relations between Israel and the American Jewish Community as Defined by the Pollard Affair" (PhD diss., University of Michigan, 1996), 196.

⁸⁶Hillel Kuttler, "Rabin Asks Clinton to Free Pollard," *The Jerusalem Post*, November 10, 1993.

⁸⁷Jerusalem Post Staff, "Clinton Hints at Freeing Pollard: Awaiting Advice of Justice Department," *The Jerusalem Post*, November 14, 1993.

Director R. James Woolsey, and Secretary of Defense Les Aspin. Aspin was strident in his opposition to Pollard, arguing in a letter to President Clinton that Pollard had tried 14 times to leak classified intelligence from prison and that he was still a potential threat to U.S. national security if released from prison.⁸⁸ Since the intelligence establishment had flagged Pollard's writings from prison, his behavior behind bars would undoubtedly be used against him. This view was communicated to Prime Minister Rabin before he was assassinated on 4 November 1995, shortly after sending a third letter to President Clinton asking him to free Pollard before his death.⁸⁹ Pollard's legal team opted against applying for parole out of fear that losing a parole hearing would ruin his chances of receiving presidential clemency.⁹⁰

In September 1995, Rabin had raised the issue of Pollard with President Clinton at the signing ceremony of the Oslo 2 Agreement, with hopes that securing Pollard's release would allow him to justify handing over convicted terrorists to the Palestinians to his domestic constituents in Israel.⁹¹ Unfortunately for Pollard, such a swap was met with stiff resistance from Israeli President Ezer Weizmann and summarily rejected. Rabin's premiership set a precedent for raising Pollard's clemency in the context of the Oslo Accords mediated by the United States and future negotiations with Palestinian leaders. During the Clinton years, Pollard would come up as a topic of discussion at both the Wye River and Camp David conferences.⁹²

In 1996, Pollard was granted Israeli citizenship. By securing Israeli citizenship, Pollard had won a major public relations battle that reinforced his belief that he was abandoned by Israel in 1985. This achievement energized Pollard's supporters and brought with it newfound allies. Pollard received political support from disparate organizations such as the National Association for the Advancement of Colored People (NAACP), American Civil Liberties Union (ACLU), and even the European Parliament.⁹³ Pollard became known as 'The Spy with a Fan Club,' and even received moral support from actors Jon Voight, Whoopi Goldberg, and Gregory Peck.⁹⁴ By giving Pollard citizenship, Israel all but officially admitted to tasking Pollard's botched espionage operation.

Prime Minister Benjamin Netanyahu renewed the campaign to free Pollard in 1997. Shortly thereafter, Pollard received visits from Immigrant Absorption Minister Yuli Edelstein and Communications Minister Limor Livnat. In January of 1998, Israeli Minister of Trade Natan Sharansky, Finance Minister Yaacov Ne'eman, Minister of Infrastructure Ariel Sharon, and Minister of Labor/Social Affairs Eli Yishai visited Pollard and promised to continue advocating for a pardon on his behalf.⁹⁵ On 12 May 1998, Israel officially admitted for the first time that Pollard was an Israeli agent.⁹⁶

⁸⁸Barton Gellman, "Aspin's Allegation about Pollard Affects Clemency Campaign," *The Washington Post*, December 29, 1993.

⁸⁹Mosheh Reinfeld, "Rabin's Murder Kills Talks With Clinton to Free Pollard," *Haaretz*, November 6, 1995.

⁹⁰Shaw, *Miscarriage of Justice*, 167.

⁹¹Kumaraswamy, "The Politics of Pardon," 29.

⁹²Dan Meridor, Israel's Minister of Intelligence and Atomic Energy (2009–2013), interview by Lee Lukoff, June 2017, Jerusalem, Israel.

⁹³Rabbi Avi Weiss, "Let Justice Replace Vengeance Free Jonathan Pollard," *Palm Beach Post*, December 11, 1993.

⁹⁴Shaw, *Miscarriage of Justice*, 153.

⁹⁵Justice for Jonathan Pollard, "Sharansky and Three Other Cabinet Ministers to Visit Pollard," December 21, 1998. <http://www.jonathanpollard.org/1998/012198.htm>.

⁹⁶Reuters, "Israel Officially Recognizes Pollard as Its Agent," May 12, 1998. <http://www.jonathanpollard.org/1998/051298.htm>.

The Wye River Summit was held in Maryland in October of 1998 to expedite the implementation of the Oslo 2 Accords. During the talks, Walter Pincus of the *Washington Post* reported that Pollard's fate was a topic on the agenda.⁹⁷ In an interview with *The Jewish Week*, Pollard lamented: 'I was packing; I thought this was it. Everybody was coming around my room asking for books, clothes, deodorant, and food. Everybody was claiming things. That's what happens in prisons.'⁹⁸ With a little more than two years left in office, Clinton was under tremendous pressure to secure a final status agreement between the Israelis and Palestinians. Clinton had a clear interest in keeping the Israelis at the negotiating table and Pollard was used by the Clinton Administration as a bargaining chip to keep the Israelis from walking away from the bargaining table. During the negotiations, CNN reported that Prime Minister Netanyahu and Ariel Sharon had relentlessly pushed Clinton to release Pollard, and that Clinton initially heeded to the Israelis request in order to finalize the agreement.⁹⁹

Dennis Ross, President Clinton's Middle East Envoy, and a participant in the Wye River Summit, corroborated CNN's report in his recounting of the Wye River Summit:

You know, he [Clinton] said, 'I usually agree with you, but this stalemate has lasted so long that it has created a kind of constipation. Release it and a lot becomes possible. I don't think we can afford to wait, and if Pollard is the key to getting it done now, we should do it.'¹⁰⁰

Ross advised Clinton not to pardon Pollard because it 'Would be a huge payoff for Bibi; you don't have many like this in your pocket. I would save it for permanent status. You will need it later, don't use it now.'¹⁰¹ Shortly thereafter, Clinton went back on his decision to free Pollard.¹⁰² Clinton's decision angered Netanyahu and almost led to a collapse of the talks at Wye River had Israel's Ambassador to the U.S. Zalman Shoval not convinced Netanyahu that securing a deal was in his best interests as Prime Minister.¹⁰³

Earlier, Netanyahu had received personal assurances from Clinton that Pollard was going to be released as part of the deal.¹⁰⁴ Two factors influenced Clinton's decision to go back on his promise to free Pollard. First, President Clinton received strong pushback from DCI George Tenet. When Tenet was told that Pollard was about to be pardoned, he told President Clinton:

Mr. President. I just need to make you aware of something. We've done a security agreement here that I think is important. As a result, I think the negotiations may succeed, but if Pollard is released, I will no longer be the Director of Central Intelligence in the morning. This is an issue that has nothing to do with this set of negotiations.¹⁰⁵

⁹⁷Elliot Goldenberg, *The Hunting Horse: The Truth behind the Jonathan Pollard Spy Case* (Amherst, NY: Prometheus Books, 2000), 276.

⁹⁸Shaw, *Miscarriage of Justice*, 175.

⁹⁹CNN, "Source: Clinton Agrees to Release Convicted Spy Pollard," October 23, 1998. <http://www.jonathanpollard.org/1998/102398a.htm>.

¹⁰⁰Dennis Ross, *The Missing Peace: The Inside Story of the Fight for Middle East Peace* (New York: Farrar, Straus and Giroux, 2004), 439.

¹⁰¹*Ibid.*, 438.

¹⁰²CNN, "Source: Clinton Agrees to Release Convicted Spy Pollard," October 23, 1998. <http://www.jonathanpollard.org/1998/102398a.htm>.

¹⁰³Zalman Shoval, Israel's Ambassador to the United States (1990–1993, 1998–2000), interview by Lee Lukoff, June 2017, Jerusalem, Israel.

¹⁰⁴*Ibid.*

¹⁰⁵George Tenet and Bill Harlow, *At the Center of the Storm: My Years at the CIA* (New York: Harper Collins, 2007), 68.

Tenet opposed the agreement because doing so would undermine his managerial credibility and undermine the progress he made in rebuilding agency morale among the rank and file at Langley.¹⁰⁶ Second, Clinton hardened in his opposition to freeing Pollard after Speaker of the House Newt Gingrich (R, Georgia) criticized Clinton for considering such a request from the Israelis.¹⁰⁷ In Congress, stiff opposition from SSCI Chairman Richard Shelby (R, Alabama) and 59 other senators existed.¹⁰⁸ Representative Porter Goss (R, Florida) and Fred Upton (R, Michigan) had also introduced legislation opposing Pollard's release in the House of Representatives.¹⁰⁹ In the midst of an election season, there wasn't an appetite in the Clinton Administration to give congressional republicans additional ammunition it could use on the campaign trail. When Clinton left office on 21 January 2001, he pardoned 140 people. Jonathan Pollard was not one of them.¹¹⁰

The George W. Bush administration (2001–2009)

Before his first days in the White House, the Bush Administration opposed Pollard's release.¹¹¹ Pollard's chief antagonist in the intelligence community, George Tenet, stayed on as DCI. Israel continued its quest to prod the Americans to release Pollard and raised the issue regularly with their American counterparts over the next eight years. Relations were close between Israel and the United States during the Bush Administration but not close enough for Israel to secure Pollard's release. On 12 March 2001, Prime Minister Ariel Sharon asked President Bush to pardon Pollard.¹¹² Sharon fought for Pollard at the Wye River Summit and, as Prime Minister, sought to continue his quest to bring Pollard back to Israel.

On 16 March 2001, Secretary of Defense Donald H. Rumsfeld sent President Bush a memorandum on how to approach Israel's requests to pardon Jonathan Pollard during his presidency. The memorandum included an attachment of an earlier letter Rumsfeld penned to President Clinton in 1998, along with seven former Secretaries of Defense, arguing against a pardon for Pollard.¹¹³ Among the signatories in the 1998 letter was Vice President Richard Cheney, an ardent foe of Pollard dating back to 1985. Rumsfeld told Bush that 'My suggestion would be to come on very forcefully and say not no, but definitely no- no today, tomorrow and the next day, and that is not a matter that you would consider during your administration.'¹¹⁴ Strong opposition from Cheney and Rumsfeld didn't stop Pollard's advocates from pressing their case with their American counterparts.

¹⁰⁶Ibid., 67.

¹⁰⁷Ross, *The Missing Peace*, 457.

¹⁰⁸Olive, *Capturing Jonathan Pollard*, 250.

¹⁰⁹House of Representatives, *Expressing the Sense of Congress with Respect to Convicted Spy Jonathan Pollard*, H.Con. Res 18, 106th Cong., 1st sess., January 19, 1999.

¹¹⁰Marc Lacey, "Clinton Issues Pardons, Clearing Deutch and McDougal, But Not Milken or Hubbell," *New York Times*, January 21, 2001.

¹¹¹Ibid.

¹¹²Janine Zacharia, "Sharon to Ask Bush to Pardon Pollard," *Jerusalem Post*, March 12, 2001.

¹¹³Donald Rumsfeld, "Subject: Jonathan Pollard: Spy," March 16, 2001. <http://library.rumsfeld.com/doclib/sp/2392/2001-03-16%20to%20President%20George%20W%20Bush%20re%20Jonathan%20Jay%20Pollard%20with%20Attachment.pdf>.

¹¹⁴Ibid.

On 21 July 2003, 112 of the 120 MKs sent a letter to President Bush asking him to pardon Pollard.¹¹⁵ At a meeting with American Jewish leaders in September 2003, President Bush told Jewish leaders he'd look into pardoning Pollard.¹¹⁶ Thereafter, the movement to free Pollard took on a more strident tone. Fifteen of Pollard's most devoted followers interrupted a speech by Prime Minister Sharon before a meeting of the General Assembly of North American Jewish Federations, telling him to 'Bring Pollard Home Now.'¹¹⁷ In May of 2005, First Lady Laura Bush was confronted by MK Gila Finkelshtein and a throng of Pollard's supporters at the Western Wall in Jerusalem with a letter asking her to tell her husband to release Pollard.¹¹⁸ Later that year, 12,000 of Pollard's supporters held a rally massive rally and formed a human chain around the house of Prime Minister Sharon.¹¹⁹

A glimmer of hope for Pollard's release occurred when reports surfaced in Israel that the United States was considering pardoning Pollard if Israel let go convicted Palestinian terrorist and Fatah Party leader Marwan Barghouti.¹²⁰ Surprisingly, Pollard wasn't supportive of the measure and issued a public statement declaring that he preferred to stay in prison rather than being swapped for a convicted terrorist.¹²¹ Pollard's supporters started a phone bank which was so large that it jammed the White House phone lines in the waning days of the Bush Administration. They even created a documentary film on Pollard and dispersed it to the Israeli media to further pressure Prime Minister Ehud Olmert.¹²² During this time, Israel's Ambassador to the United States Sallai Meridor traveled to North Carolina to visit Pollard in prison. Meridor met with Pollard who had devised an intricate plan on how Israel could help convince President Bush to secure his release:

He had 1 hour with me. He used every hour in the most structured way. He basically created for me (Israel) what could be a strategy how to release him. Or how to help him and convince American authorities to reach him. He thought at the time he had a chance with Bush 43. It was not the case at all.¹²³

George W. Bush pardoned 14 individuals and issued two commutations on his last day as president.¹²⁴ Jonathan Pollard was not one of them.

The Obama administration (2009–2015)

In 2010, the United States resumed its role as middle-man between the Israelis and Palestinians and restarted direct negotiations between the two parties. This gave

¹¹⁵Knesset of the State of Israel, "Petition by 112 MKs: Letter to the Honourable George W. Bush," July 21, 2003.

¹¹⁶JPost.com Staff, "Bush Tells Rabbis He'll Look into Pollard Case," *The Jerusalem Post*, September 30, 2003.

¹¹⁷Emanuel Winston, "The GA Failed to Support Pollard," *Freeman Center for Strategic Studies*, November 19, 2003.

¹¹⁸Gila Finkelshtein, Member of the Knesset, "Letter to Laura Bush: Release of Jonathan Pollard on Humanitarian Grounds," May 18, 2005.

¹¹⁹Ezra HaLevi, "Thousands Protest in Jerusalem for Pollard's Release," *Arutz-7 News*, November 25, 2005.

¹²⁰Xinhuanet, "U.S. Considers Exchanging Jewish Spy For Fatah Leader," December 5, 2005.

¹²¹Justice for Jonathan Pollard, "Text: Jonathan Pollard's 20th Anniversary Speech: Don't Trade Me for Barghouti," November 21, 2004.

¹²²Hillel Fendel, "Urgent International Push for Pollard," *Arutz7 News*, November 18, 2008.

¹²³Sallai Meridor, Israel's Ambassador to the United States (2006–2009), interview by Lee Lukoff, June 2017, Jerusalem, Israel.

¹²⁴Associated Press, "Bush Pardons 14 Individuals," November 24, 2008. http://www.nbcnews.com/id/27895909/ns/politics-white_house/t/bush-pardons-individuals/#.VT2MbiFViko.

Pollard's allies another chance to make an impression on a new U.S. president and Israel another chance to push for Pollard within the framework of Israeli-Palestinian peace negotiations. On 20 September 2010, Israel asked the United States to free Pollard in exchange for a three-month settlement freeze in the West Bank.¹²⁵ On 4 January 2011, Prime Minister Benjamin Netanyahu asked President Obama to pardon Pollard.¹²⁶ With a request on the table, negotiations continued between the two parties until talks collapsed in 2014.

During this time, Pollard's support among former defense and intelligence officials and former prominent U.S. politicians developed significantly. Pollard received public support from former intelligence community officials who were familiar with Pollard's case. Most notably, former CIA Director R. James Woolsey, Reagan's National Security Adviser Robert MacFarlane, and former SSCI Chairman, Senator Dennis DeConcini. As a former DCI, R. James Woolsey's voice held the most weight in this group as he had previously opposed Pollard's release while he was DCI under Clinton. In a 2011 interview he told Channel 2 in Israel that

We have French spies that get caught that do not serve 25 years in prison. I came out strongly against clemency for Pollard when I was DCI. Looking at the statistics of people who stayed in prison for espionage that long, it seemed to me that it was now at the point (5 years ago). The punishment was quite excessive given all of the circumstances. It's time for him to be released.¹²⁷

MacFarlane and DeConcini submitted a letter to the U.S. Parole Commission in favor of Pollard's release that stated that the intelligence that Pollard compromised 'would have no value to anyone today.'¹²⁸ Collectively, these former officials gave credibility to Pollard's argument that neither he nor the knowledge he possessed posed any further threat to American national security interests.

Pollard amassed a total of 527 signatories in an interfaith letter that was sent to President Obama on 3 January 2011. The letter included support from every major Jewish organization in Israel and the United States. In December 2013, Secretary of State John Kerry tried to keep the floundering negotiations between the Israelis and Palestinians going by coaxing Israel to release 104 Palestinian prisoners in exchange for the United States releasing Pollard.¹²⁹ The prisoners were never set free and the talks neared collapse. Kerry offered to pardon Pollard again in March of 2014. However, by then the two camps were too far apart to come to an agreement.

That same month, in one of his last acts as President of Israel, Shimon Peres traveled to Washington to meet with President Obama. Peres was Prime Minister when Pollard was arrested and publicly admitted after Pollard's arrest that he bore responsibility for Pollard's bungled espionage mission despite being unaware of its existence at the time of his arrest.¹³⁰ Peres had been admonished by the Eban Commission (a parliamentary

¹²⁵Isabel Kershner, "Israelis Float Settlement Deal Involving Spy," *New York Times*, September 20, 2010.

¹²⁶Benjamin Netanyahu, "Prime Minister Netanyahu's Letter to Obama Requesting Clemency for Jonathan Pollard," *Haaretz Service*, January 4, 2011.

¹²⁷R. James Woolsey, Channel 2 Interview. January 31, 2011.

¹²⁸Jonathan J. Pollard, Petitioner, -v- United States Parole Commission, United States Probation Office for the Southern District of New York. p. 4.

¹²⁹JPost.com Staff, "Report: Kerry to Mull Freeing Pollard as Condition for Palestinian Prisoners Release: Channel 10 Reports U.S. Secretary of State to Examine Proposal to Tie Release of Israeli Agent to Release of Palestinian Prisoners," *The Jerusalem Post*, December 27, 2013.

¹³⁰Ronald Reagan Presidential Library, Israel Folder. Max Green File. Box 13. "Israel-Pollard" *Peres Interviewed on Committee Reports*. TA27064 (Tel Aviv IDF Radio in Hebrew. 0515 GMT, May 27, 1987), 15.

committee tasked with investigating the Pollard Affair) for being 'preponderantly responsible as first among equals in the Israeli parliamentary system' for Pollard's failed espionage operation.¹³¹ During their meeting, Peres asked Obama to free Pollard.¹³² The plea fell on deaf ears.

American support for the Joint Comprehensive Plan of Action (JCPOA) to curb Iran's nuclear program led to an unprecedented crisis in American-Israeli relations. A series of events that would lead to Pollard's release started when Prime Minister Netanyahu accepted an invitation from Speaker of the House John Boehner (R, Ohio) to speak before a joint session of Congress in opposition to the JCPOA without prior approval from the Obama Administration. Netanyahu's speech before congress was perceived by the Obama Administration as a snub to the commander in chief and an unprecedented breach of diplomatic decorum.

The subsequent congressional debate over the implementation of the JCPOA devolved into a bitter partisan fight. Opponents of the deal argued that the Obama Administration used anti-Semitic tropes and allegations of dual-loyalty among American Jews to sell the deal.¹³³ Supporters of the JCPOA claimed Israel spied against the United States and used the stolen intelligence to lobby members of congress to vote against the accord.¹³⁴ In an attempt to calm tensions between the two allies, the Obama Administration found a tool it had long had at its disposal capable of pacifying Israel and its allies, Jonathan Pollard.

In what was widely construed as an effort to appease Israel, the Obama Administration announced unexpectedly that Jonathan Pollard was set to be released from prison on parole effective 21 November 2015 (despite the fact that Pollard's supporters preferred that he be pardoned).¹³⁵ Rather than taking a politically risky move in pardoning Pollard, the Obama Administration opted to use his upcoming parole hearing as a means to ensure his release. After thirty years, a prisoner granted 'mandatory parole' must leave prison. Being released on parole had its political benefits for President Obama. Under the terms of his parole, Pollard would not be allowed to move to Israel for five years. This stipulation ensured that the administration would not be embarrassed when Pollard returned to Israel and received an inevitable hero's welcome. After thirty years, Pollard's quest for presidential clemency had come to an end and on one of America's most notorious espionage cases from the 'Year of the Spy' was closed in dramatic fashion.

Conclusion

Pollard endured thirty years of a lifetime prison sentence because his actions were indistinguishable from those of other Cold War spies from belligerent nations in the eyes of the intelligence community. In essence, Pollard chose the worst possible moment to spy for Israel and his enemies in the intelligence community exerted tremendous pressure on American presidents to not accede to Israeli efforts to secure

¹³¹Ronald Reagan Presidential Library, Israel Folder. Max Green File. Box 13. "Israel-Pollard" *Government Releases Eban Committee Report*. TA 281555 (Jerusalem: Government Press Office in English, May 27, 1987), 13.

¹³²President's Office Media Release, "President Peres Met with Esther Pollard and the Heads of the Knesset Caucus to Free Jonathan Pollard this Morning," June 22, 2014.

¹³³Lee Smith, "The White House Freak Out," *Tablet Magazine*, February 18, 2015.

¹³⁴Adam Entous, "Israel Spied on Iran Nuclear Talks with U.S.," *Wall Street Journal*, March 23, 2015.

¹³⁵Editorial, "Don't Parole Pollard," *The Jerusalem Post*, July 30, 2015.

his release. Pollard's legal team could not render a change in the outcome of his initial guilty plea and their efforts to prove that the Weinberger Affidavits were misleading and inaccurate fundamentally failed. What changed Pollard's perceptions in public opinion came when prominent members of the intelligence establishment, such as DCI R. James Woolsey, announced that he had endured a prison sentence commensurate for his crimes.

The Israelis showed a keen interest in freeing Pollard as his case was highly salient in Israeli domestic politics. However, Israeli officials had little leverage to use to force the hand of an American president and were unwilling to use the Pollard case as a litmus test of U.S.–Israeli relations. This state of affairs changed during the approval process of the JCPOA when Israel and its allies in Congress nearly derailed a key priority on President Obama's foreign policy agenda. The president felt strong pressure to mollify Israeli concerns over his policies. In the end, Pollard was set free even though he failed to secure the presidential pardon he had long hoped for. Ultimately, the objectives of the Free Pollard Lobby were accomplished even though the pardon they sought to secure for Pollard's release was never issued by an American president.

Notes on contributor

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