

# EXHIBIT A

**Congress of the United States**  
**Washington, DC 20515**

November 13, 2015

The Honorable Loretta E. Lynch  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Attorney General Lynch:

We appreciate the decision by the Department of Justice (DOJ) not to object to Jonathan Pollard's release from prison when he becomes eligible for mandatory parole. Upon his release, on November 20, 2015, after serving 30 years in prison, it is Mr. Pollard's wish to move to Israel with his family so he can resume his life there. We write today to ask that DOJ give Mr. Pollard's request the fair consideration it deserves.

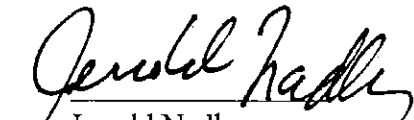
Mr. Pollard understands that, as a condition of being permitted to move to Israel, he may need to renounce his American citizenship. Despite the serious consequences that may follow such a decision, including being permanently barred from returning to the United States, he is willing to undertake this extraordinary measure.


As you may know, there is recent precedent for Mr. Pollard's request. In May of 2013, DOJ allowed René González, a member of the so-called "Cuban 5," to renounce his citizenship and live in Cuba. Mr. González served more than 8 years in prison for a 2001 espionage conviction for taking part in a spying ring on behalf of the Cuban government. While on probation, DOJ allowed Mr. González to attend his father's funeral in Cuba. Despite DOJ's prior insistence that he serve his entire probation in the United States, DOJ allowed Mr. González to renounce his American citizenship and remain in Cuba, on condition that he never return to the U.S. Similarly, Mr. Pollard asks that he be permitted to leave the United States and join his family in Israel. Mr. Pollard understands that this would likely mean that he would never be able to return.

We believe that America's interests and the interests of justice would be served if DOJ were to grant Jonathan Pollard's request to reunite with his wife and move to Israel upon his release. In its discussions of Mr. Pollard mandatory parole, DOJ has already acknowledged that there is no reasonable probability that he will commit any future crimes after his release. If DOJ

allows him to leave the United States permanently, this would become a near-certainty. We respectfully ask that you give this request fair consideration.

Sincerely,

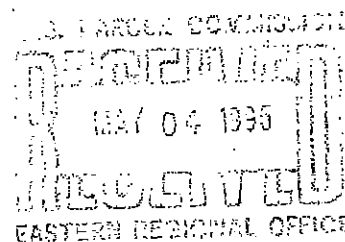
  
Jerrold Nadler  
Member of Congress

  
Eliot Engel  
Member of Congress

# EXHIBIT B

The Director of Central Intelligence

Washington, D. C. 20505



1 May 1995

09/85-016  
J/S/H  
5/14/95

Mr. John R. Simpson  
Regional Commissioner  
Eastern Regional Office  
U.S. Parole Commission  
Park Place Building, Suite 420  
5550 Friendship Boulevard  
Chevy Chase, MD 20815

Dear Commissioner Simpson:

As the Acting Director of Central Intelligence, I am the head of the United States Intelligence Community.<sup>1</sup> In this capacity, I submit this written statement under 28 C.F.R. §§ 2.19(a)(6) and (b)(1) for consideration by the U.S. Parole Commission in making its parole determination with respect to Mr. Pollard. For the reasons more fully set forth below, I recommend that you determine that Mr. Pollard not be released on parole at this time. Mr. Pollard's release at this time would, in my judgment, minimize the extremely serious nature of his offense and be damaging to U.S. counterintelligence efforts. Further, as his recent conduct shows, he remains a threat to U.S. national security interests. Finally, I close this letter with my views on some of Mr. Pollard's common themes for clemency.

#### Damage to U.S. Counterintelligence Efforts

I believe that granting Mr. Pollard's Petition would cause significant counterintelligence problems. Discipline within the Intelligence Community is the sine qua non of the security of United States intelligence sources and methods. Mr. Pollard's parole, at this time, would be prejudicial to the maintenance of discipline because it would imply that the United States condones espionage committed against us by an ally, or could be misread to signify that espionage is somehow less serious when an ethnic American spies on behalf of a non-hostile nation for which he has political sympathy. Such an implication is inimical to the interests of this country.

<sup>1</sup> The members of the Intelligence Community, as set forth in 50 U.S.C. §401a, are the Central Intelligence Agency; the National Security Agency; the Defense Intelligence Agency; the Central Imagery Office; the National Reconnaissance Office; other offices with the Department of Defense for the collection of specialized national intelligence through reconnaissance programs; the intelligence elements of the military services, the FBI, Department of the Treasury, and Department of Energy; the Bureau of Intelligence and Research of the Department of State; and such other elements or agency as designated by the President, or designated jointly by the Director of Central Intelligence and the head of the department or agency concerned, as an element of the Intelligence Community.

Approved  
5/16/95

Mr. John R. Simpson

Pursuant to my statutory responsibility as Acting Director of Central Intelligence to protect intelligence sources and methods, it is important for me to emphasize that we should not distinguish espionage on the basis of whether it was a friend or foe who sanctioned and controlled such acts. Moreover, to do so in a new world order where this distinction between friend and foe is less clear, sends the wrong signal and invites treachery in the name of friendship. Many Intelligence Community employees have ties of family or affection to other nations; many share bonds with their former homelands or those of their ancestors.

The message must be clear: espionage against one's country is no less damaging because the perpetrator felt affection or kinship for the country for which he spied. Yet, this motivation for espionage increasingly appears in recent cases. For example, a State Department employee of Greek heritage spied for Greece; another employee of African heritage committed espionage on behalf of Nigeria. A CIA employee of Chinese heritage spied for the People's Republic of China; another of Czech heritage spied for Czechoslovakia. A United States soldier of Hungarian heritage spied for Hungary. An early release for Pollard would convey the message that common ethnic ties may excuse the violation of U.S. espionage laws.

Mr. Pollard has tried in the past to focus his crime on the country to which he delivered U.S. national secrets. By stressing over and over that he spied for Israel, he attempts to divert attention from any description of the amount or type of information he provided. He pronounces no intent to harm the United States. In fact, he disregarded the consequences to the United States and compromised reams of classified information at the whim of a foreign intelligence service.

It is true that espionage by different foreign countries represents different levels of threat, and that the United States does share considerable intelligence with friendly countries, including Israel. But intelligence sharing arrangements must be determined by national policymakers responsible to the President, Congress, and the public, not by individuals within the Intelligence Community. Mr. Pollard, in effect, usurped this foreign relations authority. Treating him more leniently than other convicted spies solely because of the identity of the foreign country for which he spied would encourage the false notion that Americans with access to sensitive government information can take it upon themselves to pass secrets to countries whose interests they personally think are compatible with or more important than those of the United States.

The true measure of a sentence's proportionality is the amount and sensitivity of the classified information

Mr. John R. Simpson

compromised--the damage risked or caused to the United States as a result of the espionage. In Mr. Pollard's case, the damage was enormous and easily qualified him for the sentence he received.

Mr. Pollard Remains a Threat to National Security if Released

Mr. Pollard has proven he has an excellent memory, so that his release from prison and move to Israel, as he has suggested in his pardon application, would enable the Israelis to further exploit his knowledge of United States intelligence sources and methods. We believe that Mr. Pollard possesses in his mind additional information that he could--and probably would--compromise upon his release from prison. His compromises are likely not only to be made secretly to the Israeli government, but to be made in careless public statements which will compromise U.S. national security information to the world. Any protestations he may make to the contrary should be received with skepticism. Mr. Pollard was and is obsessed with a fantasy of himself as a clandestine operator. He has been fabricating stories for years on this theme in order to misrepresent himself as a mysterious figure of significance and influence, or, after his arrest, the innocent victim of some anti-Semitic conspiracy.

Mr. Pollard portrays himself as a dual patriot caught in a dilemma--loyalty to Israel's interests and loyalty to U.S. interests. This portrayal is, however, a rationalization for actions not, I believe, ideologically based. For example, despite Mr. Pollard's attempt to portray himself as a savior of Israel, he:

- in September 1979, made an unauthorized, clandestine visit to an African Embassy subsequently admitting that he had been tasked by an African military officer to obtain classified information.
- in 1983 passed classified information to an Asian diplomat.
- in 1984 passed classified information, not in any way connected to Israel, to a freelance journalist, and later to the journalist's agent.
- passed classified information to a foreign military officer not connected in any way to Israel or the Middle East.
- while spying for Israel, contacted and offered his services to the foreign intelligence service of a non-Middle Eastern country.

Mr. John R. Simpson

During Mr. Pollard's incarceration, he has released, or attempted to release, classified information in letters. Under approved security procedures and pursuant to Mr. Pollard's plea agreement, the Office of Naval Intelligence reviews Mr. Pollard's mail for classified information. Since 1989, that Office has identified 14 letters by Mr. Pollard that contained classified information. This information was classified up to the Top Secret Codeword level. The information related to U.S. intelligence sources and methods, as well as to the specific fruits of intelligence collection. In one case, Mr. Pollard discussed a U.S. intelligence-exchange agreement with a particular foreign government. The last letter identified as containing classified information was sent in 1992. In light of Mr. Pollard's proven intelligence, and his experience as an intelligence analyst, his inclusion of obviously classified information in his letters displays either a deliberate indifference to, or careless disregard of, his duty to protect U.S. national security. In addition to the above concerns, Mr. Pollard apparently slipped a letter to his father, thus bypassing security protections. Mr. Pollard's father later provided this information to a national newspaper, which, in turn, published it. Mr. Pollard's track record in prison can only be a harbinger of his anticipated security practices once released.

#### Mr. Pollard's Standard Arguments for Mitigation of Sentence

This letter, under the rules of the Commission, is submitted in advance of Mr. Pollard's arguments. Therefore, I will address certain standard arguments of Mr. Pollard with the expectation that he will urge them upon the Commission.

First, Mr. Pollard consistently argues that he did not intend to harm the United States but "sought only to save the existence of Israel and the lives of the people of Israel from the destructive forces of weapons being developed by its enemies." This argument is deceptively incomplete and not credible.

- At the time of his arrest and during his post-plea cooperation, Mr. Pollard stated that he began spying for Israel in order to help Israel combat terrorism. In his petitions to the President for clemency, he professed that his motive was not to help Israel combat terrorism, but rather to prepare Israel to defend against the weapons of hostile nations.
- Also, the inference that Mr. Pollard was selective in the classified information he chose to provide the Israelis is unwarranted. Mr. Pollard passed a tremendous amount of information wholly unrelated to the development of any



Mr. John R. Simpson

weapons systems by any countries considered hostile to Israel. Mr. Pollard responded to specific taskings from the Israelis; he provided them what they wanted no matter the content. In fact, Mr. Pollard provided Israel with an abundance of information revealing United States intelligence sources and methods even though this information had absolutely nothing to do with foreign nations hostile to Israel. The sole value of such information was the development of countermeasures to defeat or deceive these sources and methods. Such information could not possibly have been passed to any nation without damage to the United States. It must always be assumed that classified U.S. information once passed to a foreign country will be passed along to or clandestinely stolen by still more countries.

- Further, Mr. Pollard was well paid for his spying. He did not act out of altruistic motives. Indeed, Mr. Pollard actively negotiated with his Israeli handlers for an increase in his spy salary until it exceeded his U.S. Government salary. Further, Mr. Pollard agreed to continue to spy against the United States for another 10 years in exchange for a guaranteed deposit of \$30,000 a year in a foreign bank account for his benefit. In addition to his salary, Mr. Pollard was treated to trips to Europe and Israel and to jewelry. At the time of his arrest, Mr. Pollard had personally received approximately \$50,000 for his 17 months of spying against the United States.

A second common argument by Mr. Pollard is that his sentence is grossly disproportionate to those awarded in comparable cases. He persistently points to sentences of others who spied for "friendly countries." In my view, his sentence to life imprisonment was by no means disproportionate to his offense nor to the damage he did to the national security of the United States. His comparison of his criminal activities to those of others who received a sentence less than life imprisonment is unpersuasive. Mr. Pollard was an exceptionally productive agent for Israel. Pollard delivered hundreds of classified documents containing information concerning highly sensitive intelligence sources and methods. By Pollard's own estimate, he delivered approximately 360 cubic feet of classified information. We believe that a comparison to sentences received by those whose espionage activities were of similar gravity will show the sentence is clearly appropriate. For instance, Arthur Walker was convicted of committing espionage during a time of peace and was sentenced to three life sentences. The information Mr. Walker passed was classified CONFIDENTIAL; the information passed by Mr. Pollard was classified TOP SECRET and above.

Mr. John R. Simpson

A third common argument by Mr. Pollard is that people of all faiths and nationalities and ethnicity have joined in support of his clemency. We will not comment on this argument except to note that Mr. Pollard has pursued a prodigious, one-sided letter writing campaign that is probably a significant factor for this support.

A fourth common argument by Mr. Pollard is that the only reason he received a life sentence was Government misconduct during the sentencing portion of his trial. This precise contention was addressed and rejected by the United States Court of Appeals for the D.C. Circuit.<sup>2</sup> The appellate court found that even if the characterizations of the government's conduct as "hard-nosed" and "stingy" were true, there was no evidence that the trial court adjudged a harsher sentence as a result. In this regard, it is important to note that before sentencing, Mr. Pollard violated a gag order issued by the trial judge. Mr. Pollard revealed information about his case during two interviews with journalist Wolf Blitzer without giving prior notice to the Director of Naval Intelligence as required by his plea agreement and in violation of the trial judge's order. During the sentencing hearing, the trial judge chastised the defense and rejected Mr. Pollard's claim that the information discussed was unclassified. Mr. Pollard's sentence is consistent with Federal Sentencing Guidelines, which became effective only after his arrest.

Finally, Mr. Pollard commonly argued that he should be credited with providing complete cooperation with the United States after his activities became known. Mr. Pollard's "cooperation" cannot be considered candid. During his first interviews with law enforcement officers he consistently lied about to whom he was providing classified information. His lies enabled the Israeli agents who were handling him to flee the country and evade United States justice.

### Conclusion

Mr. Pollard should not be found eligible for parole after serving only 10 years of his life sentence. His life sentence was and remains appropriate in light of the amount and type of classified information he sold and the potential damage he willingly risked to the national security of the United States for money, trips, and diamonds. Additionally, an early release on parole sends the wrong signal to the members of the Intelligence Community, upon whose fidelity we must rely for the preservation of the nation's secrets--that espionage against the United States is an understandable offense when the benefactor

<sup>2</sup> U.S. v. Pollard, 959 F.2d 1011 (D.C. Cir. 1992), cert. denied, 113 S.Ct. 322, 121 L.Ed.2d 242 (1992).

Mr. John R. Simpson

country either is a friend of the United States or one for which the perpetrator holds ethnic/religious/family sympathies.

Very respectfully,

A handwritten signature in dark ink, appearing to read "W.O. Studeman", with a long, sweeping horizontal stroke extending to the right.

William O. Studeman  
Admiral, U.S. Navy  
Acting

cc: D/NSA  
D/DIA  
D/NI  
John Dion (DOJ)

# EXHIBIT C

---

**UNITED STATES PAROLE COMMISSION  
WASHINGTON, D.C.**

---

**IN RE: JONATHAN J. POLLARD  
REGISTER # 09185-016**

---

**MEMORANDUM OF JONATHAN J. POLLARD IN SUPPORT OF  
COMMISSION'S RECONSIDERATION OF PAROLE CONDITIONS**

CURTIS, MALLET- PREVOST,  
COLT & MOSLE LLP

Eliot Lauer

Jacques Semmelman

Gabriel Hertzberg

Sylvi Sareva

101 Park Avenue

New York, New York 10178

Tel.: (212) 696-6000

Fax: (212) 697-1559

*Attorneys for Jonathan J. Pollard*

Jonathan J. Pollard respectfully submits this memorandum to the United States Parole Commission (“Commission”) in connection with the Commission’s reopening of Mr. Pollard’s parole hearing pursuant to 28 C.F.R. § 2.28(a).

**PRELIMINARY STATEMENT**

Mr. Pollard was released on “mandatory” parole from the custody of the United States Bureau of Prisons to the custody of the Commission and the United States Probation Office for the Southern District of New York (the “Probation Office”) on November 20, 2015. Mr. Pollard served exactly 30 years in prison after pleading guilty to one count of conspiracy to commit espionage without intent to harm the United States. Mr. Pollard had delivered classified information to the State of Israel in 1984 and 1985.

Pursuant to the Commission’s Notice of Action dated July 28, 2015, and Notice of Action on Appeal dated October 8, 2015, Mr. Pollard is subjected to three special conditions of parole, in addition to the conditions expressly mandated by 18 U.S.C. § 4209(a). Specifically, the Commission required Mr. Pollard to submit to (i) 24-hour GPS monitoring of his person (the “GPS Monitoring Condition”); (ii) monitoring of his computer use both at home and at his place of employment (the “Computer Monitoring Condition”); and (iii) a curfew that, as implemented by the Probation Office, requires him to be at home from 7 p.m. to 7 a.m with limited exceptions (collectively, the “Special Conditions”).

Mr. Pollard challenged the Special Conditions in an action for a writ of habeas corpus in the United States District Court for the Southern District of New York (the “Habeas Action”). On December 16, 2015, United States District Judge Katherine B. Forrest, presiding in

the Habeas Action, entered an Order remanding the matter to the Commission (“the Remand Order”) [Docket No. 26].<sup>1</sup>

The Court identified the “fundamental issue” informing a review of the Special Conditions to be “the question as to whether there is anything that Mr. Pollard can disclose that would endanger the public.” (12/14/15 Tr. at 12). The Court observed that it was unclear what the broad restrictions were intended to accomplish “[i]n the absence of factual determination as to some danger based on what Mr. Pollard still knows, if anything, that would be of current use to a foreign government.” (*Id.* at 16). Judge Forrest directed the Commission to make findings of fact as to whether there is “secret information in Mr. Pollard’s head that they are aware of or have reason to believe exists.” (*Id.* at 21).

There is no such “secret information in Mr. Pollard’s head.” (*Id.*). Mr. Pollard has no valuable intelligence information to impart to anyone. For 30 years, he was a model prisoner. He has been out of prison for more than six weeks and has been a model parolee. The monitoring conditions and curfew serve no legitimate government interest and have no application to the nature of Mr. Pollard’s characteristics or offense. More fundamentally, the Special Conditions are simply unnecessary. Mr. Pollard has no incentive to, and no intention of, making a disclosure that would deprive him of his newfound freedom and return him to prison for the rest of his life. There is no reason to subject him to the Special Conditions.

**I. THE COMMISSION SHOULD STRIKE THE SPECIAL CONDITIONS OF PAROLE BECAUSE MR. POLLARD DOES NOT POSSESS OR REMEMBER ANY VALUABLE INTELLIGENCE INFORMATION**

In 1984 and 1985, Mr. Pollard delivered classified documents to the Israeli government. For the past 30 years, he was in federal prison without access to any classified

---

<sup>1</sup> Submitted with this memorandum are Mr. Pollard’s submissions in the Habeas Action. Citations herein to “Docket No. \_\_\_” refer to the docket numbers in the Habeas Action.

information. During his 23 years as part of the general prison population, Mr. Pollard never revealed any secrets to anyone. In granting Mr. Pollard's application for mandatory parole, the Commission acknowledged that there was no reasonable probability of recidivism. The reality is that there is not even a reasonable *possibility* that Mr. Pollard will commit another crime.

A series of unlikely assumptions are required in order to arrive at the conclusion that Mr. Pollard continues to pose a threat to national security. First, even if some of the information is still technically "classified" by statute, as a practical matter, given the nature of the information disseminated and the statements of knowledgeable insiders, there is a high probability that even classified information from 30 years ago is of no particular value today. Rather, such information is likely stale and useless, as explained by former U.S. National Security Advisor Robert C. McFarlane in a Declaration dated June 4, 2015 that is in the Commission's file:

I see no reason for concern that Mr. Pollard might still deliver classified information to someone. To the extent Mr. Pollard even recalls any classified information, it would date back 30 years or more, and would have no value to anyone today. From the point of view of intelligence, as in so many other respects, today's world bears almost no resemblance to the world of 30 years ago.  
***Classified information from 30 years ago is useless.***

*Id.* at ¶ 12 (emph. supplied) (Declaration of E. Lauer, Ex. 3 [Docket No. 3]). Likewise, in a Declaration dated June 9, 2015, Senator Dennis DeConcini affirmed his belief that "the information would not be of value to anyone today." Thus, not only does Mr. Pollard have no motive to disclose 30-year old information, the information itself, even if technically "classified," likely poses no real risk to national security.

In any event, the potential risk at issue is not the dissemination of physical materials, since Mr. Pollard does not have any classified documents in his possession. Rather,



the only information Mr. Pollard could possibly disclose is anything he might have retained in his head from over 30 years ago. And there is no indication that Mr. Pollard ever studied in detail the voluminous documents he delivered, or that he remembers their contents to this day. Mr. Pollard's unlawful activity involved identifying large piles of hard copy documents such as intelligence publications and satellite photographs by topic, physically removing them from a government agency building in a suitcase, handing the suitcase to an Israeli government representative for photocopying, and later returning the suitcase to the government building. *See* Indictment at ¶¶ 19-21, *United States v. Pollard*, No. 86 Cr. 0207 (D.D.C. June 4, 1986) (Lauer Decl. Ex. 1 [Docket No. 3]). This activity occurred approximately three times a week. *Id.* at ¶ 20. Thus, over the course of two years, Mr. Pollard may have selected and delivered thousands of complex and lengthy documents. It is inconceivable that anyone could memorize the details of such documents at the time of disclosure, let alone thirty years later.

It is possible that a number of the documents have not been officially declassified. However, it is implausible to suggest that Mr. Pollard has been able to preserve any meaningful details from the thousands of documents he reviewed only cursorily 30 years ago. Even if he still remembers some general ideas from the documents, such information has no value without the actual images, numbers, or texts themselves. Thus, even assuming the materials themselves are "classified," there is no suggestion that Mr. Pollard remembers, or could possibly remember, the classified information to an extent that it could be of any value to anyone.

Moreover, Mr. Pollard has no motive to disclose any vague, stale concepts he might recall from 30 years ago. By contrast, he has a clear incentive to remain on his best behavior, as he has for the past six weeks under parole supervision, and for the 30 years prior in federal prison. The notion that, having just been released, he would risk his freedom (most likely

for the rest of his life) makes no sense. Indeed, the DOJ never expressed any such concern during the course of the mandatory parole proceedings. On July 1, 2015 (a few days before Mr. Pollard's mandatory parole hearing), Assistant U.S. Attorney Jay I. Bratt, Deputy Chief, National Security Section of the U.S. Attorney's Office in Washington D.C., following consultation with Intelligence and Defense Agencies, concluded that there was no concern that Mr. Pollard would disseminate classified information upon release. Mr. Bratt wrote: "the government does not intend to advocate to the U.S. Parole Commission that, for the purposes of applying 18 U.S.C. § 4206(d), there is a reasonable probability that Mr. Pollard will commit a Federal, state, or local crime if released on parole." (Lauer Decl. Ex. 3 [Docket No. 3]). Mr. Pollard has nothing to gain, and everything to lose, from disclosing dated 30-year old information.

None of these truths is diminished by a letter written almost 21 years ago by William O. Studeman, then Acting Director of the CIA (the "Studeman Letter"), who advocated against the early release of Mr. Pollard in 1995, even though Mr. Pollard had not yet sought parole at that time. Nothing in the dated Studeman Letter provides any rational basis for the Special Conditions. Back in 1995, Mr. Studeman alleged that Mr. Pollard had an "excellent memory" and possessed information "in his mind" that he might potentially release to Israel. Setting aside whether Mr. Studeman truly had any factual basis for his assertions concerning Mr. Pollard's memory in 1995, in the absence of any authoritative, *current* statement that any such information is of any value today, or that Mr. Pollard reasonably could be viewed to have retained specific concrete details regarding his activities in 1984 and 1985, the Studeman Letter represents an ancient piece of history that has no bearing on the present proceeding.

The Studeman Letter also creates an inaccurate picture when it alleges that during Mr. Pollard's incarceration, he "released, or attempted to release, classified information in

letters.” (*Id.* at 4). Mr. Studeman is apparently referring to the years Mr. Pollard spent in isolation and solitary confinement or its equivalent, during which all of Mr. Pollard’s written communications were submitted to government censors for review and redaction of any confidential or sensitive information. Thus, it is not surprising that Mr. Pollard was never charged with delivering or attempting to deliver confidential information at any time in his 30-year stay within the federal correctional system. Moreover, the unfair assertion that Pollard “slipped a letter to his father,” which was later published in a “national newspaper,” is a gross overstatement. Every letter Mr. Pollard sent from prison went through Navy intelligence screening, including the letter that was delivered through his father to the Wall Street Journal, and later prominently published by the Wall Street Journal. (*See* Tab A, attached). The letter does not contain anything that could be fairly characterized as classified or confidential information in any respect, and at no time did anyone from the government or Bureau of Prisons criticize Mr. Pollard in any manner with respect to the publication of that letter. Accordingly, nothing in the Studeman Letter reflects negatively on Mr. Pollard’s conduct - indeed, he was a model prisoner.<sup>2</sup>

Turning away from the 21-year old letter and focusing on the present, the truth remains that Mr. Pollard does not possess in his head any sensitive information. Mr. Pollard is no different from any other white-collar, non-violent parolee. He should be required to report to his parole officer in person, check in by phone as required, and be subjected to spot checks and home visits as appropriate. As discussed below, no additional restraints on Mr. Pollard’s liberty are necessary or justified.

---

<sup>2</sup> Consideration of the antiquated Studeman letter would be directly inconsistent with Judge Forrest’s instruction that on remand, any justification based on the level of Mr. Pollard’s criminality “at a much earlier point in time” be “brought forward to justify and support the very severe broad restrictions” at issue. (12/14/15 Tr. at 14). As the court noted, that behavior “is as to a past fact, and it is unclear how [it] relates to protection of the public welfare or any other sentencing factor currently.” (*Id.* at 16-17).

**II. THE CONDITIONS ARE COMPLETELY ARBITRARY BECAUSE THEY DO NOT ADDRESS ANY LEGITIMATE OBJECTIVE**

Although the Commission has a certain amount of discretion to impose special conditions on parole, that discretion is not unlimited. Section 4209 authorizes the Commission to impose additional conditions of parole “to the extent that such conditions are reasonably related to (1) the nature and circumstances of the offense; and (2) the history and characteristics of the parolee; and [it] may provide for such supervision and other limitations as are reasonable to protect the public welfare.” 18 U.S.C. § 4209(a).

Federal regulations provide additional constraints. They provide that the Commission may impose special conditions of release only if it determines that “imposing the condition is reasonably related to the nature and circumstances of [the parolee’s] offense or . . . history and characteristics, and at least one of the following purposes of criminal sentencing: The need to deter [the parolee] from criminal conduct; protection of the public from further crimes; or the need to provide [the parolee] with training or correctional treatment or medical care.” 28 C.F.R. § 2.40(b) (emphasis added). In choosing a condition to add to those mandated by statute, the Commission is required to consider “whether the condition involves no greater deprivation of liberty than is reasonably necessary for the purposes of deterrence of criminal conduct, protection of the public from crime and offender rehabilitation.” *Id.*

The parole conditions previously imposed upon Mr. Pollard are not reasonably related (1) to the nature and circumstances of the offense or the history and characteristics of Mr. Pollard; or (2) to any of the three purposes of criminal sentencing specified in the regulation. The conditions would not have prevented Mr. Pollard from committing his underlying offense, nor would they have aided law enforcement officials in detecting his criminal activity. They would similarly have no impact on Mr. Pollard’s ability to disclose any information he might

retain today, even though he has no such information and has no intention of jeopardizing his freedom. The conditions are completely arbitrary, and serve no legitimate governmental function or need.

**A. The GPS Monitoring Condition**

The GPS Monitoring Condition requires Mr. Pollard to wear a GPS monitor strapped to his wrist 24 hours a day. To avoid the device discharging (which would constitute a violation of his supervision), Mr. Pollard has to connect the device to an electrical current for hours each day, even on the Sabbath, which forces him to violate a basic tenet of his faith (Orthodox Judaism). (*See* Declaration of Rabbi P. Lerner ¶ 9 [Docket No. 6]). Mr. Pollard's probation officer has represented to us that he has supervised thousands of parolees, and this is only his third case of GPS monitoring. (Declaration of J. Semmelman ¶ 5 [Docket No. 9]).

While in rare cases, GPS tracking can meet statutory, regulatory, and constitutional requirements, this is not such a case. For example, courts have allowed GPS tracking of convicted sex offenders to ensure deterrence as well as protection of the public. In *United States v. Porter*, 555 F. Supp. 2d 341 (S.D.N.Y. 2008), the releasee was a convicted sex offender who had violated multiple restrictions of his release, including failing to account for his whereabouts. *Id.* at 344. This was of particular concern because the offender was prohibited from unsupervised contact with minors. *Id.* As a result of his violations, the court imposed a special condition requiring his movements to be monitored through a GPS device for the entire term of his supervised release. The court found that "the GPS condition [was] reasonably related to his crimes and [did] not represent a greater deprivation of liberty than . . . reasonably necessary." *Id.*

Likewise, in other cases that involve parolees or releasees with a proven history of violating conditions of parole, or of posing a threat to others, the GPS tracking condition has

been upheld as a reasonable means of verifying compliance and protecting the public. *See, e.g., United States v. Bonds*, No. 14-50487, 2015 U.S. App. LEXIS 10909, at \*2 (9th Cir. June 26, 2015) (“In light of Bonds’s criminal history and his repeated failures to comply with the terms of his supervision, the district court did not abuse its discretion by imposing the condition to facilitate his compliance with the other conditions of supervised release.”) (emphasis added); *see also United States v. Miller*, 530 Fed. Appx. 335, 337-338 (5th Cir. 2013) (“Miller has *a history of stalking*, escape, angry outbursts, and erratic behavior . . . . In light of Miller’s background, any impairments of Miller’s privacy due to the GPS monitoring are outweighed by the condition’s benefits. These include effective verification of compliance with the other conditions of supervised release, deterrence of future crimes, and protection of the public.”) (emphasis added).

By contrast, Mr. Pollard was a model prisoner and has been a model parolee since his release. There is thus no post-release history that justifies the GPS tracking requirement. Moreover, the monitoring of Mr. Pollard’s location would neither protect the public nor deter Mr. Pollard from further criminal conduct. Although a GPS tracking device would allow the Probation Office to watch a blip of Mr. Pollard’s location move around the Southern District of New York, it does nothing to physically prevent or deter him from having a conversation at a coffee shop, within the confines of his apartment or in a public park. As noted above, GPS tracking can be useful where the offender’s ability to commit a crime depends in some part on his location (e.g., stalking). Here, there simply is no relationship between the underlying offense and the need to monitor Mr. Pollard’s whereabouts, where the Commission’s supposed concern is a conversation that could theoretically occur anywhere.

Nor is there any realistic concern that Mr. Pollard would foolishly violate the conditions of his parole and attempt to leave the United States, either for Israel or anywhere else.<sup>3</sup> As much as Mr. Pollard would like to be in Israel, he fully recognizes that he would immediately find himself re-incarcerated if he attempted to board an airplane. There is absolutely no reason to believe that Mr. Pollard would deliberately attempt to violate the conditions of his parole in such an obvious manner, and thus automatically risk being sent back to prison for the remainder of his life. Accordingly, the mere fact that Mr. Pollard would *like* to live in Israel does not in any way equate to a pathological, uncontrolled propensity to attempt to fly there despite the devastating consequences. Mr. Pollard fully understands the restrictions that prevent him from approaching airports, consulates, and embassies, and has every intention of abiding by such restrictions.

The fact remains that Mr. Pollard simply *cannot* fly to Israel, or anywhere else, nor does he have any intention to do so without U.S. government approval. Presumably, he would not be permitted access to a domestic or international flight, nor does he have a U.S. (or any other national) passport. Moreover, GPS monitoring is an unnecessarily burdensome means of preventing Mr. Pollard from leaving the country, and thus runs afoul of Judge Forrest's instruction to the Commission to "pay particular attention to 28 C.F.R Section 2.40 and the language therein," which requires the Commission to use the least restrictive means of achieving its alleged objectives. (12/14/15 Tr. at 18).

---

<sup>3</sup> The Commission provided us with a copy of a November 13, 2015 letter from Congressmen Nadler and Engel, who requested that the Justice Department grant Mr. Pollard permission to travel to Israel. Unquestionably, Mr. Pollard certainly wishes to live in Israel – but only with the full consent of the U.S. government. Nothing in the Congressmen's letter indicates to the contrary.

In sum, Mr. Pollard's case is no different from any other parolee with respect to geographic restrictions, and there is thus no reason to single him out by imposition of the highly onerous and humiliating GPS Condition.

**B. Curfew**

Mr. Pollard has also been subjected to a curfew that confines him to his studio apartment from 7 p.m. to 7 a.m. most days (he is permitted to stay out on the Sabbath until 11 p.m.). For no purpose, the curfew prohibits him from leading a full professional and social life, which are critical to his rehabilitation and successful reintegration to society. While Mr. Pollard has not started working yet (because of the Computer Monitoring Condition, as explained below), the curfew prevents him from working after business hours or attending business dinners. Mr. Pollard is not and has never been a nocturnal criminal — confining him to his home at night is just an arbitrary restriction on his ability to reintegrate into society.

Courts have upheld the imposition of a curfew only where justified by the nature of the parolee's offense or history of parole violations. *Compare, e.g., United States v. Whitfield*, 464 Fed. Appx. 525, 529 (6th Cir. 2012) (upholding curfew where parolee had extensive criminal history, and the fact that the underlying conviction occurred at night contributed to its "overall nature"); *with United States v. Neeley*, 675 F. Supp. 2d 655, 658, (W.D. Va. 2009) ("[T]he suggested curfew is unreasonable in light of Neeley's background and his aim of finding employment as a construction worker, which could require reporting to job sites early in the morning"); *United States v. Torres*, 566 F. Supp. 2d 591, 602 (W.D. Tex. 2008) (finding that where defendant had registered and re-registered in a timely fashion with the Texas authorities every ninety days as required by law since his release from prison, the imposition of a curfew would violate his right to be free from excessive bail under the Eighth Amendment).



Mr. Pollard's offense cannot be compared to a drug deal or an act of violence, where the nocturnal nature of the crime might justify keeping the offender off the streets at night, to safeguard against repeat conduct, and to ensure public safety. Nothing in Mr. Pollard's "history or characteristics" justifies the imposition of a curfew. Similarly, subjecting Mr. Pollard to an arbitrary curfew does not serve any legitimate governmental sentencing interest, since Mr. Pollard's ability to disclose supposedly confidential information could occur at any time of day. There is therefore no statutory or constitutional basis for its imposition.

### **C. Computer Monitoring**

Finally, the Computer Monitoring Condition constitutes a "restriction" on Mr. Pollard's computer and internet use. *See United States v. Lifshitz*, 369 F.3d 173, 188-189 (2d Cir. 2004) ("monitoring" of behavior constitutes a "restriction" on behavior). Courts have upheld broad internet and computer restrictions only where "(1) the defendant used the internet in the underlying offense; (2) the defendant had a history of improperly using the internet to engage in illegal conduct; or (3) particular and identifiable characteristics of the defendant suggested that such a restriction was warranted." *United States v. Perazza-Mercado*, 553 F.3d 65, 70 (1st Cir. 2009). None of these circumstances are present here.

Computer- and internet-related conditions are most common where the defendant used the internet to perpetrate the crime (most commonly, in pedophilia cases), or where less restrictive conditions would be ineffective. *Compare, e.g., United States v. Johnson*, 446 F.3d 272, 281 (2d Cir. 2006) (upholding internet ban because Johnson had made "outbound use of the Internet to initiate and facilitate victimization of children"); *with United States v. Peterson*, 248 F.3d 79, 82-84 (2d Cir. 2001) (vacating a computer and Internet ban, in part because "there [was] no indication that Peterson's past incest offense had any connection to computers or to the Internet.")).

Here, there is no connection between the underlying offense and computers or the internet, and Mr. Pollard does not have a history of using computers to engage in illegal conduct. To the contrary, when Mr. Pollard committed the underlying offense in 1984-1985, there was no internet, and personal computing was still in its early stage. Mr. Pollard has no documents – electronic or otherwise – that he can possibly transmit to anyone. Mr. Pollard’s unlawful activity involved removing *hard copy documents* from a government agency building. The Computer Monitoring Condition bears no relation to such actions. Moreover, the monitoring of Mr. Pollard’s computer use does not serve to protect the public, since it would not prevent him from disclosing information in person, over the phone, or via regular mail.

Critically, the requirement that Mr. Pollard’s work computer be monitored necessarily renders him unemployable. Mr. Pollard is a highly intelligent graduate of Stanford University and has an offer of employment from a real estate investment firm in New York City. But no reasonable employer would hire Mr. Pollard if it meant that the employer’s computer system was subject to unrestrained monitoring by the United States government. The Computer Monitoring Condition functions as an absolute bar against Mr. Pollard’s ability to begin a professional life after prison.

Courts have vacated computer-related conditions where the breadth of the condition impermissibly affected the releasee’s employment prospects, and therefore conflicted with the rehabilitative goals of supervised release. *See United States v. Russell*, 600 F.3d 631, 637 (D.C. Cir. 2010) (computer restriction that prevented offender “from continuing in a field in which he ha[d] decades of accumulated academic and professional experience” “affirmatively and aggressively interfere[d] with the goal of rehabilitation”); *United States v. Holm*, 326 F.3d 872, 878 (7th Cir. 2003) (“Because Holm is most likely to find gainful employment in the

computer field upon his release, the conditions as currently written could affect his future productivity and jeopardize his rehabilitation in violation of the command of § 3583(d).”); *United States v. Johnson*, Nos. 97-CR-0206, 98-CR-160, 2005 U.S. Dist. LEXIS 52, at \*31-32 (N.D.N.Y Jan. 5, 2005) (“The Court has concern regarding the effects of prohibiting Internet access on Defendant’s employment. Defendant is an educated individual who, before his conviction, enjoyed success in a technical career. Since being released from prison, Defendant has suffered a significant setback in his employment opportunities, performing maintenance work. . . . [P]rofessional advancement is an important part of Defendant’s resuming a positive lifestyle.”). Because the Computer Monitoring Condition would have the effect of preventing Mr. Pollard from obtaining and maintaining gainful employment, it is plainly inconsistent with the goals of criminal sentencing.

In its Notice of Action on Appeal, the Commission suggested that the Computer Monitoring Condition would assist the Probation Office in ensuring that Mr. Pollard complies with his obligations under the 1986 plea agreement, which requires Mr. Pollard to refrain from disclosing any classified information he might still recall, and to submit any book manuscript or article to the Director of Naval Intelligence for pre-publication approval. In reality, the Computer Monitoring Condition does nothing to ensure Mr. Pollard’s compliance with these requirements. In a purely hypothetical sense, Mr. Pollard could deliver a handwritten hard-copy manuscript and would have no need to use a computer or the internet to create or transmit the offending manuscript. Thus, computer and internet monitoring cannot in any way be justified on the theoretical notion that a manuscript could be transmitted electronically. Moreover, any violation of the plea agreement would become known very quickly, and would immediately result in Mr. Pollard’s remand to prison. Having just been released on parole after spending 30

years in prison, it is inconceivable that Mr. Pollard would risk returning to prison in order to publish an unauthorized book or article. In sum, the Computer Monitoring Condition is neither connected to the underlying offense nor necessary to protect the public, and therefore should not be imposed.

**CONCLUSION**

Mr. Pollard has served his time. He has no valuable information to impart to anyone. He is not a threat or a danger. He has no motive, inclination, or incentive to violate the law. There is no chance of recidivism. Mr. Pollard has an opportunity to work and contribute to society. He is a candidate for the least intrusive conditions. For these reasons, the Commission should amend Mr. Pollard's parole conditions to remove the GPS Monitoring Condition, the curfew and the Computer Monitoring Condition.

Dated: New York, New York  
January 15, 2016

CURTIS, MALLET-PREVOST,  
COLT & MOSLE LLP

By:

 GH

Eliot Lauer  
Jacques Semmelman  
Gabriel Hertzberg  
Sylvi Sareva  
101 Park Avenue  
New York, NY 10178  
Tel.: (212) 696-6000  
Fax: (212) 697-1559

*Attorneys for Petitioner Jonathan J. Pollard*

TAB A

## *Appeasement of Iraq Made Me a Spy*

The Wall Street Journal

February 15, 1991 Friday

Copyright 1991 Factiva, a Dow Jones and Reuters Company

All Rights Reserved

# FACTIVA®

Copyright © 1991, Dow Jones & Co., Inc.)

## THE WALL STREET JOURNAL

U.S. EDITION

**Section:** Pg. A12

**Length:** 1616 words

### Body

---

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

## Appeasement of Iraq Made Me a Spy

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 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-peddling 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 wide-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 burgeoning 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 Iranians 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.

## Appeasement of Iraq Made Me a Spy

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 pre-emptive 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 fend 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

## Notes

---

PUBLISHER: Dow Jones & Company

## Classification

---

**Language:** ENGLISH

**Publication-Type:** Newspaper

**Journal Code:** J

**Subject:** JAIL SENTENCING (91%); MISSILE SYSTEMS (90%); GUILTY PLEAS (90%); TREASON (90%); SENTENCING (90%); ESPIONAGE (90%); INDICTMENTS (89%); IRAQ WAR (78%); NATIONAL SECURITY (78%); DEFENSE DEPARTMENTS (73%)

**Industry:** I25 Chemicals; I364 Aerospace Products/Parts; IAER Aerospace/Defense

**Geographic:** UNITED STATES (95%); ISRAEL (95%); IRAQ (94%); EGYPT (93%); MIDDLE EAST (79%)

DJI Codes: CHM, ARO, STD, DEF, ML

DJI Descriptors: Chemicals, Aerospace, State Department, Defense Department, Middle East



Appeasement of Iraq Made Me a Spy

**Load-Date:** December 6, 2004

# EXHIBIT D

DIRECTOR OF NATIONAL INTELLIGENCE  
WASHINGTON, DC 20511

FEB 10 2016

The Honorable J. Patricia Wilson Smoot  
Chairman  
U.S. Parole Commission  
Park Place Building, Suite 420  
5550 Friendship Building  
Chevy Chase, MD 20815

Dear Chairman Smoot:

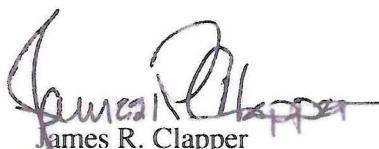
As the Director of National Intelligence, I am the head of the United States Intelligence Community (IC). *See* 50 U.S.C. 3023(b)(1). In this capacity, I submit this letter under 28 C.F.R. Sections 2.19(a)(6) and (b)(1) to provide you with additional information related to the classified information Johnathan Pollard compromised.

Mr. Pollard was convicted of conspiring to deliver national defense information to a foreign government in violation of 18 U.S.C. Section 794(c) (Espionage Act), which is an extremely serious offense. IC elements have confirmed that certain information compromised by Mr. Pollard remains currently and properly classified at the Top Secret and Secret levels. As such, future unauthorized disclosure of this information could risk harm to our national security. Pursuant to Executive Order 13526, the Top Secret classification level applies to information, the unauthorized disclosure of which could reasonably be expected to cause exceptionally grave damage to the national security; and the Secret classification level applies to information, the unauthorized disclosure of which could reasonably be expected to cause serious damage to the national security.

In July 2015, the IC was asked to assess whether there was a "reasonable probability" that Mr. Pollard would commit a new crime for purposes of applying the mandatory parole provisions of 18 U.S.C. Section 4206(d). The IC concluded that it could not say that such a "reasonable probability" existed. However, Mr. Pollard has previously admitted to violating the Espionage Act by disclosing classified information against the interests of the United States Government. Moreover, some of the information to which Mr. Pollard had access, and in some cases compromised, remains classified as detailed above. Further disclosures of such classified information would cause the damage to the national security described above. Given these circumstances, the IC believed then, and still believes, that the imposition of special conditions would be an appropriate means to mitigate concerns of future unauthorized disclosures of classified information by Mr. Pollard.

Please let me know if the Commission needs any additional information from the IC.

Sincerely,

  
James R. Clapper

# EXHIBIT E

---

**UNITED STATES PAROLE COMMISSION  
WASHINGTON, D.C.**

---

**IN RE: JONATHAN J. POLLARD  
REGISTER # 09185-016**

---

**SUPPLEMENTAL MEMORANDUM OF JONATHAN J. POLLARD  
IN SUPPORT OF COMMISSION'S RECONSIDERATION OF PAROLE CONDITIONS**

CURTIS, MALLET- PREVOST,  
COLT & MOSLE LLP

Eliot Lauer

Jacques Semmelman

Gabriel Hertzberg

Sylvi Sareva

101 Park Avenue

New York, New York 10178

Tel.: (212) 696-6000

Fax: (212) 697-1559

*Attorneys for Jonathan J. Pollard*

In response to the letter to the United States Parole Commission (“Commission”) from James R. Clapper, Director of National Intelligence, dated February 10, 2016 (the “Clapper Letter”), Jonathan J. Pollard respectfully submits this Supplemental Memorandum to the Commission in connection with the Commission’s reopening of Mr. Pollard’s parole hearing pursuant to 28 C.F.R. § 2.28(a).

\* \* \*

The Clapper Letter fails to address the specific requirements and direction of the district court in Mr. Pollard’s habeas action. At the December 14 hearing, Judge Forrest identified the “fundamental issue” informing a review of the Special Conditions to be “the question as to whether there is anything that Mr. Pollard can disclose that would endanger the public.” (12/14/15 Tr. at 12). The Court observed that it was unclear what the broad Special Conditions were intended to accomplish “[i]n the absence of factual determination as to some danger based on *what Mr. Pollard still knows*, if anything, that would be of current use to a foreign government.” (*Id.* at 16). Judge Forrest directed the Commission to make findings of fact as to whether there is “secret information *in Mr. Pollard’s head* that they are aware of or have reason to believe exists.” (*Id.* at 21) (emphasis added).

In his letter, Mr. Clapper states that “certain information compromised by Mr. Pollard [in 1984/1985] remains currently and properly classified at the Top Secret and Secret levels,” and that the unauthorized disclosure of such information could reasonably be expected to cause either “exceptionally grave” or “serious” damage to the national security. He further states that the Intelligence Community (“IC”) believes that “the imposition of special conditions would be an appropriate means to mitigate concerns of future unauthorized disclosures of classified information by Mr. Pollard.”

The Clapper Letter does not provide any facts on which to base the Special Conditions. First, the letter fails to set forth facts, as Judge Forrest instructed the Commission to do, that Mr. Pollard has such 30-year old classified information *in his head*. Even assuming some information is still “classified,” as a practical matter, it is extremely unlikely that Mr. Pollard remembers, or could possibly remember, the details of 30-year old information to an extent that it could be of any value to anyone. There is nothing before the Commission to indicate that Mr. Pollard ever memorized the documents he delivered, or that he could possibly remember any useable details 30 years later. Mr. Pollard’s unlawful activity involved retrieving large numbers of hard copy documents such as intelligence publications and satellite photographs by topic, physically removing them from a government agency building in a suitcase, handing the suitcase to an Israeli government representative for photocopying, and later returning the contents of the suitcase to the government files. *See* Indictment at ¶¶ 19-21, *United States v. Pollard*, No. 86 Cr. 0207 (D.D.C. June 4, 1986) (Lauer Decl. Ex. 1 [Docket No. 3]). It is inconceivable that anyone could memorize the details of such documents at the time of disclosure, let alone remember meaningful details 30 years later.

Finally, and most significantly, neither the Clapper Letter nor anything else before the Commission explains how the Special Conditions would serve national security interests. The letter merely states that the Special Conditions “would be an appropriate means to mitigate concerns of future unauthorized disclosures of classified information by Mr. Pollard.” However, it does not set forth the required findings of fact and thus does not offer any rational connection between the Special Conditions and the risk of disclosure. The Special Conditions would not have prevented Mr. Pollard from committing his underlying offense, nor would they have aided law enforcement officials in detecting his criminal activity. They would similarly have no

impact on Mr. Pollard's ability to disclose any information he might retain today, even though he has no such information and has no intention of jeopardizing his freedom.

For example, Mr. Pollard's GPS device allows the Probation Office to watch a blip of his location move around the Southern District of New York, but does nothing to physically prevent or deter him from having a conversation at a coffee shop, within the confines of his apartment or in a public park. There simply is no relationship between the underlying offense and the need to monitor Mr. Pollard's whereabouts, where the Commission's supposed concern is a conversation that could theoretically occur anywhere. Similarly, subjecting Mr. Pollard to an arbitrary curfew would not "mitigate the risk of disclosure" since Mr. Pollard's ability to disclose supposedly confidential information could occur at any time of day. And the monitoring of Mr. Pollard's computer use would not prevent him from disclosing the classified information in person, over the phone, or via regular mail. The Special Conditions are no more tailored to the risks identified by Mr. Clapper than a condition that prevents him from visiting the Museum of Modern Art, or from speaking on a payphone east of Central Park. Like these examples, the Special Conditions are totally arbitrary on these facts. Their only effect is to burden and stigmatize Mr. Pollard, and impair his ability to reintegrate into society.

In sum, the unsupported conclusions in the Clapper Letter are directly inconsistent with Judge Forrest's instruction that on remand, any justification based on the level of Mr. Pollard's criminality "at a much earlier point in time" be "brought forward to justify and support the very severe broad restrictions" at issue. (12/14/15 Tr. at 14). As the court noted, that the 30-year old information remains classified "is as to a past fact, and it is unclear how [it] relates to protection of the public welfare or any other sentencing factor currently." (*Id.* at 16-17). The Clapper Letter fails to provide any *present* factual basis sufficient to support the Special



Conditions. For all the reasons set forth in this supplemental memorandum, the memorandum submitted by Mr. Pollard on January 15, 2016, and Mr. Pollard's submissions in the habeas action, the Commission should withdraw the Special Conditions of Mr. Pollard's parole.

Dated: New York, New York  
February 18, 2016

CURTIS, MALLET-PREVOST,  
COLT & MOSLE LLP

By:

A handwritten signature in blue ink, appearing to read "Eliot Lauer" followed by a vertical line and the letters "GL".

Eliot Lauer  
Jacques Semmelman  
Gabriel Hertzberg  
Sylvi Sareva  
101 Park Avenue  
New York, NY 10178  
Tel.: (212) 696-6000  
Fax: (212) 697-1559

*Attorneys for Petitioner Jonathan J. Pollard*

24622180

# EXHIBIT F



U.S. Department of Justice

United States Attorney  
Southern District of New York

---

86 Chambers Street, 3rd floor  
New York, New York 10007

March 10, 2016

**BY ECF AND EMAIL**

The Honorable Katherine B. Forrest  
United States District Judge  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *Pollard v. United States Parole Commission, et al.*, No. 15  
Civ. 9131 (KBF)

Dear Judge Forrest:

This Office represents the Respondents in the above-captioned habeas litigation, which the Court remanded to the United States Parole Commission (“USPC” or the “Commission”) (*see* Dkt. No. 26). We write to address and oppose the motion for a writ of mandamus filed by Petitioner Jonathan Pollard late last night (*see* Dkt. Nos. 30-32). Mr. Pollard’s motion is premised on the supposed non-issuance of the Commission’s decision in his matter upon remand. As explained further below, however, the Commission has issued a Notice of Action in Mr. Pollard’s reopened case, and the Government has provided it to Mr. Pollard’s counsel. Mr. Pollard’s motion should therefore be denied as moot.

Following the Court’s remand of this matter to the USPC, the USPC reopened Mr. Pollard’s case and conducted a new review of his case file. In order to provide Mr. Pollard with the opportunity to be fully heard in this reopened proceeding, the USPC kept Mr. Pollard apprised, through counsel, of the documents in his file that the Commission would consider in assessing his case, and provided him with two opportunities to make submissions to the Commission setting forth his positions. *See* Declaration of Eliot Lauer Dated March 9, 2016 (Dkt. No. 32) (“Lauer Dec.”) ¶¶ 5-8, 11-12. Among the documents that the USPC brought to Mr. Pollard’s attention was a letter dated February 10, 2016, from James R. Clapper, Director of National Intelligence (the “Clapper Letter”). *Id.* ¶ 11. The Commission provided Mr. Pollard with an opportunity to respond specifically to the Clapper Letter. *Id.* Mr. Pollard’s counsel submitted a response on February 18, 2016 (which supplemented an earlier submission made to the USPC on January 15, 2016), *id.* ¶¶ 8, 12, which was the last communication the Government received from Mr. Pollard’s counsel. Subsequently, the USPC hearing examiner handling Mr. Pollard’s reopened

Hon. Katherine B. Forrest

March 10, 2016

Page 2

case considered all of the available information, including Mr. Pollard's recent submissions, and provided a recommendation to the Commission. The USPC voted on this recommendation and issued a Notice of Action dated March 2, 2016. According to its normal procedures, the Commission would have sent the Notice of Action to Mr. Pollard's counsel, and to the United States Probation Office for transmission to Mr. Pollard. Upon investigation by the Commission, it appears that the Notice may not have been sent due to an administrative error. In any event, the undersigned counsel has emailed the Notice directly to Mr. Pollard's counsel.

The USPC has already taken the action that Mr. Pollard primarily seeks in his motion for a writ of mandamus—issuance of a Notice of Action in Mr. Pollard's reopened case. Therefore, the Court should deny the motion for a writ of mandamus as moot.<sup>1</sup>

Sincerely,  
PREET BHARARA  
United States Attorney

By: /s/ Rebecca S. Tinio  
REBECCA S. TINIO  
Assistant United States Attorney  
86 Chambers Street, 3rd Floor  
New York, New York 10007  
Tel. (212) 637-2774  
Fax (212) 637-2702

---

<sup>1</sup> Moreover, although the Court need not and should not consider the merits of Mr. Pollard's application, Mr. Pollard's motion articulates no basis for the extreme (and improper) remedy of summary vacation of his parole conditions (*see* Dkt. No. 31). If the Court is inclined to reach the merits, which it should not, the Government respectfully requests leave to file a further response explaining in greater detail why Mr. Pollard would not be entitled to the relief of vacation of his parole conditions, even if the Commission had not issued the Notice of Action in question.

# EXHIBIT G

U.S. Department of Justice  
 United States Parole Commission  
 90 K Street, N.E., 3rd Floor  
 Washington, D.C. 20530

# Notice of Action

Name: POLLARD, Jonathan  
 Register Number: 09185-016  
 DCDC No: 219-998

USPO: Southern District of New York  
 Date: March 2, 2016

The Commission has reviewed all of the information in your case file including documents that have been added to the file after the mandatory parole hearing. These include the letter dated February 10, 2016, from James R. Clapper, Director of National Intelligence as well as memoranda submitted on your behalf dated January 15, 2016, and February 18, 2016. After considering all of this information, the Commission orders the following action:

Pursuant to 2.28(a), reopen and provide rationale for the special conditions for Global Positioning Systems and computer monitoring. This action is taken to comply with the court order issued December 16, 2015, by U.S. District Court Judge Katherine B. Forrest.

**Special Condition #1:** You shall be subject to Global Positioning System (GPS) monitoring to include curfew and/or exclusions zones determined by the United States Probation Officer (USPO):

**Rationale:** The Commission finds that this special condition is reasonably related to the nature and circumstances of the offense, the history and the characteristics of the offender and the purposes of criminal sentencing under 18 U.S.C. §3553 to: (1) deter the offender from further criminal conduct and to; (2) protect the public from further crimes.

Furthermore, the Commission finds that the standard conditions of parole supervision alone are inadequate to monitor your activities for the purpose of minimizing the risk that you will flee the country and engage in further criminal acts. You have a history of deception and an expressed desire to leave the country and the Commission finds that GPS monitoring will allow for location tracking to determine if there is further deception and/or unauthorized travel. The Commission has reached these conclusions based on the following case specific factors:

- You are viewed as a potential flight risk based on your public statements of your desire to leave the United States and go to Israel. This began with your attempt to seek asylum at the Israeli Embassy in Washington, DC on the date of your arrest. (see Pre-Sentence Investigation (PSI) page 5; and the page 3 of the letter dated May 1, 1995 by Acting CIA Director William O. Studeman). In addition, at your parole hearing on July 1, 2014, Jay Bratt, Deputy Chief, National Security Section of the U.S. Attorney's Office for the District of Columbia, testified that the US Government is concerned that you would flee the country when released (see page 1 of hearing summary dated July 1, 2014).
- Your file contains a letter dated November 13, 2015 from a Member of Congress stating that it was your desire to move to Israel upon releasing from the Federal Bureau of Prisons on November 20, 2015. The letter further proposes that you may have to renounce your U.S. Citizenship in order to move to Israel. Such a proposition is in clear contradiction to the order of the sentencing court that

you be sentenced to the custody of the Attorney General for life and the parole certificate that you signed prior to your release indicating an understanding that you will not be able to leave the district of release without prior approval of your U.S. Probation Officer supervising you. This proposition by a Member of Congress on the behalf of a parolee is highly unusual and indicates to the Commission that you are a risk to flee the country in the event the request to renounce your citizenship and forego all parole obligations were not granted. The Commission concludes that additional monitoring techniques are needed to keep track of your location and your actions in order to enforce the conditions of supervision.

- Your base offense of espionage was by definition an exercise in deception and furtive movements that included trips abroad and a false identity of "Danny Cohen" (see PSI, pages 3 and 5).
- You have demonstrated pervasive efforts to provide classified information to multiple sources in various foreign nations. Prior to your espionage for Israel you made a number of interactions with other outside entities that indicated your willingness to pass classified information. Specifically, in 1979, you made an unauthorized, clandestine visit to an African Embassy to obtain classified information. In 1983, you passed classified information to an Asian diplomat. In 1984, you passed classified information, not in any way connected to Israel, to a freelance journalist. You also passed classified information to a foreign military officer not connected in any way to Israel or the Middle East. Even while spying for Israel, you contacted and offered your services to the foreign intelligence service of a non-Middle Eastern country. (See page 3 of Studeman letter dated May 1, 1995).
- You have previously demonstrated a propensity to violate the terms of the plea agreement and/or an order of the sentencing court. This is evidenced by the fact that, prior to sentencing, you violated a gag order issued by a Federal Appeals Court Judge by revealing information about your criminal case to a television journalist without giving prior notice to the Director of Naval Intelligence. (See page 6 of Studeman letter dated May 1, 1995). GPS monitoring by the supervision officer will allow for exclusion zones that keep track of your location, in order to monitor your compliance with your plea agreement.
- You compromised information that remains classified at the Top Secret and Secret levels and future unauthorized disclosure of the information could risk harm to the national security of the United States. Based on the potential grave risk that would result from further dissemination of information that you have already compromised the Commission finds that additional monitoring techniques are needed to keep track of your location and limit the opportunities to deliver Top Secret and Secret information again. (See Letter dated February 10, 2016 from James R. Clapper, Director of National Intelligence.)



**Special Condition #2:** You shall: (1) consent to your probation officer and or probation service representative conducting periodic unannounced examinations of your computer(s) equipment which may include retrieval and copying of all memory from your computer(s) and any internal or external peripherals to ensure compliance with this condition and/or removal of such equipment for the purpose of conducting a more thorough inspection; and (2) consent at the direction of your probation officer to having installed on your computer(s), at your expense, any hardware or software systems to monitor your computer use.

**Rationale:** The Commission finds that this special condition is reasonably related to the nature and circumstances of the offense, the history and the characteristic of the offender and the purposes of criminal sentencing under 18 U.S.C. §3553 to: (1) deter the offender from further criminal conduct and to; (2) protect the public from further crimes.

Furthermore, the Commission finds that the standard conditions of parole supervision alone are inadequate to: (1) monitor your activities for the purpose of minimizing the risk that you will engage in criminal behavior by disclosing classified information to unauthorized sources and; (2) monitor your compliance with your plea agreement. The Commission has reached this conclusion based on the following case specific factors:

- Your plea agreement requires you to refrain from unauthorized disclosure of any type of classified information derived during your employment with the United States Navy. (See paragraph 9 of the plea agreement dated May 23, 1986). The Commission concludes that this obligation remains binding for the duration of your sentence including the time you are on parole. Your plea agreement binds you to not disclose classified information, i.e. information that was classified when you received it. It does not provide that you may make an independent assessment of whether the stolen information is still classified currently. The Commission is responsible for your parole supervision to deter you from further crimes and to protect the public and the Commission finds that monitoring of your computers (both home and work to include any smart phones) will assist in carrying out this obligation and assist in the continued enforcement of the terms of the plea agreement.
- Your plea agreement also calls for pre-publication review for any books, articles, etc, regarding your employment with the Navy and/or espionage activities (see plea agreement dated May 23, 1986). Computer monitoring for both your home and business devices can assist the supervision office in determining if you are complying with this obligation under your plea agreement, by determining whether you are working on a publication and/or writing about your activities.
- You have previously demonstrated a propensity to violate the terms of the plea agreement and/or an order of the court. This is evidenced by the fact that, prior to sentencing, you violated a gag order issued by a Federal Appeals Court Judge by revealing information about your criminal case to a television journalist without giving prior notice to the Director of Naval Intelligence. (See page 6 of Studeman letter dated May 1, 1995). This indicates to the Commission that your communications by means of the computer or mobile devices need to be monitored to a greater extent than is provided by the standard conditions of supervision.
- While you were incarcerated, you released or attempted to release classified information by sending at least 14 letters that contained classified information. (See page 4 of Studeman letter dated May 1, 1995). The Bureau of Prisons prohibited any computer access while you were confined (see



Hearing summary dated July 7, 2015, page 3). This indicates to the Commission that it is necessary to monitor your home and business computers while you are in the community (with greater access to methods of communication) to ensure that information is not delivered to unauthorized sources.

- You have also demonstrated a recent propensity to dissemble. Specifically, you represented to the Commission at your mandatory parole hearing that you had secured employment and would be employed by [REDACTED]. You now represent to the court that the special conditions of parole interfere with your ability to obtain employment. You have consistently represented yourself as a "White Knight" for Israel, but the record shows you passed or attempted to pass classified information to a number of entities unconnected with Israel. (See page 3 of Studeman letter). The Commission views monitoring your computer usage as an aid to your rehabilitation, as knowing your usage is subject to review will assist you in pro-social usage of computer access.
- You compromised information that remains classified at the Top Secret and Secret levels and future unauthorized disclosure of the information could risk harm to the national security of the United States. Based on the potential grave risk that would result from further dissemination of information that you have already compromised, the Commission finds that monitoring of your computer and other electronic means of communication are needed to deter further unauthorized disclosure of Top Secret and Secret information. (See Letter dated February 10, 2016 from James R. Clapper, Director of National Intelligence.)

Copies of this Notice are sent to your institution and/or to your supervision office. In certain cases, copies may also be sent to the sentencing court. You are responsible for advising any others you wish to notify.

cc: U.S. Probation Office  
Southern District of New York  
500 Pearl Street, 7th Floor  
New York, NY 10007-1312

Eliot Lauer  
c/o Curtis, Mallet-Prevost, Colt & Mosle, LLP  
Attorney at Law  
101 Park Avenue  
New York, NY 10178-0061

# EXHIBIT H

United States Parole Commission (USPC)

**Post Hearing Assessment  
(Initial Hearing)**

Name .....: Pollard, Jonathan

Reg No.....: 09185-016

---

Hearing Date: 07/01/2014

Hearing Examiner: Mark A. Tanner

---

Date of Pre-Hearing Assessment prepared for current hearing: 03/26/2014

Location of Hearing: FCI Butner, NC

Hearing Format: In Person

Hearing Type: Federal Initial

**Consider Original Jurisdiction**

**I. Victim Information considered:**

Victim(s) provided written or telephonic communication prior to the hearing – See PHA for detailed information.

The following Victim(s) provided testimony at the hearing: Jay Bratt, Deputy US Attorney General – Mr. Bratt stated his Office is opposed to parole for the subject and said the Government could have charged him with 25 counts but chose to let him plead guilty to one count of Conspiracy to Commit Espionage. He was a spy out of greed, not altruistic motives. He received approximately \$50,000 for the information he provided to Israel and agreed to provide additional information. He caused harm and compromised our national defense by passing the information to Israel and he planned to flee this country and live in Israel.

---

Mr. Bratt also has a concern about the subject fleeing this country while on supervision possibly going to Israel without US Government approval.

Larry Nicholas Meekins, Department of Defense, attended the hearing as an interested observer to ensure no sensitive information was revealed by the subject. He had no comments during the hearing.

**II. Representative:**

The prisoner was represented by Eliot Lauer, Attorney from Curtis, Mallet-Prevost, Colt & Mosle. 101 Park Avenue, New York, NY 10178. Mr. Lauer said the subject has spent enough time in prison for

## United States Parole Commission (USPC)

what he did almost 30 years ago and should be placed on parole. He has maintained clear conduct and takes responsibility for his actions. He wants to give back to society by living as a free person working and paying his taxes. He presented documents that listed two former Secretaries of State, former US Attorney General, former Vice President, former director of the CIA, two former US National Security Advisers, 18 former US Senators, dozens of members of Congress and various other community, civic and religious leaders all requesting the subject be released (see attached documents).

**III. Summary of Information Provided at the Hearing (include the prisoner's release plan if any):**

Jonathan Pollard is 59-years old, said he takes full responsibility for his crimes and did it for the security of Israel. He did not like the path the US was taking and he wanted to be a, "White Knight" and save Israel by helping them with intelligence information that the US Government had but was not providing to its Allie. He said, "There is no justification for what I did." However, he said he acted out of altruistic reasons even though he took money for providing the information. He said he took approximately \$50,000 but he did not start out by asking for money. He said there were three reasons for his actions: (1) He wanted to help Israel, (2) The events that were unfolding in the Middle East at the time, and (3) Israel is one of our allies and he wanted to help our "Our friends kill our enemies."

The subject made it clear he never gave up names of US Agents working in Israel and no Americans within the intelligence community were hurt or exposed as a result of his actions. He said he was immature, young and in petulant at the time. He now has a clear mind and is ready to contribute to the system rather than take away from it.

The subject has a release plan to live in NY City and work as an analyst in the Finance Department of [REDACTED] a real estate company and they will pay him \$50,000 per year. He currently has no release residence since he would like to transition through a Community Corrections Center.

**IV. Findings of Fact (required only for rescission hearings, otherwise indicate N/A):**

N/A

**V. Guidelines:**

The Examiner concurs with the guideline that was estimated in the Pre-Hearing Assessment.

**VI. Guideline Use/Basis for recommendation: Deny parole and continue to expiration.**

## United States Parole Commission (USPC)

Jonathan Pollard is a 59-year old male offender who pled guilty to Conspiracy to Commit Espionage and is serving a Life sentence. Despite taking responsibility for his actions, the subject believes what he did was help an ally rather than hurt our National Security. However, according to the US Government, the breadth and scope of the classified information that the subject sold to the Israelis was the greatest compromise of US security to that date. He passed thousands of Top Secret documents to Israeli agents which also threatened US relations in the Middle East among the Arab countries. The information provided by Mr. Pollard was determined to be classified at a level that far exceeded the level the National Security Counsel contemplated exchanging with any ally. Finally, by the subject selling this information to Israel for his own personal gain, he deprived the US Government of any leverage with the Israeli Government of further intelligence exchanges that routinely take place as a quid pro quo. Given all this information, paroling the subject prior to serving 30 years would depreciate the seriousness of the offense and might encourage others to take a similar path.

The Examiner is recommending a decision more than 48 months above the minimum Category Eight guideline for the following reasons: You used your employment to gain access to national defense secrets and sold them to a foreign government for profit. The breadth and scope of the classified information that you sold to the Israelis was the greatest compromise of US security to that date. You passed thousands of Top Secret documents to Israeli agents which also threatened US relations in the Middle East among the Arab countries. The information you provided was determined to be classified at a level that far exceeded the level the National Security Counsel contemplated exchanging with any ally. Finally, by selling this information to Israel for your own personal gain, you deprived the US Government of any leverage with the Israel Government for further intelligence exchanges that routinely take place as a quid pro quo. Given all this information, paroling you at this time would depreciate the seriousness of the offense and promote disrespect for the law.

**VII. Other Information to Consider: N/A****Hearing Examiner Signature:**

Mark A. Tanner, Hearing Examiner

Date: 07/08/2014

# EXHIBIT I

United States Parole Commission (USPC)

**Post Hearing Assessment  
(Non-Revocation Hearing)**

Name.....: Pollard, Jonathan

Reg No ..... : [REDACTED]

---

Hearing Date: 7-7-2015

Hearing Examiner: Lynne E. Jenkins

---

Date of Pre-Hearing Assessment prepared for current hearing: 5-29-2015, by M. Tanner

Location of Hearing: FCI Butner, NC

Hearing Format: In Person

Hearing Type: Mandatory Parole Hearing

**I. Victim Information considered:**

The Examiner did not receive any additional information from victim(s) or victim representative(s) prior to or during the hearing.

**II. Representative:**

Eliot Lauer, Attorney, Curtis, Mallet-Prevost, Colt & Mosle, LLP, 101 Park Ave, NY, NY 10178-0061. Mr. Lauer verified the Commission was in receipt of his "Memorandum to the U.S. Parole Commission on Behalf of Jonathan Pollard" and a letter dated July 1, 2015, for the U.S. Attorney's Office, DC by Jay Bratt.

In that letter, the U.S. Attorney's Office writes they "do not intend to advocate to the U.S. Parole Commission that, for purposes of applying 18 U.S. C. Section 4206 (d), there is a reasonable probability that Mr. Pollard will commit a Federal, state or local crime if release on parole."

Also Present:

- J. Halfast, Case Manager, FCI Butner. She advised the subject is a model inmate who is a unit orderly. He is very thoughtful and brings concerns to the unit team. He doesn't receive any special treatment.
- Nick Meekins, Department of Defense (made no statement)
- David Laufman, Chief, Counter-Intelligence National Security Section, U.S. Attorney's Office, DC (made no statement)

United States Parole Commission (USPC)

- Gregg Maisel, Chief, National Security Section, U.S. Attorney's Office, DC. Mr. Maisel spoke towards the end of the hearing. He confirmed the letter from their office and their position is not to object to mandatory parole. He applauded Mr. Pollard's statement that he intends to abide by all the rules of parole. He emphasized three items in the plea agreement signed on 5-29-1986 that will still be applicable upon release:
  - o Non-disclosure of classified information.
  - o Pre-publication review of any publication written by Mr. Pollard by the Director or Naval Intelligence.
  - o Disgorgement of profits from any publication written by Mr. Pollard. There was an Assignment to the United States for any profits as part of the plea.

Additionally, Mr. Maisel emphasized the travel requirements by the U.S. Parole Commission under section 2.41 that state all foreign travel must be approved by the Commission. He requests their office receive notification of any travel by Mr. Pollard.

**III. Findings of Fact (required only for rescission hearings, otherwise indicate N/A):** n/a

**IV. Guidelines:**

n/a

**V. Guideline Use/Basis for recommendation:**

Under the Mandatory Parole procedures, the Commission shall grant mandatory parole unless it determines 1) the subject has seriously or frequently violated the rules of the institution or, 2) we find there is a reasonable probability the subject will violate any federal state, or local law.

Based on the information provided at this hearing, I do not believe Mr. Pollard has seriously or frequently violated the rules of the institution and I do not believe it is likely he will commit new crimes. As a result, I recommend the Commission grant mandatory parole effective on 11-21-2015. There should be special conditions for GPS monitoring and computer monitoring.

**VI. Other Information to Consider:**

Mr. Pollard read a statement into the record that is attached to this summary. He states after 30 years, he has learned his lesson and does not want to return to prison. He promises to remain law-abiding and comply with the conditions of parole.

He acknowledged the seriousness of his crimes and makes no excuses. He was asked if he joined the Navy with intentions of engaging in espionage and he responded that he did not. He joined because his father and brother had both served. He revealed that he became involved in providing classified



United States Parole Commission (USPC)

information to Israel after the Marine Barrack bombing in 1983 and he did not believe Israel was given enough information to defend itself. He admits he drew the wrong conclusions. He state he did not engage in espionage for the money, but admits to receiving approximately \$50,000 in payments. When this Examiner pointed out that was a relatively small amount, he responded that even receiving \$1 would have been wrong. He was asked about current events and he stated the follows as much as he can and reads numerous publications. When asked about his opinion on Israel and their current status, he stated he does not have an opinion and can only reflect on "the dreadful error he had made."

He advised his release plan is to live in New York City with his wife, Ester Pollard. She currently resides in Israel, but will return to the U.S. if his release is approved. He also has a job promised at [REDACTED] where he will work as an analyst and earn a starting salary of \$50,000. An apartment will be provided through his attorney's connections at [REDACTED] Street in Manhattan and he will be required to pay a reduced rent of \$1500 per month. This is documented in the attachments from the memo submitted by Mr. Lauer.

Mr. Pollard acknowledged he will need specific permission to travel, but he indicated he has no intention to do so. He wants to re-start his life with his wife, who he met a long time ago. She is his second wife and was not involved in this crime. His first wife and co-defendant, Anne Pollard, served a five year term and is residing in Israel. They do not have any children.

There was a brief discussion about the DHO action in 1992 for Insolence. He admitted that made a statement to the Warden, but it did not include any profanity. He was denied making a legal phone call and the Warden's response was, "I run this prison," and Mr. Pollard responded, "No, God runs the world." This infraction was the only DHO report he received during 30 years of confinement.

Mr. Pollard was asked about his medical conditions and he stated his health was overall good. He has diabetes, kidney stones, sinus problems, and high blood pressure. He was asked about his program participation and he responded he has spent most of his time reading. He was not allowed to participate in most programs because they used computers and that was prohibited for him. Since he already had a college degree, there was not a lot of programs that were beneficial to him.

Mr. Pollard asked for release on parole and stated he wants to leave a better legacy than what he has at present.

**Evaluation:** Based on the information provided at this hearing, I believe that Mr. Pollard should be released on mandatory parole on his 2/3's date of 11-21-2015. I believe he should have special conditions for GPS monitoring and computer monitoring. As far as travel notification to the US Attorney's Office, I believe the U.S. Probation Officer in the Southern District of New York can handle any notification/communication with interested parties should Mr. Pollard request travel. I did not get the impression he was inclined to do so. From a review of subject's record (no prior criminal history) and his institution adjustment, I do not find there is a reasonable probability he will engage in any future

United States Parole Commission (USPC)

criminal conduct. Instead, his case will be closely monitored by various officials to include the Department of Defense, National Security Agency and the United States Probation Office.

**Hearing Examiner Signature:**

*Lynne Jenkins*

Lynne E. Jenkins, Hearing Examiner

Date: 7-8-2015