

# FOIA MARKER

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**OA/ID Number:** 23376  
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**Folder Title:**  
JL001

Stack:	Row:	Section:	Shelf:	Position:
<b>S</b>	<b>85</b>	<b>3</b>	<b>6</b>	<b>1</b>

WHITE HOUSE  
CORRESPONDENCE TRACKING WORKSHEET

JL 001

- O - OUTGOING
- H - INTERNAL
- I - INCOMING

Date Correspondence Received (YY/MM/DD) 93 10 24

Name of Correspondent: David Kershner

MI Mail Report User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Commutation of Jonathan Pollard's prison sentence.

ROUTE TO:		ACTION		DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CU</u>	<u>NUSS</u>	<b>RL</b> ORIGINATOR	<u>93 10 28</u>	<b>RL</b> BN	<u>A</u>	<u>93 06 06</u>
<u>CU</u>	<u>ATOS</u>	<b>RL</b> A	<u>93 10 28</u>	<b>RL</b> attached to	<u>C</u>	<u>93 16 19</u>
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- ACTION CODES:**
- A - Appropriate Action
  - C - Comment/Recommendation
  - D - Draft Response
  - F - Furnish Fact Sheet to be used as Enclosure
  - I - Info Copy Only/No Action Necessary
  - R - Direct Reply w/Copy
  - S - For Signature
  - X - Interim Reply
- DISPOSITION CODES:**
- A - Answered
  - B - Non-Special Referral
  - C - Completed
  - S - Suspended
- FOR OUTGOING CORRESPONDENCE:**
- Type of Response = Initials of Signer
  - Code = "A"
  - Completion Date = Date of Outgoing

Comments: file

**SCANNED**

Keep this worksheet attached to the original incoming letter.  
Send all routing updates to Central Reference (Room 75, OEOB).  
Always return completed correspondence record to Central Files.  
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

# RECORDS MANAGEMENT ONLY

## CLASSIFICATION SECTION

No. of Additional Correspondents: \_\_\_\_\_ Media: \_\_\_\_\_ Individual Codes: \_\_\_\_\_

Prime Subject Code: \_\_\_\_\_ Secondary Subject Codes: \_\_\_\_\_

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### PRESIDENTIAL REPLY

Code	Date	Comment	Form
C	_____	Time: _____	P- _____
DSP	_____	Time: _____	Media: _____

**SIGNATURE CODES:**

- CPn** - Presidential Correspondence
  - n - 0 - Unknown
  - n - 1 - William J. Clinton
  - n - 2 - Bill Clinton
  - n - 3 - Bill
- CLn** - First Lady's Correspondence
  - n - 1 - Hillary Rodham Clinton
  - n - 2 - Hillary Clinton
  - n - 3 - Hillary
  - n - 4 - Mrs. Hillary Clinton
- CBn** - Presidential & First Lady's Correspondence
  - n - 1 - Hillary & Bill Clinton
  - n - 2 - Hillary & Bill

**MEDIA CODES:**

- B** - Box/package
- C** - Copy
- D** - Official document
- F** - FAX
- G** - Message
- H** - Handcarried
- L** - Letter
- M** - Mailgram
- O** - Memo
- P** - Photo
- R** - Report
- S** - Sealed
- T** - Telegram
- V** - Telephone
- X** - Miscellaneous
- Y** - Study

THE WHITE HOUSE

WASHINGTON

June 6, 1993

Dear Mr. Kirshenbaum:

We have received your letter in support of Jonathan Pollard's petition request for commutation of his sentence.

As you may be aware, Mr. Pollard's petition was filed at the Department of Justice in December 1992. The prior Administration rejected that application; accordingly, a new petition was filed under the Clinton Administration. My office is following the processing of that petition and we are awaiting the Department's recommendation to the President. Once the President receives that recommendation, we will try to ensure that the President has all the relevant facts to make an informed decision in this matter.

I appreciate your efforts in writing to me personally and enclosing your letter to the President. I regret that you did not receive a response. However, I assure you the President, and I, are sensitive to the issues in this important matter. The President intends, as he stated during the campaign, to review this matter. You can be assured that your views will be considered. Thank you for writing.

Sincerely,



Bernard W. Nussbaum  
Counsel to the President

David Kirshenbaum  
3308 Fourth Street  
Oceanside, NY 11572

020563cu

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93 MAY 24 P1:06

May 19, 1993

Bernard W. Nussbaum, Esq.  
Counsel to the President  
The White House  
Washington, D.C. 20500

Subject: Jonathan J. Pollard

Dear Mr. Nussbaum:

Enclosed is a copy of a letter I sent to the President on January 28, 1993 urging him to commute Jonathan Pollard's sentence to time served. (Since I never received a response, I resent the letter on April 30, 1993 under cover of a separate letter (also enclosed)).

You are no doubt well acquainted with the Pollard case so I will not take up your time with a repetition of the facts. What should be emphasized, however, is that the issue in the Pollard case is not his guilt or innocence. Jonathan Pollard has, on more than one occasion, acknowledged with regret that he broke the law in passing lifesaving information to Israel. But when confronted with the possibility that his failure to act could result in a physical catastrophe of potentially horrific proportions, Jonathan Pollard acted instinctively in defense of the people of Israel, a U.S. ally generally recognized by every U.S. administration to be one of the best friends the United States has in the world.

To put the Pollard case in perspective, as Americans, we would have been outraged if, at the height of the Cold War, Israel withheld information from us about Soviet deployment in Cuba of chemical, biological and nuclear weapons targeted for Washington and New York. That is why, in the aftermath of the Persian Gulf War, many Americans began taking a more understanding look at Pollard's motives in coming to the defense of an embattled ally.

What one must never forget is that Pollard was never charged with acting to injure the United States, as he could have been under the provisions of the espionage statute. Furthermore, as I pointed out in my letter to the President, the U.S. Government did not even allege that, from an objective standpoint, someone in Pollard's position, with all the information he had at his disposal, would have had any reason to believe the information

transmitted by Pollard to Israel would or could cause injury to the United States. Yet, unlike other cases of espionage on behalf of countries allied with the United States, which, when successfully prosecuted, have typically ended with prison terms in the range of 2-5 years, Pollard was sentenced to life imprisonment. Accordingly, it is not exoneration that Jonathan Pollard seeks, but rather the application of fair and equal justice.

Now that Jonathan Pollard is in the eighth year of his life-long sentence, and now that he has already served more than twice as long as the median sentence for espionage on behalf of countries allied with the United States, vengeance in the Pollard case must finally be replaced with justice. The time has come for Jonathan Pollard to go free. I therefore respectfully urge you to join this campaign for justice and add your voice to those who have called on President Clinton to commute Jonathan Pollard's sentence to the seven and a half years he has already served.

Very truly yours,

A handwritten signature in black ink, appearing to read "David Kirshenbaum". The signature is written in a cursive, flowing style with some loops and flourishes.

David Kirshenbaum, Esq.

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Oceanside, NY 11572  
(212) 830-2651 (Phone)  
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January 28, 1993

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

Subject: Jonathan J. Pollard

Dear Mr. President:

Congratulations on your inauguration last week as President of the United States. It has been at least 32 years since a new President has engendered the level of excitement, optimism and hope which your inauguration has triggered around the country. I am confident you will meet, if not surpass, the country's expectations of you.

Mr. President, during the campaign you impressed so many with your genuine interest in the concerns of the American people. And you have encouraged us all to ensure that the lines of communication to the White House remain open. To that end, Mr. President, I am writing to you as one of millions of Americans greatly distressed by the festering injustice in the case of Jonathan Pollard.

During the course of his work in Naval Intelligence in the mid-1980s, Jonathan Pollard found himself confronted by a tremendous moral dilemma. Pollard would regularly come across information evidencing Arab efforts to undermine the security of Israel and, in many cases, threaten her very existence. As shocked as Pollard was by the scope of Arab designs to destroy Israel, he was even more frightened and astounded by the realization that the United States, in disregard of a written commitment, had decided not to share this information with Israel. When, for example, Pollard asked his superiors why the United States was withholding from Israel information regarding production by the Iraqis of chemical weapons, he was told "Jews are overly sensitive about gas."

Pollard ultimately decided that he could not sit idly by and acquiesce in a policy that he quite reasonably felt could have contributed to the deaths of tens of thousands of people. Accordingly, Pollard passed on to Israel classified information concerning the weapons systems and war making capabilities of various Arab states such as Iraq, Syria and Libya, including

evidence of Iraqi efforts to produce chemical, biological and nuclear weapons and deliver these weapons of mass destruction to Israeli population centers.

Following Pollard's arrest and an intensive investigation, he was charged with transmitting classified information to Israel. But, given the fact that all the information transmitted by Pollard went to a staunch ally of this country and that not one scintilla of information concerning the United States itself was ever part of these transmittals, Pollard was not charged with acting to injure the United States.

Thus, Pollard's actions, while undoubtedly a breach of law, in no way rose to the level of a crime involving disloyalty to the United States. To be more specific, under the espionage statute, it is a crime to communicate to a foreign government information relating to national defense either with "intent or reason to believe it is to be used to the injury of the United States..." However, Pollard was never charged under this section of the statute. Rather, the specific charge brought against Pollard was limited to "having intent or reason to believe the information would be used to the advantage of Israel". Thus, not only did the Government not charge Pollard with intent to injure the United States, it did not even allege that, from an objective standpoint, someone in Pollard's position, with all the information that he had at his disposal, would have had any reason to believe the information transmitted to Israel would or could cause injury to the United States.

Notwithstanding these facts and the fact that every other case of espionage on behalf of countries allied with the United States has, when successfully prosecuted, ended with a prison term in the range of 1-5 years, Pollard was sentenced to life imprisonment, with the sentencing judge adding his recommendation that Pollard never be paroled.

It is important to note that Pollard's draconian life sentence is not only grossly disproportionate to the sentences received by every other spy for a neutral or allied country, but far more severe than sentences imposed on many individuals who have committed espionage on behalf of enemies of the United States.

For example, Richard Miller, a former FBI agent, was convicted of spying for the Soviet Union. His activities began in the pre-Gorbachev era when the Soviets were still the "Evil Empire" and, by far, the most feared and dangerous enemy of the United States. Richard Miller did not get a life term, but 20 years. Moreover, unlike the judge in the Pollard case who recommended that Pollard never be paroled, the judge who sentenced Miller recommended leniency for Miller. Accordingly, Miller is expected to be freed later this year after serving 6 2/3 years for espionage on behalf of the Soviet Union.

Albert Sombolay was a member of the U.S. army who transmitted to Iraq military secrets about the United States during the Persian Gulf War. This is precisely what treason is all about. For this treasonous activity, Sombolay is now serving a 19 year sentence. Americans justifiably demand to know how, in light of Sombolay's 19 year sentence, the Government can justify Pollard's life sentence and continued incarceration.

Abdelkader Helmy, an Egyptian born American, was cleared for secret work at a weapons plant in California. Four years ago, he illegally transmitted to Egypt materials used in stealth aircraft, missiles and rockets. The materials were transmitted by Helmy with the knowledge that they were to be used by Egypt in a joint weapons project with, of all countries, Iraq, to improve the range and accuracy of ballistic missiles, including Iraq's Scud missiles. Helmy's activities were coordinated by Egypt's Defense Minister.

Following Pollard's arrest, we heard a tremendous chorus of condemnation out of Washington about Israel's arrogance and ingratitude in running a spy in the United States. But given the fact that since the Camp David accords, U.S. aid to Egypt is virtually on par with American aid to Israel, why didn't we hear in Washington following Helmy's arrest any condemnation of Egypt or expressions of outrage and disbelief? On the contrary, although Helmy was originally charged with espionage, he was eventually indicted on a single count of smuggling. The U.S. Administration did not want to offend the Egyptians or upset relations with them.

Two spies - Helmy and Pollard. It is a travesty that the one who sought to enhance the destructive powers of the weapons of Iraq and Saddam Hussein was given a four year sentence, while the one who sought to warn a democratic ally of the United States of the dangers of these weapons, warnings which proved to be prophetic, was given a life sentence.

Near the end of his presidency, a petition was submitted to former President Bush seeking the commutation of Jonathan Pollard's sentence to the seven plus years he has already served. Mr. Bush, however, was occupied at the time with pardoning Caspar Weinberger, the individual perhaps most responsible for Jonathan Pollard's life sentence. Though Jonathan Pollard was never charged with acting to injure the United States, Weinberger sent a memorandum to the judge in the Pollard case on the eve of sentencing in which Weinberger accused Pollard of treason and called on the court to punish Pollard in accordance with such a crime. Treason, as you know, because of its heinous nature, is the one and only crime defined in the Constitution. Treason is clearly limited to aiding an enemy of the United States during a time of war and is punishable by death. Pollard obviously did not commit, and was not charged with treason, and in making such

a hysterical and patently false accusation, Weinberger sought to seriously mislead the court, just as he misled the Congress and the Iran Contra investigators. Weinberger's outrageous and obviously false accusations of treason, with the accompanying call for punishment to match, can perhaps be attributed to what his chief assistant, former Under Secretary of Defense Lawrence Korb, has described as Weinberger's almost "visceral dislike of Israel."

Mr. President, the inaugural festivities last week were a celebration of this nation's great diversity and I am proud that the campaign to win Jonathan Pollard's commutation is a beneficiary of that diversity. Not only has the campaign for commutation won the support of virtually the entire rabbinate in the United States, cutting across all spectrums of Jewish religious thought, but the list of those who support commutation reads like an ecumenical who's who, including such distinguished personalities as Father Theodore Hesburgh, President Emeritus of Notre Dame University, and Cardinal Law, the Archbishop of Boston.

The Pollard case has also brought together prominent Americans of such disparate political philosophies as former Congressman Robert Drinan and the Reverend Pat Robertson. Robert Drinan and Pat Robertson appeared on the same platform last June, together with Nobel Peace Laureate Elie Weisel, in a call for justice for Jonathan Pollard. All three delivered stirring addresses urging an end to the miscarriage of justice in the Pollard case.

The campaign for justice in the Pollard case, which has captured the imagination of people throughout the country, also enjoys the support of prominent African Americans. For example, Nat Holden, a councilman from Los Angeles, has for some time been actively involved in the struggle to free Jonathan Pollard. Mr. Holden has organized rallies in Los Angeles to draw attention to Pollard's plight and, most recently, on the last day of Mr. Bush's presidency, Mr. Holden held a public demonstration urging Mr. Bush to commute Pollard's sentence.

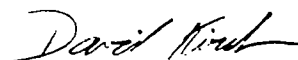
Judge Marvin Shoob of the United States District Court in Atlanta, who presided for 18 months over the case involving the illegal loans to Iraq made by the Atlanta branch of Banca Nazionale del Lavoro of Rome, recently told the New York Times, "When I went on the bench, I really felt that our Government could do no wrong." However, Judge Shoob continued, "Since I've been on the bench, I found that the Government has to be watched just as carefully as anybody else. The Government makes mistakes and tries to conceal mistakes." As an example, Shoob cited the Government's efforts to portray Chris Drogul, BNL's Atlanta branch manager as the mastermind of the illegal loans, while depicting the bank's top executives as innocent victims. This, said Shoob, made him "angry...because it appeared that the

Government's purpose was to put this man [Drogul] away for life without parole and wrap this thing up in a package and put it away."

Mr. President, there are quite a few troubling aspects to the Iraqgate controversy, and just as Judge Shoob is angry over the Government's attempt to pin the BNL scandal on Chris Drogul, many Americans are angry that, in the Pollard case, the Government has determined to put away for life someone who recognized from the outset the terrible tragedies which could result from our misbegotten and immoral policy of building up Iraq and Saddam Hussein.

Mr. President, while we are disappointed that Mr. Bush did not heed the pleas of the American people, we are hopeful that you will act expeditiously to remedy the injustice in the Pollard case. As you stirringly told the American people last week, even "in the depth of winter...[we can] force the spring." Jonathan Pollard has endured seven years of winter and each additional day that he is forced to remain in prison increases this terrible and malingering injustice. I join with millions of Americans in urging you to heed the trumpet's call for justice and force the spring in the Pollard case.

Very truly yours,



David Kirshenbaum, Esq.

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April 30, 1993

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

Subject: Jonathan J. Pollard

Dear Mr. President:

Shortly after your inauguration I wrote you regarding Jonathan Pollard. Since three months have passed without a response, I am concerned that my letter may have gotten lost in transit. Accordingly, I am resending a copy of my earlier letter.

With every good wish for continued success.

Very truly yours,



David Kirshenbaum, Esq.