

AMERICAN ASSOCIATION OF JEWISH LAWYERS AND JURISTS

U.S. Affiliate of the International Association of Jewish Lawyers and Jurists

President

Alyza D. Lewin, (202) 828-1000

Executive Vice President

Rhonda Lees, (703) 899 7537

Treasurer

Avery Neumark, (212) 203-1806

Gen. Secretary

Stanley Fink, (732) 382-6070

Regional Vice Presidents:

Herbert Franks

Michael Traison

Bruce Gitlin

Honorary Presidents

*Nathan Lewin

*Robert L. Weinberg

Immediate Past President

*Stephen R. Greenwald

Board of Governors

Tim Attala

Ira Azulay

Y. Judd Azulay

Leonard Bechick

Carl Bensinger

Paul Berger

Commr. Alan Friedenthal

Lawrence S. Goldberg

Prof. Malvina Halberstam

Harold Halpern

Eli E. Hertz

Isaac Jaroslawicz

Hon. Barbara Kapnick

Sheldon H. Klein

Leonard Kopelman

Evan J. Krame

Matthew L. Kronisch

Myron W. Kronisch

Marc A. Landis

Eugene W. Landy

Michael Melnicke

Martin Mendelsohn

Jack H. Olender

Herbert Rubin

Jonathan Sapirstein

Yosefi M. Seltzer

Akiva Shaprio

Hon. Sheila Sonenshine

Mark Speiser

Hon. Richard Teitelman

Diana Trotsenko

Philip B. Vinick

Elliot Wales

Jeffrey Wice

Leon Wildes

Honorary Board Members

Hon. Avern Cohn

*Prof. Sherman I. Cohn

Hon. Stuart Eizenstat

*Hon. Jerome Hornblass

Hon. Joseph Lieberman

*Jerome J. Shestack OBM

Hon. Jack B. Weinstein

December 3, 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:

I am writing on behalf of The American Association of Jewish Lawyers and Jurists ("AAJLJ") concerning the present status of Jonathan Pollard. The AAJLJ was founded in 1983 and is affiliated with the International Association of Jewish Lawyers and Jurists ("IAJLJ"). The IAJLJ was founded in 1969 by the late Justice Arthur J. Goldberg of the United States Supreme Court, the late Justice Haim Cohn of the Supreme Court of Israel, and the late Rene Cassin, French Nobel Laureate and author of the Universal Declaration of Human Rights. The AAJLJ represents the American Jewish legal community, defending Jewish interests and human rights in the United States and abroad.

On July 28, 2015, The United States Parole Commission (the "Parole Commission") issued a Notice of Action granting Jonathan Pollard parole on his life imprisonment following a guilty plea to one count of conspiracy to commit espionage without intent to harm the United States. The case arose out of the delivery of certain documents by Mr. Pollard to Israel over thirty years ago. Mr. Pollard has accepted responsibility for his wrongful activity and has served a thirty-year sentence as a model prisoner.

The documents that were submitted to the Parole Commission by Mr. Pollard included statements by Robert C. McFarlane, who served as U.S. National Security Advisor at the time of Mr. Pollard's arrest, and former Senator Dennis DeConcini, who served on the Senate Intelligence Committee, at the time of Mr. Pollard's arrest. Both Mr. McFarlane and former Senator DeConcini indicated that the information accessed by Mr. Pollard over thirty years ago would have no intelligence value today.

*AAJLJ Past President

AMERICAN ASSOCIATION OF JEWISH LAWYERS AND JURISTS

U.S. Affiliate of the International Association of Jewish Lawyers and Jurists

The Honorable Loretta E. Lynch
December 3, 2015
Page Two

The AAJLJ endorses the decision of the Department of Justice ("DOJ") not to object to Jonathan Pollard's release from prison pursuant to the terms of the applicable mandatory parole. We understand that Mr. Pollard may seek to move to Israel with his family so he can resume his life there. We write today to urge the DOJ to consent if Mr. Pollard makes such a request which, we presume, would include renunciation of his U.S. citizenship.

The AAJLJ is also concerned with the conditions of Mr. Pollard's parole, which appear to be excessive and counter-productive; these include the requirement that he wear a leg or ankle electronic monitoring device and that not only his computer, but also his employer's computer, be subject to monitoring by the United States government. If the DOJ chooses not to consent to Mr. Pollard's request to move to Israel, we write today to urge the DOJ to ease Mr. Pollard's parole conditions.

Furthermore, the AAJLJ is concerned that the 7 pm to 7 am curfew imposed on Mr. Pollard as part of his parole conditions impermissibly interferes with Mr. Pollard's ability to practice his religion in violation of the Religious Freedom Restoration Act ("RFRA").

A. Consent to Pollard's Request To Move to Israel.

The AAJLJ respectfully requests that the DOJ consent to any request by Mr. Pollard to move to Israel. Mr. Pollard has expressed remorse for his actions, has been a model prisoner during the entire term of his incarceration, and is now aging and in deteriorating health. There is no reasonable probability that Mr. Pollard will commit any future crimes. The interests of our country and the interests of justice would best be served if the DOJ were promptly to consent to any request by Mr. Pollard to unite with his wife and move to Israel. We understand that such request would be accompanied by a renunciation of Mr. Pollard's U.S. Citizenship.

There is ample recent precedent for the DOJ's consent to such a request. For example, in May 2013 the DOJ permitted René Gonzalez, a convicted Cuban spy, to renounce his citizenship and live in Cuba. Mr. Gonzalez was incarcerated for approximately 13 years (less than half the time of Mr. Pollard's imprisonment) for a 2001 espionage conviction resulting from activity performed on behalf of Cuba. While Mr. Gonzalez was on probation, the DOJ allowed him to attend his father's funeral in Cuba. Ultimately, the DOJ permitted Mr. Gonzalez to renounce his American citizenship and remain in Cuba on condition that he never return to the U.S.

AMERICAN ASSOCIATION OF JEWISH LAWYERS AND JURISTS

U.S. Affiliate of the International Association of Jewish Lawyers and Jurists

The Honorable Loretta E. Lynch
December 3, 2015
Page Three

B. The Parole Conditions.

The AAJLJ believes that the conditions of Mr. Pollard's parole, which include ankle and leg device monitoring, extended curfew hours, and computer surveillance at home and at work are unreasonable and excessive, and they may violate RFRA.

1. Electronic Monitoring - Ankle and Leg Devices

With respect to the electronic monitoring, we understand that Mr. Pollard suffers from "weeping edema" (which causes severe swelling of his legs) and diabetes. Given Mr. Pollard's medical conditions, ankle or leg devices could further impair his health. Alternative monitoring technology which would not subject Mr. Pollard to health risks is available to the government. We urge the DOJ to consent to Mr. Pollard's request for a less dangerous monitoring modality.

2. Potential RFRA Violations

Mr. Pollard's probation conditions include a 7 pm to 7 am curfew. Mr. Pollard is an Orthodox Jew. The AAJLJ is concerned that the current curfew hours will interfere with Mr. Pollard's ability to adhere to tenets of the Jewish faith, including participating in religious services that meet during the curfew hours. In addition, we understand that the GPS monitoring transmitter that Mr. Pollard must wear 24 hours a day holds its charge for only 12 to 20 hours. Mr. Pollard is, therefore, required to recharge the device on the Sabbath in violation of his religious convictions. This burden on Mr. Pollard's sincere exercise of his religion is a violation of RFRA. As such, the AAJLJ requests that the DOJ consent to modifying Mr. Pollard's curfew hours and waive the GPS monitoring requirements during the Sabbath.

3. Computer Monitoring

The extensive computer surveillance requirements imposed on Mr. Pollard are excessive. Mr. Pollard's unlawful conduct did not involve internet use and it occurred more than thirty years ago.

The requirement that Mr. Pollard's employer consent to government surveillance of its computer system is extreme. We understand that Mr. Pollard received a commitment for employment but remain concerned that monitoring may impact his capacity to perform the essential functions of his employment.

AMERICAN ASSOCIATION OF JEWISH LAWYERS AND JURISTS

U.S. Affiliate of the International Association of Jewish Lawyers and Jurists

The Honorable Loretta E. Lynch
December 3, 2015
Page Four

In sum, the AAJLJ respectfully urges that the DOJ consent to any request on behalf of Mr. Pollard to be united with his family in Israel. The interests of our country and the interests of justice would be served if the DOJ were to respond favorably to such request. Alternatively, in the event the DOJ does not consent to this request, the AAJLJ respectfully asks that, in the case that has been filed on his behalf in the United States District Court for the Southern District of New York, the DOJ agree to modify Mr. Pollard's parole conditions by eliminating the requirement of ankle or leg monitoring devices, adjusting the hours of his curfew, and eliminating the requirement of personal and employer computer surveillance.

Sincerely,

The American Association of Jewish Lawyers and
Jurists

By


Alyza D. Lewin, President