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Spying on Friends?: The Franklin Case, AIPAC, and Israel

On 4 August 2005, U.S. Department of Defense official Lawrence Franklin and former American–Israeli Political Action Committee (AIPAC) staffers Steve Rosen and Keith Weissman were indicted on one or several of the following counts: conspiracy to communicate national defense information to persons not entitled to receive it; communication of national defense information to persons not entitled to receive it; and conspiracy to communicate classified information to agents of a foreign government, publicly identified as Israel. Franklin pleaded guilty and cooperated with the authorities, and was subsequently sentenced to a 12-year prison term. As of this writing, Rosen’s and Weissman’s trial was scheduled to start in August 2006.

When the story of an investigation into Franklin’s communication of classified information to Rosen and Weissman surfaced, the immediate widely held assumption was that Israel was the ultimate beneficiary. This belief was reinforced with the disclosure that the compromised classified information was related to issues of immediate interest to the Jewish state, including Iran’s nuclear ambitions and the situation in Iraq. But doubts were expressed, to the effect that the cozy relationship between Israel and the United States would hardly necessitate such an intelligence-gathering operation on U.S. soil. Nevertheless, the question of Israel’s precise role in the affair remains unanswered, but for the exception that Franklin told the U.S. District Court in Alexandria, Virginia, that he had, in fact, given

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classified documents directly to Israeli diplomat Naor Gilon, suggesting that Israel was, at minimum, a passive recipient of the information.

The protection of U.S. secrets is important to America's national security and economic prosperity. The fact that no effective comparison can be drawn between this case and that of U.S. Navy employee Jonathan Pollard, who compromised highly sensitive sources and methods—except that the ultimate beneficiary is likely the same—does not mean that it should be glossed over. Franklin clearly violated the trust the U.S. government placed in him, as well as several policy and legal provisions. As such, no exception should be made of his case, and none, in fact, was made. The actions of Rosen and Weissman likewise should not be easily swept under the carpet. Both allegedly knew very well that they had received classified information, passed it to a foreign power, and even lied about it to Federal Bureau of Investigation (FBI) investigators. While the prosecution of people in their position is somewhat unusual, they clearly were not passive recipients of classified information and, like Franklin, they had ideological, professional, or personal motives to do so. They may not be traitors (they were not directly charged with espionage), but, should they be convicted, they assuredly would have willingly broken the law to the detriment of U.S. interests.

THE ISSUE IN FOCUS

The phenomenon of countries spying on their friends to further their own national interests is not new. In the past two decades, Americans and Europeans have awakened to the economic espionage activities of their friends and often retaliated. But these episodes did not irreversibly or seriously damage the essence of their relationships—including in the field of intelligence—which continued, although the country involved might have suffered embarrassment, and perhaps some public outrage.¹ In addition to worrying about its enemies, the United States evidently has no choice but to worry about some of its friends on occasions too. In fact, friends and foes alike engage in intelligence activities directed at the United States, in order, notes the U.S. National Counterintelligence Executive, “to advance their interests and defeat U.S. objectives. Too often these foreign intelligence activities against the United States have been successful.”²

Former Central Intelligence Agency (CIA) officer Arthur S. Hulnick writes that Israel has assuredly been a thorn in the heel of the United States. One of the U.S.'s closest allies and friends, it has been particularly active at industrial espionage targeted at U.S. firms.³ The case of Jonathan Pollard was hoped to be an aberration, but the indictment of Franklin, Rosen, and Weissman raised several questions

anew: Was Israel more involved than apparent? Was Israel really only the passive recipient of information that its officials should probably have known was classified? How has the information benefited Israel? Was not Israel already privy to the same or similar intelligence through official intelligence-sharing channels? If so, why would they have needed Franklin? Why would Franklin, Rosen, and Weissman risk their careers to serve Israel's national interests? Why did Israeli officials in Washington not report their unofficial contacts with Franklin to the appropriate U.S. authorities? These are difficult questions to answer at the moment. In any event, if proven in court, the actions of the foreign officials mentioned in the indictment, presumed by all observers to be Israeli, will cast doubts yet again on Israel's intelligence activities in the United States. While the intelligence relationship will not suffer where both U.S. and Israeli interests converge, other aspects of the relationship in this sector or in other sectors could well and justifiably be subject to an icy shower for at least a little while. Yet, would the political leadership put at risk efforts on the Middle East peace process to retaliate at Israel? Time may tell.

CHRONOLOGY OF A PROSECUTION

30 June 2004: The Top Secret security clearance with access to Sensitive Compartmented Information (SCI) of Lawrence Anthony Franklin, a civilian desk officer for Iran in the Office of the U.S. Secretary of Defense, was suspended after criminal search warrants were executed at his Pentagon office and residence.⁴

27 August 2004: CBS News is first to reveal the existence of an FBI investigation into whether Franklin provided classified information about U.S. policies on Iran to AIPAC, a Washington, D.C.-based lobbying organization—information which in turn allegedly found its way into the hands of the Israeli government.⁵

5 October 2004: Franklin, unable to agree on a plea, stopped cooperating with the FBI and hired the well-known Plato Cacheris as his attorney; Cacheris had defended convicted CIA officer Aldrich Ames and FBI agent Robert Hanssen, both of whom had spied for the Soviet Union/Russia.⁶ According to the *Jerusalem Post*, Franklin had been asked by the FBI to set up two AIPAC staffers, Steve Rosen and Keith Weissman, into accepting classified information, which they were then expected to pass on to Israeli authorities.⁷

1 December 2004: The FBI searched AIPAC's offices, obtained files on Rosen and Weissman, and served subpoenas on four others—Howard Kohr, Richard Fishman, Renee Rothstein, and Rafi Danziger—for their testimonies before a federal grand jury.⁸

April 2005: Rosen and Weissman were fired by AIPAC despite denials of any wrongdoings from their lawyers. Both had been on paid leave for several weeks.⁹

4 May 2005: Franklin was arrested for allegedly having illegally communicated classified information about potential attacks on U.S. forces in Iraq to two unnamed U.S. individuals in June 2003. Franklin, who turned himself in, was released on a \$100,000 personal recognizance bond, agreeing to the request of the U.S. District Court for the Eastern District of Virginia to surrender his passport and any firearms he might have.¹⁰

24 May 2005: Franklin was indicted for the second time, now in the U.S. District Court for the Northern District of West Virginia, for having, without authorization, over 80 classified documents at his personal residence. He turned himself in, but was released on \$50,000 bail.¹¹

13 June 2005: Franklin pled not guilty on the six counts of a federal grand jury indictment filed on 26 May 2005 in the U.S. District Court for the Eastern District of Virginia; his trial was scheduled for 6 September 2005. This indictment superceded the one-count indictment filed on 4 May 2005.¹²

4 August 2005: A superceding indictment was filed at the U.S. District Court for the Eastern District of Virginia, charging Franklin and, for the first time, former AIPAC staffers Rosen and Weissman on several counts related to a conspiracy to communicate or the communication of national defense information to persons not entitled to receive it, including to a foreign country, widely assumed to be Israel.

16 August 2005: Franklin, Rosen, and Weissman pleaded not guilty to the 4 August counts. They were ordered by the federal district court judge to surrender their passports. The judge also imposed restrictions on their movement, released them on bond, and scheduled their trial for 3 January 2006.¹³

5 October 2005: Franklin pleaded guilty to the charge of possessing classified documents at his home and two counts of conspiring to communicate classified information, and agreed to assist the authorities as their investigation into the case was continuing.

19 January 2006: Franklin received a 12-year jail sentence.

BACKGROUND AND ANALYSIS

Who is Larry Franklin?

The FBI investigation into Lawrence A. Franklin started while he was working as an Iran desk officer in the Pentagon's Near East and South Asia Bureau, Office of Northern Gulf Affairs. Franklin was reporting to William J. Luti, the Deputy Undersecretary of Defense for Near East and South Asian Affairs, who in turn was reporting to Douglas J. Feith, the

Undersecretary of Defense for Policy. Franklin, a veteran Defense Intelligence Agency (DIA) analyst, had started to work for Luti in 2001, with only a few years to go before retiring. That year, he and a colleague, Harold Rhode, an official in the Pentagon's Office of Net Assessment, went to Rome, Italy, to meet with several Iranians, including discredited arms merchant Manucher Ghorbanifar, to receive information on terrorism offered by the Iranian government. The meeting was brokered by Michael Ledeen of the American Enterprise Institute, who wanted the views of Iraqi dissidents to be known within the Bush Administration. According to Secretary of Defense Donald H. Rumsfeld, the information obtained by Franklin and Rhode as a result of this meeting was of little or no value. Franklin is also reported to have attended a number of scheduled regular meetings with Israeli officials, including individuals from Israeli intelligence agencies, either by himself or with several work colleagues and other U.S. government officials.¹⁴ As disclosed in the final indictment, however, Franklin also had many unauthorized meetings with foreign officials, presumably Israeli, that were outside the scope of his duties.

As a DIA intelligence analyst, a job he got in 1979, Franklin worked on Soviet issues until the early 1990s, when he switched to the Middle East division and learned Farsi (he already spoke Arabic, French, Spanish, Russian, and Chinese) in order to become an Iran analyst. Franklin, a Catholic, had earned his Ph.D. in East Asian studies from Fordham University in New York City. When the allegations concerning him surfaced, Franklin was also an adjunct professor of history at West Virginia's Shepherd University and was serving as a colonel, specializing in politico-military affairs, in the United States Air Force Reserves assigned to the DIA's Defense HUMINT Service (DHS). As part of his temporary military duties, he had worked briefly in the U.S. military attaché's office in Israel in the late 1990s.¹⁵

What has He Done?

When the investigation was unveiled by the CBS television network, Franklin was said to have given a draft National Security Presidential Directive concerning U.S. policies toward Iran, and other unspecified documents, to two AIPAC staff members, who in turn gave them to Israeli officials.¹⁶ Franklin was ultimately accused of violating Title 18, United States Code (U.S.C.) sub-sections 793(d), (e), and (g), for conspiring to communicate, and de facto communicating, national defense information to persons not entitled to receive it, and 50 U.S.C. § 783 and 18 U.S.C. § 371 for conspiring to communicate classified information to agent of a foreign government. Franklin cooperated with FBI investigators before the investigation was leaked, but stopped soon

thereafter, having learned that he could be indicted. On 9 July 2004, Franklin agreed to an FBI request and met AIPAC senior Middle East analyst Keith Weissman to relay classified information related to certain Middle Eastern countries (according to the media, it concerned Iranian actions in Iraqi Kurdistan). On 21 July 2004, Franklin met again with Weissman, and disclosed to him information concerning a foreign government's covert actions in Iraq, emphasizing that it was highly classified "Agency stuff" (presumably a reference to the CIA). Weissman, without losing a beat, relayed the information to his policy director, Steve Rosen. He and Rosen subsequently contacted a third foreign official (who was, according to the media, Naor Gilon, the political officer at Israel's Washington Embassy),¹⁷ and a member of the media (according to the media, reporter Glenn Kessler of the *Washington Post*).¹⁸ *Time* magazine further reported that Franklin made phone calls to a number of individuals, including one associated with the Iraqi National Congress (INC), in order to assist an FBI investigation into a case of the leaking to Iran information that the United States was able to intercept and read Iran's coded communications.¹⁹

According to the grand jury allegations, Franklin had first gotten in touch with Rosen in August 2002, after Rosen expressed to a Department of Defense (DoD) employee his interest in getting in touch with an expert on Iran within the Office of the Undersecretary of Defense for International Security Affairs. The DoD employee recommended Franklin, who proceeded to call Rosen. Franklin and another DoD employee met with Rosen and Weissman on 12 February 2003. During this meeting, Franklin allegedly would have communicated, without authorization, the contents of a classified draft document on U.S. policy toward a Middle East country (believed to be Iran). The information was later relayed by Rosen to two foreign officials, a think tank official, and two members of the media, and to one foreign official by Weissman. On 17 March 2003, Franklin faxed to Rosen the classified annex he had written for the draft policy document.

Franklin, Rosen, and Weissman met again at lunch time on 26 June 2003. During the meal, Franklin disclosed more classified information, this time related to threats to U.S. forces in Iraq. Franklin further made the point that what he had told them was highly classified (in fact at the Top Secret/SCI level) and that they should not use it. A classified document containing the information communicated by Franklin, dated June 2003, was found during a June 2004 search of Franklin's office—a discovery which led to Franklin's security clearance being suspended on 30 June. The grand jury allegations also mention that on 24 October 2003, Franklin, without authorization, discussed the draft document on U.S. policy toward a Middle East country with a foreign official, and, on 21 May 2004,

classified information about meetings between two Middle Eastern officials with members of the media.²⁰

A search of Franklin's house, also on 30 June 2004, revealed that 83 U.S. classified documents were improperly stored there, for which he had no authorization to keep at his house (his courier certificate was valid for only Washington, D.C., Baltimore, and Richmond, Virginia). Of these documents, 38 were Top Secret or Top Secret/SCI, and 37 Secret, some dating as far back as thirty years. At least five CIA reports were included in the batch, and one from the then-Terrorist Threat Integration Center (TTIC). According to the 24 May 2005 FBI affidavit, the contents of one of the documents found at Franklin's house had been discussed with a foreign official.²¹

Franklin had first met this foreign official, the policy person (presumably Gilon) at a Washington, D.C.-based embassy, on 15 August 2002. This meeting was followed by at least fourteen others in 2003 and 2004, during which a couple of subjects were discussed, including the nuclear program of a Middle Eastern country (presumably Iran), foreign policy issues, senior U.S. government officials, charity efforts in a foreign country, a weapons test conducted by a Middle Eastern country, and the activities of a Middle Eastern country in Iraq. Franklin also allegedly asked the foreign official for a letter for his daughter's upcoming trip to the Middle East, which included a visit in the country of the foreign official, which he later received.

That Iran was cited to the media by off-the-record government officials as one of the salient topics discussed among Franklin, Rosen, Weissman, and foreign officials should not come as a surprise. Israel is highly concerned about Iran's attempts to develop a nuclear weapons capability, and has even threatened to launch a preemptive strike if it feels sufficiently threatened.²² Because Franklin's ultimate employer was Douglas J. Feith, then a key policy adviser to Secretary Rumsfeld, Franklin's illegal communication of classified information to Israel, some assumed, could have assisted that country's officials in influencing the George W. Bush White House with respect to its policies toward Iran and Iraq.²³ But the DoD offered a credible explanation why this could not be the case:

The investigation involves a single individual at DoD at the desk officer level, who was not in a position to have significant influence over U.S. policy. Nor could a foreign power be in a position to influence U.S. policy through this individual. To the best of DoD's knowledge, the investigation does not target any other DoD officials.²⁴

No hints have been voiced that Franklin's actions were motivated by financial gain—a usual motive—or authorized by his superiors. U.S. officials, under the cover of anonymity, have speculated that he simply

lacked judgment, was ill-advised, or even simply stupid. Several of Franklin's past and current colleagues, speaking anonymously to the media, thought he was clearly pro-Israel and harsh toward Arab countries, while others noted that he had no particular obsessions about either Israel or Arab regimes. Some even believed he was nonpolitical, while others thought he had strong views on Iran, which could have motivated his actions.²⁵ The 26 May 2005 indictment noted that Franklin allegedly communicated classified information without authorization "in an effort to advance his own career, advance his own foreign policy agenda, and influence persons within and outside the United States government." This is substantiated, in part, by the grand jury allegation that, on 14 February 2003, Franklin had asked Rosen to "put in a good word" for him with respect to a potential position on the staff of the National Security Council. At Franklin's sentencing, however, the presiding judge concluded that Franklin had acted in the belief that it would benefit the United States, rather than affect its national interests.

Were Other People Involved?

While the focus has overwhelmingly been on Franklin, the counter-intelligence investigation was reported to have started as early as 2002 and to be much wider in scope, looking at issues such as the security practices of senior DoD civilian officials and AIPAC's role as a conduit of classified information to the Israeli government.²⁶ Officially, though, the DoD made the point that the FBI investigation was clearly limited in scope, which so far has proven true.²⁷ In June 2004, several DoD civilian officials had to go through a polygraph examination as part of an investigation into who provided classified information to Iraqi exile Ahmed Chalabi, but this now seems to have been unrelated to the indictment of Franklin, Rosen, and Weissman.²⁸

That indictment asserts that Rosen had received classified information from two different unnamed U.S. government officials, but no further indictments seem to be forthcoming with respect to those individuals. On 18 August 2005, however, the *New York Times* exclusively revealed that one of these officials had left government, and identified the other as Middle East expert David M. Satterfield, the U.S. State Department's current deputy head of mission in Baghdad. The indictment alleged that Satterfield twice discussed national security matters with Rosen in 2002, at which time he was serving as Deputy Assistant Secretary of State for Near Eastern and South Asian Affairs. The other official, former CIA and National Security Council staff member Kenneth Pollack, who now works at the Brookings Institution, self-identified himself two weeks later.²⁹

Three foreign officials were also alleged to have received classified information from either Franklin, Rosen or Weissman. The FBI would

like to discuss these matters with them, but given their assumed diplomatic immunity, that any legal action will be undertaken against them is highly unlikely. More likely, these diplomats, should any adverse information as to their role in this affair be discovered, would be asked to leave the United States or be prevented, should they have already left Washington (Gilon has left), from taking up any new diplomatic posting anywhere in the country.

Israel's Reaction

The Israeli government immediately denied any involvement in espionage activities against the United States, or having any intelligence asset in the country, arguing that it had no need to risk damaging the close and mutually beneficial relationships that exist between Israel and the U.S., including those in the world of intelligence, where a large amount of classified information is shared between the two countries.³⁰ Yuval Steinitz, chairman of the Knesset's Foreign Affairs and Defense Committee, explained that, following the Pollard espionage case of the 1980s, the Israeli government had decided not to engage in espionage activities against the U.S., and that the decision had not been reversed, a claim endorsed by Danny Yatom, a former head of the Mossad, Israel's foreign intelligence service, and other Israeli officials.³¹ Then Prime Minister Ariel Sharon issued a communiqué making similar points, namely that "Israel has no connection to this matter. The United States is Israel's greatest ally. Israel is not engaged in intelligence activities in the United States and denies reports to the contrary."³² This being said, Israel readily acknowledged that it has Mossad and military intelligence officers based in Washington, D.C., all of whom are known to U.S. authorities, but that none was running Franklin.³³

Naor Gilon, one of the foreign officials with whom Franklin had been in touch, was equally categorical in his denial, and was fully supported by his Ambassador, Dani Ayalon, and Minister of Foreign Affairs Silvan Shalom. He declared: "My hands are clean. I have nothing to hide, all my activities are well within the parameters of accepted diplomatic norms and procedures." Notwithstanding, he was concerned that his ability to do his job in Washington would be hampered by the affair. By summer 2005, he had left Washington and returned to Israel.³⁴ The Israeli Embassy confirmed that the FBI had asked for the assistance of the Israeli government in furthering its investigation, and that the Israelis had expressed their willingness to cooperate in response.³⁵

Israeli officials have also expressed concern that Jerusalem–Washington relations could be affected because of negative public opinion toward Israel in the U.S. being generated by the investigation. Some even

suggested that whoever leaked the investigation probably did so to damage the Republican Party on the eve of its 2004 convention or the support given to Israel by the Bush White House.³⁶

Despite acknowledging the especially close intelligence relationship between Israel and the United States, former and current U.S. intelligence officials countered Israeli denials of espionage. One said that

[t]here is a huge, aggressive, ongoing set of Israeli activities directed against the United States. Anybody who worked in counterintelligence in a professional capacity will tell you the Israelis are among the most aggressive and active countries targeting the United States.

Another asserted that Israelis

undertake a wide range of technical operations and human operations. People here as liaison aggressively pursue classified intelligence from people. The denials are laughable.³⁷

Shortly before departing his position in 2004, Director of Central Intelligence George J. Tenet had also alluded to an Israeli espionage problem, while an academic, Duncan Clarke of American University in Washington, noted Israel's extensive industrial espionage in the United States over the years.³⁸

Official U.S. documents give some backing to these assertions. In its 1998 *Annual Report to Congress on Foreign Economic Collection and Industrial Espionage*, the U.S. National Counterintelligence Center (NCIC) noted that Israel was on the Department of Energy's Sensitive Country List.³⁹ In its 2000 *Report*, NCIC published the results of a private industry survey which listed Israel among the most active collectors of intelligence against the private sector.⁴⁰

AIPAC's Reaction

AIPAC, probably the most reputable, serious, and politically involved Jewish advocacy group in the United States, with nearly 100 staff persons at its Washington headquarters and 100,000 members across the country, has a long history of lobbying congressional leaders on Israeli and Middle Eastern issues.⁴¹ According to its Executive Director, Howard Kohr, and President, Bernice Manocherian, AIPAC's essential objectives are to support "America's interests in the Middle East and [advocate] a strong relationship with Israel."⁴² AIPAC's initial reaction was similar to that of the Israeli government: strong denial of the allegations. But, it quickly decided to cooperate fully with FBI investigators.⁴³ Staff members Rosen and Weissman were interviewed by FBI investigators, who also copied Rosen's computer hard drive. Both were initially believed but later accused of having received classified information from Franklin.⁴⁴

In response to claims that the organization had been under investigation for two years before the link to Franklin was leaked, AIPAC issued the following public statement:

Apparently nothing turned up during this rigorous two-year probe of AIPAC's activities to deter President Bush from addressing AIPAC's Policy Conference on May 18, 2004. Nor has information surfaced that has prevented scores of other administration and Congressional leaders from speaking regularly and candidly with AIPAC officials, or addressing major AIPAC events and meetings with AIPAC leaders.⁴⁵

To limit damage to its reputation, AIPAC soon launched a public relations campaign, asking its members to tell U.S. senators and congressmen not to deviate from their strong support for U.S.–Israeli relations. Nonetheless, it later suspended and subsequently fired both Rosen and Weissman after learning that tape recordings indicated that they had lied to investigators when asked whether they knew the information they obtained from Franklin was classified. Asked about the pair's dismissal, an AIPAC spokesman explained:

AIPAC dismissed Rosen and Weissman because they engaged in conduct that was not part of their jobs, and because this conduct did not comport in any way with the standards that AIPAC expects of its employees. AIPAC could not condone or tolerate the conduct of the two employees under any circumstances. The organization does not seek, use, or request anything but legally-obtained appropriate information as part of its work.⁴⁶

Weissman, who joined AIPAC in 1993, and Rosen denied any wrongdoing.⁴⁷ Rosen had joined AIPAC in July 1982 after four years of working as a social scientist for the RAND Corporation. He may have seen his contacts with Franklin and other members of the executive branch as a normal part of his work and persona. In fact, he had spent the last two decades working hard at developing contacts with Administration officials and lobbying in favor of policies that would increase Israel's security and economic wealth.⁴⁸

AIPAC's annual convention in May 2005—its biggest ever, with 5,000 participants—was portrayed as a massive expression of loyalty to the United States, its theme being “Israel: an American Value,” and the only anthem sung, the “Star-Spangled Banner.” Guest speakers were prominent, including Israeli Prime Minister Ariel Sharon, who closed the convention; Secretary of State Condoleezza Rice; former Bush administration official Richard Perle; and Congresswoman Jane Harman (Dem., CA).⁴⁹ None of them raised the Franklin case. Rice's first words, in fact, gave strong recognition to AIPAC's work:

Let me begin by saying that Israel has no greater friend and no stronger supporter than the United States of America. For over half a century, AIPAC has strengthened the religious, cultural and political bonds that unite our two great nations, and I thank you for that.⁵⁰

While Rosen and Weissman were not mentioned in the first three indictments against Larry Franklin, they were the fourth time around, on 4 August 2005. Both were charged with conspiracy to communicate national defense information to persons not entitled to receive it, a violation of 18 U.S.C. §§ 793(d), (e), and (g). Additionally, Rosen was charged with the communication of national defense information to persons not entitled to receive it, a violation of 18 U.S.C. § 793(d). From reading the indictment, Rosen's activities had obviously been picked up as early as 13 April 1999 when he allegedly communicated codeword intelligence⁵¹ on terrorist activities in Central Asia to an unnamed foreign official. According to the allegations, Rosen had received classified information from at least two unnamed U.S. government officials, which he in turn communicated to other AIPAC employees and up to three different foreign nationals. When questioned by the FBI on 3 August 2004, and later on 27 August, he denied that Franklin had ever disclosed any classified information to him, or to anyone else for that matter. On 9 August, and again on 27 August, Weissman also allegedly lied to the FBI, denying that Franklin had ever disclosed any classified information to him.

POLICY OPTIONS

Restricting Contacts

Even though no policy has been put in place or is contemplated to restrict authorized contacts between U.S. government officials and Israeli diplomats and American lobbyists in the wake of the indictments of Franklin, Rosen, and Weissman, observers assumed that government officials would, at least for a while, not hurry to return calls from AIPAC, whose reputation has somehow been tarnished by the affair, "for fear of getting entangled in inquiries and surveillance."⁵² Yet, the attendance of senior U.S. officials, including President George W. Bush, and then National Security Advisor Condoleezza Rice at major AIPAC events while the investigation into the activities of the three accused individuals was ongoing, is probably a good sign that the relationship between the Administration and AIPAC is in no danger of being severed.⁵³

But the problem concerns unauthorized contacts, especially with representatives of foreign countries. In a city like Washington, D.C., where such contacts by U.S. officials could easily be arranged or occur without any planning, just as they could with respect to lobbyists, this "socializing"

is nigh impossible to monitor with any degree of effectiveness. But government employees and contractors with security clearances should abide by much higher standards than their counterparts not having any security clearance. The obligation on their part is to acknowledge any chance or planned contacts with foreigners to their superiors or security officers; they are not expected nor authorized to develop a relationship with foreign nationals without this relationship being officially sanctioned by the appropriate government official. The same would assuredly apply with regards to unsanctioned, unreported long-term relationships with lobbyists.

The point here is not to affect the normal relationships that U.S. government officials entertain with anyone outside government as part of their regular duties; not much is to be gained by restricting them on account of Franklin's actions. Diplomatic contacts should indeed continue as normal. As Israeli diplomat Robbie Sabel aptly stated, "a country must rely on the common sense of its diplomats and their discretion," adding that they are obligated to report on their conversations with foreigners to their respective government.⁵⁴ This no less true for their U.S. counterparts.

That said, all U.S. government officials with a security clearance must continue to be formally reminded at regular intervals of their duty to get the proper authorization before establishing official contacts with foreign officials—or lobbyists, for that matter—if contacts with them do not fall within normal duties, and to report any chance contact with foreign officials should they occur.

Furthermore, Franklin's ability to meet often with Rosen and Weissman, as well as with foreign nationals, without notifying his supervisors or being authorized in any other way, raises the question of how effective Franklin's supervisors were in overseeing his work and making sure that his meetings were part of his duties. To their defense, however, Franklin, as far as is known, purposefully concealed these meetings from them. Could his supervisors have done more to prevent Franklin's alleged offenses from being committed? Hard to say, if only because no significant facts are yet available on this aspect of the case.

Restrict Intelligence Sharing with Israel

When the affair become public in August 2004, Israeli's media quickly reported that the intelligence relationship between the United States and Israel, and in particular the Mossad, had cooled off of late. Reasons cited for the chill were related to differences of opinion over issues such as the Arab-Israeli conflict and the fight against al-Qaeda in East Africa, along with perceptions on both sides that the other was not always as forthcoming as expected.⁵⁵

The coziness of the relationships among the intelligence agencies of both countries, however, cannot be understated.⁵⁶ According to W. Patrick Lang, a former DIA defense intelligence officer working on Middle Eastern issues:

The Israelis have always had more access than other friendly countries. The liaison relationships between the Israeli and American services are highly developed, codified, and have functioned for many years.⁵⁷

In fact, even the Pollard case failed to destroy or very seriously damage the intelligence relationship. The point is that the intelligence agencies of each country have too many mutual interests and beneficial arrangements to let their respective relationships atrophy for any length of time. Of course, were it to be demonstrated that Israeli diplomats were more than passive recipients of the classified information that Franklin, Rosen, and Weissman were allegedly giving them, some repercussions might result, such as Israeli diplomats being “encouraged” to return home or prevented from coming back in the future. But again, whether the impact would be long lasting is doubtful. The intelligence relationship between the U.S. and Israel will continue to be subject to changes in focus—with more or fewer sharing restrictions over time—or the personal whim of leaders. That has been the case over the past several decades, and will remain so as long as the national interests of the U.S. and Israel are served through the relationship.

Reemphasize the Value of Counterintelligence

Espionage against the United States has not decreased since the terrorist attacks of 11 September 2001; in fact, according to a U.S. government report, “foreign intelligence activities have grown in diversity and complexity over the last several years.”⁵⁸ Yet, funds available to counterintelligence officials have been dwindling to cover other costs linked to the war on terrorism.⁵⁹

That foes and friends have spied on the United States for a long time will not come as a surprise to anyone. As Seth Jones of the RAND Corporation astutely observed:

The end of the cold war and the emergence of the United States as the world’s only superpower have made America an attractive target for spies from other nations, including allies. Continuing innovations in military, economic and dual-use technologies by U.S. companies and government agencies tempt other countries to acquire the innovations through espionage. And U.S. military deployments around the world create a strong impetus for other governments to get secret information so they can better understand what the United States is doing today and planning to do.⁶⁰

Former DIA analyst Patrick Lang agrees:

With the end of the Soviet Union, people stopped taking counterintelligence seriously. Not enough attention has been devoted to keeping people from getting into our secret store of knowledge.⁶¹

This increased interest in U.S. secrets is compounded by a greater vulnerability to penetration due to increased recruiting activities by the country's own national security agencies and the increased sharing of intelligence with more countries than ever in the fight against terrorism.⁶² In this context, but not necessarily in direct response to these developments, in March 2005 the Office of the National Counterintelligence Executive (NCIX) released the first unclassified *National Counterintelligence Strategy of the United States*. The Strategy is based on six pillars:

- (1) First we will extend the safeguards of strategic counterintelligence to the Global War on Terrorism.
- (2) U.S. counterintelligence will shift from a reactive posture to a proactive strategy of seizing advantage.
- (3) U.S. counterintelligence will help protect the sensitive technologies that are the backbone of our security.
- (4) U.S. counterintelligence will safeguard the integrity of intelligence operations and analysis, and defeat foreign intelligence operations.
- (5) U.S. counterintelligence will seek to ensure a level economic playing field so that business and industry are not disadvantaged by foreign intelligence operations.
- (6) The intelligence community will ensure that counterintelligence analytic products are available to the President and his national security team to inform decisions.⁶³

The implementation of these six pillars would meet the *Strategy's* four fundamental objectives:

- (1) Identify, assess, neutralize, and exploit the intelligence activities of foreign powers, terrorist groups, international criminal organizations, and other entities who seek to do us harm.
- (2) Protect our intelligence collection and analytic capabilities from adversary denial, penetration, influence, or manipulation.
- (3) Help enable the successful execution of our sensitive national security operations.
- (4) Help safeguard our vital national security secrets, critical assets, and technologies against theft, covert foreign diversion, or exploitation.⁶⁴

Arguably, the prosecution of Franklin, Rosen and Weissman meets at least the fourth objective. But, no matter how strong a counterintelligence policy is, the decision to counter a specific activity or prosecute specific individuals will remain that of a leadership open to political persuasion of

one kind or another. Notwithstanding, such a well-worded national policy with the appearance of being taken seriously would always serve as a minor deterrent for some people. But, like espionage laws, any determined individual would at some point find a way to commit the deed and compromise sensitive national security information. The release of the *Strategy* demonstrates a commendable commitment that, at a time when fighting terrorism is the absolute priority, the spying activities against the U.S. of either allies or enemies, including those of terrorists, will be negated as they only enhance the capabilities of terrorists to strike more efficiently.

At a lower level of policy, on 22 July 2005, the Department of Defense reissued its 1992 directive on unauthorized disclosures of classified information to the public. The directive reminds military and civilian officials and DoD contractors of their responsibilities for reporting without delay “any suspected or actual unauthorized public disclosure of classified information,” and assigns specific responsibilities to the Undersecretary of Defense for Intelligence (USD(I)) and the Heads of the DoD Components in this regard.⁶⁵ Although the release of this revised directive nearly coincided with Larry Franklin’s latest indictment, it also reflected certain organizational changes within DoD since the directive was first issued, such as the creation, post-9/11, of the USD(I) position.

How effective these welcome developments will be in revitalizing U.S. counterintelligence has yet to be determined, especially in cases of friends spying on friends. That may never be known, especially given previous experience. As former CIA Inspector General Frederick Hitz explains,

Normally, when a spy service is caught out by an allied service with which it has continuous business relations, even if the relations are not close, the matter is handled *between* the services, and generally with discretion.⁶⁶

HARMFUL BUT NOT FATAL

Israel and the United States will continue to work together to counter mutual threats and in support of joint policy objectives. Their relationship has survived the Cold War, Arab–Israeli wars, and the Pollard spy case. If anything, its intensity has increased since Iraq invaded Kuwait in 1990, despite periodic ups and downs.⁶⁷ In fact, much more is to be gained, with a higher likelihood of success, in the fight against terrorism and proliferation if the two countries work together rather than at cross purposes. Their Joint Counter-Terrorism Group, set up in 1996 to improve cooperation, should therefore continue unimpeded. But, effective intelligence sharing, to name only one key area of cooperation, is highly dependent on mutual trust and confidence.⁶⁸ This trust and confidence have been somewhat shaken by the Franklin affair. Because Israel

conducts espionage activities against the United States, as alleged anonymously by several U.S. government officials, the intelligence relationship “is not one of complete trust at all.”⁶⁹ The assumption is that, while cooperation on terrorism is solid and mutually beneficial, other areas of intelligence cooperation may suffer as a result.

To assess whether the Franklin affair is likely to have any lasting impact on the U.S.–Israeli intelligence relationship, the damage and injury to the United States caused by Franklin’s communication of classified information to Israeli officials must be judged. Israel and the United States have a common concern about Iran’s nuclear ambitions. Given the closeness of the intelligence relationship between these two countries over the years, the classified information that Franklin, Rosen, and Weissman allegedly communicated to Israeli officials is not likely to have fundamentally affected the policies implemented or objectives pursued by each country. As far as is known, and unlike egregious espionage activities against the U.S. by its adversaries, the classified information communicated by the indicted trio did not lead to the death of any U.S. or other officials, either in the United States or abroad. While the U.S. government cannot turn a blind eye on Franklin, Rosen, and Weissman, who are alleged to have very clearly violated U.S. laws, it can certainly afford to not lay specific blame on Israel while pursuing more important objectives. But, until more is known of the exact motivations of Franklin, Rosen, and Weissman, doubts will continue as to the exact role played by Israeli officials in Washington. Yet, no matter how the case ultimately ends, their intelligence relationship will survive. In the meantime, the U.S. government would be well advised to strictly enforce its newly released counterintelligence strategy and its statutes on espionage.

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