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Wednesday, January 14, 2009

George W. Bush, President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

FAX: 202-456-2461, Copy to Office of the Pardon Attorney (202) 616-6070

Dear George W. Bush,

I am writing to protest the pardon of Charles Winters and potential pardons for Jonathan Pollard, Steven Rosen and Keith Weissman on behalf of IRmep, a membership organization with supporters in 37 states.

From the standpoint of rule of law, such pardons signal to special interest groups and operatives that violating the law to achieve their objectives is acceptable—if in the future the objectives achieved by crime are vindicated by a US president.

As the enclosed essay argues, the historic custom of pardoning crimes committed in the name of Israel has a corrosive effect on American governance, achieves no productive foreign policy objectives and may in fact encourage future criminal acts.

Sincerely,

A handwritten signature in black ink, appearing to read 'Grant F. Smith', with a long horizontal stroke extending to the right.

Grant F. Smith
Director of Research

Enclosure: Essay: Pro-Israel Pardons and Leniency Too Costly to Continue

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January 13, 2009

Pro-Israel Pardons and Leniency Too Costly to Continue

by Grant F. Smith

A small but significant trial balloon went up late last year when Charles Winters received a presidential pardon. Winters delivered three converted World War II B-17 bombers to the nascent Israeli armed forces in the late 1940s. Co-conspirators Herman Greenspun and Al Schwimmer were fellow operatives within a vast network of nonprofit front organizations stealing, reconditioning, and smuggling surplus WWII arms [pdf] scheduled to be scrapped under President Truman's War Assets Administration. Greenspun personally stole 58 crates (weighing 35 tons) of .30 and .50 caliber machine guns from the U.S. military for shipment from Hawaii to the Middle East in violation of the 1939 Neutrality Act. Mainstream media has generally portrayed Winters' posthumous pardon as "setting the record straight." His hometown newspaper trumpeted that Winters was "on the wrong side of the law, but on the right side of history."

Those concerned about the portrayal of Israel's history, including Hollywood film director Steven Spielberg, are among the many prominent individuals and organizations that lobbied for Winters' pardon last year. A similar coalition is pushing for the last-minute pardon of not only two American Israel Public Affairs Committee (AIPAC) lobbyists indicted under the 1917 Espionage Act, but also Israel's most notorious spy. Former U.S. naval intelligence analyst Jonathan Pollard was sentenced to life in prison a quarter century ago for selling some of America's most closely held national defense secrets to Israel. As the final deadline looms, President Bush should carefully consider whether executive clemency for lawbreaking in the name of Israel achieves positive benefits or merely encourages ever more audacious challenges to the rule of law in America. Documentary evidence, some old, some newly emerging, provides clear answers.

Winters was probably the last of the "gun-runners for Israel" generation likely to receive a pardon. President John F. Kennedy pardoned Herman Greenspun in 1961 as a concession in wooing and winning over key donors of the Israel lobby during his presidential bid. Greenspun was convicted of violating the Neutrality Act in 1951. But if JFK thought he had mended rifts about illegal arms and the Israel lobby's all-but-sovereign foreign policy, then he was mistaken. The "nuclear-fund-runners" were ascendant. Key figures of the lobby were not only financing the fledgling Dimona nuclear reactor, but also running foreign-funded cover propaganda in the U.S. AIPAC founder Isaiah Kenen labored mightily to deflect U.S. State Department speculation that Israel's Dimona nuclear reactor was a secret weapons facility by citing "expert testimony" in his lobbying newsletter, *The Near East Report*. Among Kennedy's last bilateral diplomatic acts was a

firm July 5, 1963, demand for regular U.S. inspections of Dimona delivered to the Israeli prime minister. But the push to include Israel in the fledgling nuclear nonproliferation regime died with Kennedy's November assassination in Dallas. A simultaneous and largely secret Department of Justice drive to regulate the Israel lobby as agents of the Israeli government also subsequently perished.

The exact costs of having Israel outside the Nuclear Non-Proliferation Treaty and its U.S. lobby outside the Foreign Agents Registration Act regime are hard to quantify. If AIPAC and other organizations lobbying in coordination with the Israeli government had been properly regulated as foreign agents since the 1960s, it is remotely possible that peace would now reign in the Middle East. But presidents have instead tried more conciliatory avenues. President George W. Bush may even grant the requested pardons for Jonathan Pollard as well as AIPAC's Steve Rosen and Keith Weissman – as soft gestures toward peace in the Middle East. But how successful are such concessions?

It is no secret that AIPAC has been working feverishly behind the scenes to portray Iran as a grave threat to the United States and influence policy toward a tougher U.S. military stance. Steve Rosen and Keith Weissman's covert operation allegedly obtained classified presidential directives about Iran, channeled classified information to friends in the media, and guided Col. Lawrence Franklin's intelligence-gathering activities at the Department of Defense. While the long-delayed case against them has not yet gone to trial and major details have yet to emerge, AIPAC's known efforts clearly could have led to a U.S.-Iranian military conflict, or at least American acquiescence to an Israeli attack on Iran. This would have done incalculable damage to U.S. interests if the FBI hadn't intervened.

The myth that pardons and leniency produce diplomatic results was clearly operative in the Clinton White House. Even after failing to sign a comprehensive peace deal between Israel and Palestinians, Bill Clinton pardoned gun-runner Al Schwimmer and fugitive financier Marc Rich upon leaving office. Clinton's deputy attorney general, Eric Holder (now president elect Barack Obama's nominee for attorney general), advised the Clinton White House counsel that he was "neutral, leaning toward favorable" on pardoning Rich, after being told former Israeli Prime Minister Ehud Barak supported Rich's petition. As illegal settlements spread and Gaza burns yet again, there is still precious little evidence that such pardons improve the prospects for peace or increase American leverage over Israel. Firmer actions such as denials of airspace or abstentions at UN Security Council votes are obviously more effective.

If President Bush is wavering or Barack Obama is considering pardons upon entering office, historical precedent indicates that pardons for crimes perpetrated in the name of Israel are costly but yield no benefits. Kennedy's unintended leniency provided a green light for financing the Israeli nuclear weapons program. The Marc Rich pardon produced nothing but embarrassment for Clinton and is now a possible nomination hurdle for Eric Holder. A pardon of Jonathan Pollard would probably result in intensified unauthorized transfers of sensitive national defense information to Israel in the future. A Rosen and Weissman pardon would signal that the Israel lobby may freely pursue covert action to use the U.S. military against Israel's enemies. Tough diplomacy, unfettered law enforcement, and reasonable penalties for criminal violations are historically the only proven techniques for keeping the Israel lobby in check.

Those lobbying for exceptions should understand better than most that the rule of law itself is essentially binary: either it applies to us all, or the entire American system of governance begins to decay. This is why it is so ironic that Steven Spielberg and others who quietly pressed President

George W. Bush to pardon Charles Winters subsequently discovered the rule of law had massively failed them – many were victimized by Bernard Madoff's alleged \$50 billion Ponzi scheme, enabled by nonexistent will to enforce the law despite of years of legitimate complaints to the Securities Exchange Commission. No American should be similarly trampled by individuals or rogue organizations acting outside the law. Rewarding crimes committed in the name of Israel with presidential pardons and leniency are practices that are simply far too costly to continue.

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