

# **Nathan Hale Foreign Policy Society**

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Policy Background and Options Paper

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### **“Spying on Friends:”**

#### **The Franklin Case**

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*Nathan Hale’s Policy Background and Options Papers address contemporary issues facing the U.S. government in an effort to stimulate constructive discourse about American foreign affairs and provide timely and effective policy analysis and recommendations.*

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## 1. EXECUTIVE SUMMARY

On August 4, 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, widely assumed to be Israel. On October 5, Franklin pleaded guilty and admitted giving classified information to the other accused, and directly to an Israeli official. As the investigation into their activities has not yet wrapped up, other indictments remain a possibility.

When the story of an investigation into Franklin's communication of classified information to Rosen and Weissman surfaced, it was immediately widely assumed that Israel was the ultimate beneficiary. This assumption was reinforced when it was disclosed that the classified information compromised was related to issues of immediate interest to the Jewish state, including Iran's nuclear ambitions and the situation in Iraq. However, 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.

The protection of U.S. secrets is important to America's national security and economic prosperity. While no comparison can be drawn between this case and that of Jonathan Pollard, who compromised highly sensitive sources and methods, except that the ultimate beneficiary is likely the same, it does not mean that it should be glossed over. Franklin clearly violated the trust the government placed in him and several policy and legal provisions. As such, no exception should be made of his case. The actions of Rosen and Weissman likewise should not be easily forgotten. Both allegedly knew very well they had received classified information, passed it to a foreign power, and even lied about it to FBI investigators. While it is a bit unusual that people in their position be prosecuted, it should be clear that they were not passive recipients of classified

information and that, like Franklin, they had ideological, professional or personal motives to do so. They may not be traitors, but, should they be convicted, they assuredly would have willingly broken the law to the detriment of U.S. interests.

Rather than affecting the close relationship between the United States and Israel, this paper recommends that the U.S. government fully and effectively implement its new National Counterintelligence Strategy and enforce all relevant statutes on espionage and the unlawful disclosure of classified information. Success in the war on terrorism and operations in Iraq and Afghanistan depends, in part, on good operational security.

## 2. THE ISSUE IN FOCUS

Friends spying on their friends to further their national interests is not a new phenomenon. In the past two decades, Americans and Europeans have awakened to the economic espionage activities of their friends and often retaliated. These episodes, however, 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.<sup>1</sup> 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."<sup>2</sup>

Arthur Hulnick writes that Israel has assuredly been a thorn in the heel of the United States. One of the U.S.'s closest ally and friend, it has been particularly active at industrial espionage targeted at U.S. firms.<sup>3</sup> The case of Jonathan Pollard was hopefully

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<sup>1</sup> See, inter alia, Fialka, John, War by Other Means: Economic Espionage in America (New York: W. W. Norton & Company, 1997), and Potter, Evan H., Editor, Economic Intelligence & National Security (Ottawa: Carleton University Press & The Centre for Trade Policy and Law, 1998).

<sup>2</sup> Van Cleave, Michelle, "The National Counterintelligence Strategy of the United States," remarks prepared for delivery at the Conference on Counterintelligence for the 21<sup>st</sup> Century (Texas A&M University, Bush School of Intelligence, March 5, 2005), pp. 2-3

<sup>3</sup> Hulnick, Arthur S., Keeping Us Safe: Secret Intelligence and Homeland Security (Westport: Praeger, 2004), pp. 57-59.

an exception. However, the indictment of Franklin, Rosen and Weissman raises the questions anew: Was Israel more involved than it looks? Was Israel only the passive recipient of information 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 channels? If so, why would they have needed Franklin? Why would Franklin, Rosen and Weissman risk their career to serve Israel's national interests? Why has Israeli officials in Washington not reported their unofficial contacts with Franklin to the appropriate U.S. authorities? These are difficult questions to answer at the moment. The trial will perhaps lift the veil on some of the most important facts. But perhaps not. 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 a little while. On the other hand, would the political leadership put at risk efforts on the Middle East peace process to retaliate at Israel? Time may tell. In the meantime what follows is a rendition of the facts and policy options as I see them at this juncture.

### 3. RECENT EVENTS

- **June 30, 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's office and residence.<sup>4</sup>
- **August 27, 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 the American-Israeli Political Action Committee (AIPAC), a

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<sup>4</sup> "Pentagon Analyst Held in Israel Spy Probe," Associated Press, May 4, 2005; Guttman, Nathan, "FBI charges Pentagon analyst in AIPAC affair," Ha'aretz, May 5, 2005.

- Washington, D.C.-based lobbying organization; information which in turn allegedly found its way into the hands of the Israeli government.<sup>5</sup>
- **October 5, 2004:** Franklin, unable to agree on a plea agreement, stopped cooperating with the FBI and hired Plato Cacheris as his attorney; Cacheris had defended convicted CIA officer Aldrich Ames and FBI officer Robert Hanssen, both of whom had spied for the Soviet Union/Russia.<sup>6</sup> 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.<sup>7</sup>
  - **December 1, 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.<sup>8</sup>
  - **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.<sup>9</sup>
  - **May 4, 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.<sup>10</sup>

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<sup>5</sup> Associated Press, "F.B.I. Investigating Whether Pentagon Official Spied for Israel," The New York Times, August 27, 2004; Graham, Bradley and Thomas E. Ricks, "FBI Probe Targets Pentagon Official," The Washington Post, August 28, 2004.

<sup>6</sup> Schmitt, Richard B., "Policy Analyst Is Said to Have Rejected Plea Deal," The Los Angeles Times, October 6, 2004.

<sup>7</sup> Zacharia, Janine, "'Post's exclusive: How the FBI set up AIPAC,'" The Jerusalem Post, December 5, 2004; Zacharia, Janine, "FBI setup in AIPAC confirmed," The Jerusalem Post, December 8, 2004.

<sup>8</sup> Anderson, Curt, "FBI Searches Pro-Israel Lobbyists' Office," Associated Press, December 1, 2004; Zacharia, Janine, "Four AIPAC directors subpoenaed," The Jerusalem Post, December 2, 2004. AIPAC's offices were first searched in August 2004.

<sup>9</sup> Johnston, David, "Israeli Lobby Reportedly Fires 2 Top Aides in Spying Inquiry," The New York Times, April 21, 2005; Eggen, Dan and Jerry Markon, "2 Senior AIPAC Employees Ousted," The Washington Post, April 21, 2005, p. A8.

<sup>10</sup> Markon, Jerry, "Defense Analyst Charged With Sharing Secrets," The Washington Post, May 5, 2005, p. A1.

- **May 24, 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.<sup>11</sup>
- **June 13, 2005:** Franklin pled not guilty on the six counts of a federal grand jury indictment filed on May 26, 2005 in the U.S. District Court for the Eastern District of Virginia; his trial was scheduled for September 6, 2005. This indictment superceded the one-count indictment filed on May 4, 2005.<sup>12</sup>
- **August 4, 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.
- **August 16, 2005:** Franklin, Rosen and Weissman pleaded not guilty to the August 4 counts. They were ordered by the federal district court judge to surrender their passport. The judge also imposed restrictions on their movement, released them on bond, and scheduled their trial for January 3, 2006.<sup>13</sup>
- **October 5, 2005:** Franklin decided to plead guilty, admitting to have given classified information to Rosen and Weissman, and to an unnamed foreign official.<sup>14</sup>

## 4. BACKGROUND & ANALYSIS

### 4.1 Who is Larry Franklin?

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<sup>11</sup> Guttman, Nathan, "Franklin says he may have passed info," Ha'aretz, May 31, 2005.

<sup>12</sup> Guttman, Nathan, "Pentagon aide charged with leaking secret data to AIPAC," Ha'aretz, June 14, 2005; Markon, Jerry, "U.S. Boosts Charges Against Defense Analyst," The Washington Post, June 14, 2005, p. B3.

<sup>13</sup> Rosner, Shmuel, "AIPAC lobbyists, US analyst plead not guilty of disclosing classified data," Ha'aretz, August 17, 2005; Guttman, Nathan, "Former AIPAC officials plead not guilty in secrets case," The Jerusalem Post, August 17, 2005.

<sup>14</sup> Markon, Jerry, "Defense Analyst Guilty in Israeli Espionage Case," The Washington Post, October 6, 2004, p. A2.

The FBI investigation into Lawrence A. Franklin started when 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 was a veteran Defense Intelligence Agency (DIA) analyst who 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 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 from Israeli intelligence agencies, either by himself or along with several work colleagues and other U.S. government officials.<sup>15</sup> However, as disclosed in his latest indictment, 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, obtained his Ph.D. in East Asian studies from Fordham University. 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

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<sup>15</sup> Graham, Bradley and Thomas E. Ricks, "FBI Probe Targets Pentagon Official," The Washington Post, August 28, 2004; Schiff, Ze'ev, "Analysis: A cold wind blowing from the CIA," Ha'aretz, August 29, 2004; Kaspit, Ben, "Franklin met Israeli Intelligence attaché," Maariv International, September 7, 2004. Ghorbanifar was involved in the Iran-Contra scandal in the 1980s (see The Tower Commission Report, New York: Random House, 1987) and allegedly gave the U.S. government dubious information about Iraq and Iran before the U.S. intervention in Iraq in March 2003. Gutman, Matthew, "Who is Larry Franklin?" The Jerusalem Post, August 28, 2004; Risen, James, "F.B.I. Said to Reach Official Suspected of Passing Secrets," The New York Times, August 29, 2004..

Force Reserves assigned to the DIA's Defense HUMINT Service (DHS). As part of his temporary military duties, he worked briefly in the U.S. military attaché's office in Israel in the late 1990s.<sup>16</sup>

#### 4.2 What has he allegedly done?

When the investigation was unveiled by CBS, it was said that Franklin had 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.<sup>17</sup> 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 he could be indicted. On July 9, 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 July 21, 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 Central Intelligence Agency). Weissman, without losing a beat, relayed the information to his policy director Steve Rosen. He and Rosen subsequently contacted a third foreign official (according to the media Naor Gilon, the political officer at the Israeli Embassy),<sup>18</sup> and a member of the

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<sup>16</sup> Zacharia, Janine and Arich O'Sullivan, "Jerusalem: No intelligence assets on American soil," The Jerusalem Post, August 28, 2004; Risen, James, "F.B.I. Said to Reach Official Suspected of Passing Secrets," The New York Times, August 29, 2004; Ricks, Thomas E. and Robin Wright, "Analyst Who Is Target of Probe Went to Israel," The Washington Post, August 29, 2004, p. A1; Guttman, Nathan, "Analyst at center of spy flap called naïve, ardently pro-Israel," Ha'aretz, August 30, 2004; Tuckwiller, Tara, "Pentagon spy suspect teaches at Shepherd," The Charleston Gazette, September 1, 2004.

<sup>17</sup> Graham, Bradley and Thomas E. Ricks, "FBI Probe Targets Pentagon Official," The Washington Post, August 28, 2004.

<sup>18</sup> The Israeli daily Ha'aretz report on July 28 2005 that the FBI was interested in discussing Franklin's case with Gilon and possibly other Israeli diplomats, despite their diplomatic immunity. Benn, Aluf, "FBI wants to quiz Israeli official in Pentagon spy case," Ha'aretz, July 28, 2005.

media (according to the media reporter Glenn Kessler of the Washington Post).<sup>19</sup> *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 the leaking to Iran that the United States was able to intercept and read Iran's coded communications.<sup>20</sup>

According to the grand jury allegations, Franklin had first got 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 February 12, 2003. It is during this meeting that Franklin would have communicated, without authorization, the contents of a classified draft document on US policy toward a Middle East country (presumably Iran). The information was later relayed to two foreign officials, a think tank official, and two members of the media by Rosen, and to one foreign official by Weissman. On March 17, 2003, Franklin faxed the classified annex he had written for the draft policy document to Rosen.

Franklin, Rosen and Weissman met again on June 26, 2003 at lunch time. 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 June 30. The grand jury allegations also mentions that on October 24, 2003, Franklin, without authorization, also discussed the draft document on U.S. policy toward a Middle East country with a foreign official, and on

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<sup>19</sup> Kampeas, Ron and Matthew Berger, "Probe of former AIPAC staffers centers around Iraq," The Jerusalem Post, May 19, 2005; Lake, Eli, "Pentagon Analyst In Israel Spy Case Is Called a 'Patriot'," The New York Sun, May 27, 2005; Markon, Jerry, "FBI Tapped Talks About Possible Secrets," The Washington Post, June 3, 2005, p. A7.

<sup>20</sup> Bennett, Brian, Elaine Shannon and Adam Zagorin, "A Web of Intrigue," Time, September 5, 2004, accessed at <http://www.time.com/time/magazine>.

May 21, 2004 classified information about meetings between two Middle Eastern officials with members of the media.<sup>21</sup>

A search of Franklin's house, also on June 30, 2004, revealed that he had 83 U.S. classified documents there that were improperly stored and for which he had no authorization to keep at his house (his courier certificate was only valid for Washington, D.C., Baltimore and Richmond). Out of these 83 documents, 38 were Top Secret or Top Secret/SCI and 37 Secret, some dating as far back as 30 years. There were at least five CIA reports and one from the late Terrorist Threat Integration Center (TTIC). According to the May 24, 2005 FBI affidavit, the contents of one of the documents found at Franklin's house had been discussed with a foreign official.<sup>22</sup>

Franklin had first met this foreign official, the policy person at a Washington, D.C.-based embassy (presumably Gilon), on August 15, 2002. This meeting was followed by at least 14 others in 2003 and 2004, during which a couple of subjects were discussed, including the nuclear program of a Middle Eastern country (presumably Iran's), foreign policy issues, senior US government officials, charity effort 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 between Franklin, Rosen, Weissman and foreign officials should not come as a surprise. Israel is highly concerned by Iran's attempts to develop a nuclear weapon capability and has even threatened to launch a preemptive strike if it feels sufficiently threatened.<sup>23</sup> Because Franklin's ultimate employer was Douglas J. Feith, a key policy adviser to Donald Rumsfeld, Franklin's illegal communication of classified information to Israel, some assumed, could have assisted the latter in influencing the

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<sup>21</sup> Several journalists were subsequently sought for questioning by the FBI. Jonhston, David, "F.B.I. Questions Journalists in Military Secrets Inquiry," *The New York Times*, May 14, 2005.

<sup>22</sup> Guttman, Nathan, "Franklin says he may have passed info," *Ha'aretz*, May 31, 2005; Terry, Juliet A., "Ex-Analyst Faces New Federal Charges," *WTRF Radio*, June 26, 2005, accessed at <http://www.wtrf.com/story.cfm?func=viewstory&storyid-3014>.

<sup>23</sup> BBC News, "Israel denies US spy allegation," August 28, 2004.

White House with respect to its policies toward Iran or Iraq.<sup>24</sup> 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.<sup>25</sup>

There were no hints that Franklin's actions were motivated by financial gains, a usual motive, or authorized by his superiors. U.S. officials, under the cover of anonymity, speculated he simply lacked judgment, was ill-advised or even simply stupid. Several of Franklin's past and current colleagues who anonymously spoke 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.<sup>26</sup> The May 26, 2005 indictment noted that Franklin's 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 February 14, 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. When he pleaded guilty on October 5, Franklin simply admitted his frustration with U.S. policies, adding that he wished no harm to the United States and that in all likelihood Israel already knew about the information he was providing them.<sup>27</sup>

### 4.3 Were other people involved?

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<sup>24</sup> Zacharia, Janine, "Analysis: Storm on the Israeli-US horizon?" The Jerusalem Post, August 29, 2004.

<sup>25</sup> Zacharia, Janine and Arie O'Sullivan, "Jerusalem: No intelligence assets on American soil," The Jerusalem Post, August 28, 2004; Benn, Aluf and Nathan Guttman, "Israeli sources: Alleged spy had regular work ties with us," Ha'aretz, August 29, 2004.

<sup>26</sup> Kaspit, Ben and Miriam Fox, "Israeli diplomat denies any improper behavior," Maariv International, August 30, 2004; Graham, Bradley and Dan Eggen, "FBI Interviews Senior Defense Officials in Probe of Analyst," The Washington Post, August 31, 2004, p. A3; Gertz, Bill, "FBI suspect specialized in Iranian affairs," The Washington Times, September 1, 2004.

<sup>27</sup> Lichtblau, Eric, "Pentagon Analyst Admits Sharing Secret Data," The New York Times, October 6, 2005.

While the focus has overwhelmingly been on Franklin, the counterintelligence 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 the role of AIPAC as a conduit of classified information to the Israeli government.<sup>28</sup> Officially, though, DoD made the point that the FBI investigation was clearly limited in scope, which so far has proven true.<sup>29</sup> However, in June 2004, several DoD civilian officials had to go through a polygraph as part of an investigation into whom provided classified information to Iraqi exile Ahmed Chalabi, but this seems now to be unrelated to the indictment of Franklin, Rosen and Weissman.<sup>30</sup>

The August 4, 2005 indictment notes that Rosen had received classified information from two different unnamed U.S. government officials. There are no indications that further indictments are forthcoming with respect to these individuals. On August 18, 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 current U.S. State Department's deputy head of mission in Baghdad. The indictment alleges that Satterfield discussed national security matters twice with Rosen in 2002, at which time he was serving as Deputy Assistant Secretary of State for Near Eastern and South Asian Affairs.<sup>31</sup> The other official, ex-CIA and National Security Council staffer Kenneth Pollack, who now works at the Brookings Institution, self-identified himself two weeks later.<sup>32</sup>

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<sup>28</sup> Schmidt, Susan and Robin Wright, "Leak Probe More Than 2 Years Old," The Washington Post, September 2, 2004, p. A6; Johnston, David and David E. Sanger, "Pro-Israel Lobby Said to Have Been Inquiry Target," The New York Times, September 3, 2004.

<sup>29</sup> AFP, "US probe of Pentagon policy leak broader than one case," August 30, 2004.

<sup>30</sup> Risen, James, "F.B.I. Said to Reach Official Suspected of Passing Secrets," The New York Times, August 29, 2004.

<sup>31</sup> Johnston, David and James Risen, "U.S. Diplomat Is Named in Secrets Case," The New York Times, August 18, 2005.

<sup>32</sup> Matthew E. Berger, "Prominent Mideast Analyst Says He's U.S. Official in Case of Ex-AIPAC Men," Jewish Telegraph Agency, August 29, 2005.

Three foreign officials were also alleged to have received classified information from either Franklin, Rosen and Weissman, all of whom the FBI would like to discuss with. However, given their assumed diplomatic immunity, it is highly unlikely that any legal action will be undertaken. More likely is that these diplomats, if there is adverse information as to their role in this affair, would be asked to leave the United States or be prevented, should they have already left the United States, from taken up any new diplomatic posting anywhere in the country. The investigation is continuing and new developments, including indictments, remain a possibility.

#### **4.4 How Did Israel React?**

The Israeli government immediately denied being involved in espionage activities against the United States or having any intelligence asset in the country, arguing it had no need to damage the close and mutually beneficial relationships existing between Israel and the United States, including in the world of intelligence, where a large amount of intelligence is shared between the two countries.<sup>33</sup> Yuval Steinitz, the chairman of the Foreign Affairs and Defense Committee in the Knesset (Israel's parliament), explained that following the Jonathan Pollard's espionage case of the 1980s, the Israeli government has decided not to engage in espionage activities against the United States and that that 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.<sup>34</sup> 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."<sup>35</sup> This

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<sup>33</sup> BBC News, "Israel denies US spy allegation," August 28, 2004; Zacharia, Janine and Arie O'Sullivan, "Jerusalem: No intelligence assets on American soil," The Jerusalem Post, August 28, 2004; Benn, Aluf and Nathan Guttman, "Israeli sources: Alleged spy had regular work ties with us," Ha'aretz, August 29, 2004.

<sup>34</sup> Jpost.com Staff with AP, "Steinitz: Israel won't break post-Pollard pledge," The Jerusalem Post, August 28, 2004.

<sup>35</sup> Quoted in Erlanger, Steven, "Israel Denies Spying Against U.S.," The New York Times, August 29, 2004.

being said, Israel readily acknowledges that it has Mossad and military intelligence officers based in Washington, D.C., all of whom are known to U.S. authorities.<sup>36</sup>

Gilon, one of the foreign officials whom Franklin has allegedly been in touch with, was equally categorical and 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, D.C., would be hampered by the affair. By summer 2005, he had left Washington, D.C. and returned to Israel.<sup>37</sup> The Israeli Embassy has confirmed that the FBI asked for the assistance of the Israeli government in furthering their investigation, and that the latter has expressed its willingness to cooperate in response. What form will this gesture take is unknown at the moment.<sup>38</sup>

Israeli officials expressed concerns that relations could be affected because of negative public opinion towards Israel in the United States being generated by the investigation. Some even suggested that whoever leaked the investigation probably did so to damage the U.S. Republican Party on the eve of its convention or the support given to Israel by the Bush White House.<sup>39</sup>

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;”

while another asserted that Israelis

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<sup>36</sup> Erlanger, Steven, “Israel Denies Spying Against U.S.,” The New York Times, August 29, 2004.

<sup>37</sup> Kaspit, Ben and Miriam Fox, “Israeli diplomat denies any improper behavior,” Maariv International, August 30, 2004; Graham, Bradley and Dan Eggen, “FBI Interviews Senior Defense Officials in Probe of Analyst,” The Washington Post, August 31, 2004, p. A3.

<sup>38</sup> Eggen, Dan and Jamie Stockwell, “U.S. Indicts 2 in Case Of Divulged Secrets,” The Washington Post, August 5, 2005, p. A1.

<sup>39</sup> Tostevin, Matthew, “Israelis Fear Fallout from Pentagon Spy Probe,” Reuters, August 29, 2004; Rabinovich, Abraham, “Officials worry about effects of spy accusations,” The Washington Times, August 30, 2004.

“undertake a wide range of technical operations and human operations. People here as liaison aggressively pursue classified intelligence from people. The denials are laughable.”<sup>40</sup>

As Director of Central Intelligence, George Tenet had also alluded to an Israeli espionage problem just before departing his position in 2004; while an academic, Duncan Clarke of American University, noted Israel’s extensive industrial espionage in the United States over the years.<sup>41</sup>

Officials U.S. documents gave 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.<sup>42</sup> 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.<sup>43</sup>

#### 4.5 How Did AIPAC React?

AIPAC, probably the most reputable, serious and politically involved lobbying organization American Jews have in the United States, with nearly 100 staff at its headquarters and 100,000 members across the country, has a long history of lobbying congressional leaders on Israeli or Middle Eastern issues.<sup>44</sup> In the words of its Executive Director Howard Kohr and President Bernice Manocherian, AIPAC’s essential objectives are to support “America’s interests in the Middle East and advocating for a strong

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<sup>40</sup> Drogin, Bob and Greg Miller, “Israel Has Long Spied on U.S., Say Officials,” The Los Angeles Times, September 3, 2004.

<sup>41</sup> Blanche, Ed, “Friends like these: ‘Israeli spy’ scandal in US opens old wounds,” The Daily Star, September 4, 2004; “A mole called Mega,” Foreign Report, September 29, 2004.

<sup>42</sup> United States, Annual Report to Congress on Foreign Economic Collection and Industrial Espionage: 1998 (Washington, D.C.: National Counterintelligence Center, 1999), p. 17.

<sup>43</sup> United States, Annual Report to Congress on Foreign Economic Collection and Industrial Espionage: 2000 (Washington, D.C.: National Counterintelligence Center, 2001), p. 16.

<sup>44</sup> Guttman, Nathan, “Focus: The ‘dual loyalty’ slur returns to haunt U.S. Jews,” Ha’aretz, August 29, 2004; Risen, James, “F.B.I. Said to Reach Official Suspected of Passing Secrets,” The New York Times, August 29, 2004; Seper, Jerry, “Israel group in FBI probe wields influence in U.S.,” The Washington Times, September 2, 2004. On AIPAC’s controversial lobbying activities, see Ben-David, Calev, “Background: Not AIPAC’s first controversy,” The Jerusalem Post, August 30, 2004. AIPAC’s lobbying activities and influence are described, inter alia, by former Secretary of State James A. Baker, III, with Thomas M. Defrank, The Politics of Diplomacy: Revolution, War & Peace, 1989-1992 (New York: G.P. Putnam’s Sons, 1995), pp. 121-122, 548-549, 551-553, 555.

relationship with Israel.”<sup>45</sup> AIPAC’s initial reaction was similar to that of the Israeli government: strong denial of the allegations. However, it decided to fully cooperate with FBI investigators.<sup>46</sup> Two of its staff, Rosen and Weissman, were interviewed by FBI investigators, who also copied Rosen’s computer hard drive. Both were believed and later accused to have received classified information from Franklin.<sup>47</sup>

In response to claims that the organization had been under investigation for two years before the link to Franklin was leaked, AIPAC said the following in a 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.<sup>48</sup>

To limit damages 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, but nonetheless later suspended and subsequently fired its two staffers, Rosen and Weissman, after learning that tape recordings indicated that Rosen and Weissman had lied to investigators when asked whether they knew the information they obtained from Franklin was classified. Asked about the pair’s dismissal, a spokesman for the organization said:

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

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<sup>45</sup> Zacharia, Janine, “Analysis: Storm on the Israeli-US horizon?” The Jerusalem Post, August 29, 2004.

<sup>46</sup> Zacharia, Janine and Arieh O’Sullivan, “Jerusalem: No intelligence assets on American soil,” The Jerusalem Post, August 28, 2004.

<sup>47</sup> Zacharia, Janine and Herb Keinon, “Shalom: Franklin Affair is ‘media nonsense,’” The Jerusalem Post, August 30, 2004; Johnston, David, “F.B.I. Interviews 2 Suspected of Passing Secrets to Israel,” The New York Times, September 1, 2004; Zacharia, Janine, “FBI seizes computer from AIPAC offices,” The Jerusalem Post, September 1, 2004. Rosen authored or co-authored four papers for the RAND Corporation in 1979-1980. See <http://www.rand.org/>. He is seen as an “ardent and well-connected advocate.” Schmitt, Richard B. and Tyler Marshall, “FBI Questions Israeli Lobbyists in Spying Probe,” The Los Angeles Times, August 31, 2004.

<sup>48</sup> Quoted by Zacharia, Janine, “AIPAC defiant over FBI probe of alleged leak,” The Jerusalem Post, September 3, 2004.

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.<sup>49</sup> Weissman, who joined AIPAC in 1993, and Rosen denied any wrongdoing.<sup>50</sup> Rosen, who had joined AIPAC in July 1982 after four years working as a social scientist for the Rand Corporation, 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.<sup>51</sup>

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 Republican administrations' official Richard Perle, and U.S. House of Representative Jane Harman (Dem., Cal.).<sup>52</sup> 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.<sup>53</sup>

While Rosen and Weissman were not mentioned in the first three indictments against Franklin, they were the fourth time around on August 4, 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

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<sup>49</sup> Johnston, David, "Israel Lobbyists Facing Charges in Secrets Case," The New York Times, August 5, 2005.

<sup>50</sup> Anderson, Curt, "White House Learned of Spy Probe in 2001," Associated Press, September 3, 2004; Johnston, David, "Israeli Lobby Reportedly Fires 2 Top Aides in Spying Inquiry," The New York Times, April 21, 2005; Eggen, Dan and Jerry Markon, "2 Senior AIPAC Employees Ousted," The Washington Post, April 21, 2005, p. A8; Brinkley, Joel, "Lobbyist in Espionage Inquiry Says He Broke No Laws," The New York Times, May 22, 2005.

<sup>51</sup> Goldberg, Jeffrey, "A pro-Israel lobby and an F.B.I. sting," The New Yorker, July 4, 2005.

<sup>52</sup> Guttman, Nathan, "AIPAC flies the flag for American values," Ha'aretz, May 24, 2005; Milbank, Dana, "AIPAC's Big, Bigger, Biggest Moment," The Washington Post, May 24, 2005, p. A13.

<sup>53</sup> Congressional Record, May 24, 2005, p. E1075.

charged with the communication of national defense information to persons not entitled to receive it, a violation of 18 U.S.C. § 793(d). It is obvious from reading the indictment that Rosen's activities had been picked up as early as April 13, 1999 when he allegedly communicated codeword intelligence<sup>54</sup> on terrorist activities in Central Asia to an unnamed foreign official. According to the allegations, Rosen received classified information from at least two unnamed U.S. government officials which he communicated to other AIPAC employees and up to three different foreign nationals. When questioned by the FBI on August 3, 2004, and later on August 27, he denied Franklin had ever disclosed any classified information to him or to anyone else for that matter. On August 9 and again on August 27, Weissman also allegedly lied to the FBI, denying that too Franklin never disclosed any classified information to him.

## 5. POLICY OPTIONS

### 5.1 Restrict contacts between U.S. officials and foreign nationals and lobbyists

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 on 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."<sup>55</sup> On the other hand, the attendance of senior U.S. officials, including then U.S. National Security Advisor Condoleezza Rice and President George Bush, at major AIPAC events while the investigation into the activities of Franklin, Rosen and Weissman was ongoing is

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<sup>54</sup> According to William M. Arkin, "A single word assigned to a classified meaning to ensure security concerning intentions and to safeguard information pertaining to real-world military plans or operations classified as Confidential or higher." Code Names: Deciphering U.S. Military Plans, Programs, and Operations in the 9/11 World (Hanover: Steerforth Press, 2005), p. 567.

<sup>55</sup> Benn, Aluf, "Analysis: The Franklin affair will dame Israel's image," Ha'aretz, August 29, 2004.

probably a good sign that the relationship between the Administration and AIPAC is in no danger of being severed.<sup>56</sup>

The problem, however, has to do with 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 happen without any planning, just like they would with respect to lobbyists, this “socializing” is nigh impossible to monitor with any degree of effectiveness. On the other hand, government employees and contractors with security clearances have to abide by much higher standards than their counterparts without any security clearance. There is an obligation on their part to declare 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; there is not much 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 report on their conversations with foreigners to their respective government.<sup>57</sup> This no less true for their U.S. counterparts.

This being 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

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<sup>56</sup> Guttman, Nathan, “Top U.S. advisers to address AIPAC meet,” Ha’aretz, October 14, 2004; Berger, Matthew E., “At AIPAC summit, lots of support, few comments about investigation,” Jewish Telegraphic Agency, October 26, 2004.

<sup>57</sup> Robbie Sabel, “The FBI broke the rules,” Ha’aretz, September 9, 2004.

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 we know purposefully concealed these meetings from them. Could have they done more to prevent Franklin's alleged offenses from being committed? It is difficult to say, if only because there is yet no available facts on this aspect of the case.

## 5.2 Restrict intelligence sharing with Israel

When the affair broke into the open in August 2004, Israeli media quickly reported noticing 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, and perceptions on both sides that the other was not always as forthcoming as expected.<sup>58</sup>

The coziness of the relationships between the intelligence agencies of both countries, however, cannot be understated.<sup>59</sup> According to W. Patrick Lang, a former DIA defense intelligence officer working on Middle Eastern issue: "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."<sup>60</sup> In fact, even the Pollard case failed to destroy or very seriously damage the intelligence relationship. The point is that intelligence agencies of each country have too many mutual interests and beneficial arrangements with the services of the other country to let their respective relationships atrophy for any length of time. Of course, if it were to be demonstrated that Israeli diplomats did more than being passive recipients of the classified information Franklin, Rosen and Weissman were allegedly giving them, there may be some repercussions, such as Israeli diplomats "encouraged" to return home or prevented from coming back in future. But again, it is doubtful that the impact would

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<sup>58</sup> Schiff, Ze'ev, "Analysis: A cold wind blowing from the CIA," *Ha'aretz*, August 29, 2004.

<sup>59</sup> There is a long history to these relationships. See, inter alia, Cockburn, Andrew and Leslie Cockburn, *Dangerous Liaison: The Inside Story of the U.S.-Israeli Covert Relationship* (Toronto: Stoddard, 1991).

<sup>60</sup> Quoted by Bowers, Faye, "Spy probe tests US-Israel ties," *Christian Science Monitor*, August 30, 2004.

be long lasting. The intelligence relationship between the U.S. and Israel will continue to be subject to changes in focus, more or fewer sharing restrictions over time, or the personal whim of leaders. It has been so 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.

### 5.3 Reemphasize the Value of Counterintelligence

Espionage against the United States has not decreased since the terrorist attacks of September 11, 2001; “in fact, foreign intelligence activities have grown in diversity and complexity over the last several years.”<sup>61</sup> Yet, funds available to counterintelligence officials have been dwindling to cover other costs linked to the war on terrorism.<sup>62</sup>

It will not come as a surprise to anyone to say that foes and friends have spied on the United States for a long time. As Seth Jones from 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.<sup>63</sup>

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.<sup>64</sup>

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<sup>61</sup> Interagency OPSEC Support Staff, *Intelligence Threat Handbook*, Operations Security Information Series (Washington, D.C.: IOSS, n.d. [published post 9/11], p. 2, accessed at <http://www.fas.org/irp/threat/handbook/index.html>).

<sup>62</sup> McCutcheon, Chuck, “In an Age of Terrorism, Don’t Forget Conventional Spying, Experts Advise,” *Newhouse News Service*, October 20, 2004.

<sup>63</sup> Jones, Seth G., “Why allies send spooks to America,” *International Herald Tribune*, October 25, 2004.

<sup>64</sup> Quoted by Faye Bowers, “US unready for rising threat of ‘moles’,” *Christian Science Monitor*, April 8, 2005.

This increased interest in U.S. secrets is compounded by a greater vulnerability to penetration due to increased recruiting activities by national security agencies and increased sharing of intelligence with more countries than ever in the fight against terrorism.<sup>65</sup> 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.<sup>66</sup>

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.<sup>67</sup>

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<sup>65</sup> Faye Bowers, "US unready for rising threat of 'moles'," Christian Science Monitor, April 8, 2005.

<sup>66</sup> The National Counterintelligence Strategy of the United States (Washington, D.C.: Office of the National Counterintelligence Executive, March 2005), pp. 3-7.

It could be argued that the prosecution of Franklin, Rosen and Weissman at least meets the fourth objective. However, 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 a kind or another. Notwithstanding, such a well-worded policy with the appearance of being taken seriously would always serve as a small deterring effect for some people. But like espionage laws, any determined individual would at some point find a way to commit his deeds and compromised sensitive national security information. The release of the Strategy must be commended. It demonstrates that at a time when fighting terrorism is the absolute priority, the spying activities of U.S. enemies, including those of terrorists, must be negated as they only enhance the capabilities of terrorists to strike more efficiently.

At a lower level of policy, on July 22, 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.<sup>68</sup> Although the released of this revised directive nearly coincided with Franklin’s latest indictment, it was also necessary to reflect organizational changes within DoD since the directive was first issued, such as the creation post-9/11 of the USD(I) position.

These developments are welcomed. How effective they will be in revitalizing U.S. counterintelligence, however, has yet to be seen, especially in cases of friends spying on friends. But we may never know, especially given the experience that, as Frederick Hitz explains,

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<sup>67</sup> The National Counterintelligence Strategy of the United States (Washington, D.C.: Office of the National Counterintelligence Executive, March 2005), pp. 1-2.

<sup>68</sup> Directive Number 5210.50, Unauthorized Disclosure of Classified Information to the Public (Washington, D.C.: Department of Defense, July 22, 2005).

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.<sup>69</sup>

## 6. RECOMMENDATIONS AND CONCLUSION

Israel and the United States will continue to work together to counter the threats they are mutually facing and in support of joint policy objectives. Their relationship has survived the Cold War, Arab-Israeli wars, and the Pollard spy case. If anything, it has increased in intensity since Iraq invaded Kuwait in 1990, although ups and downs are known to periodically occur.<sup>70</sup> There is in fact much more to be gained, and a higher likelihood of success, in the fight against terrorism and proliferation if these two countries work together rather than at cross purposes. The work they do in their Joint Counter-Terrorism Group, set up in 1996 to improve cooperation, should therefore continue unimpeded. However, effective intelligence sharing, to name only one key area of cooperation, is highly dependent on the trust and confidence each partner has in the other.<sup>71</sup> Have this trust and confidence been shattered by the Franklin affair? In fact, because Israel conducts espionage activities against the United States, as alleged anonymously by several U.S. government officials, the intelligence relationship in the words of one of these officials “is not one of complete trust at all.”<sup>72</sup> It could be assumed 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. As both Israel and the United States have a common interest in Iran’s nuclear ambitions,

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<sup>69</sup> Hitz, Frederick P., The Great Game: The Myth and Reality of Espionage (New York: Alfred A. Knopf, 2004), p. 156.

<sup>70</sup> Arkin, William M., Code Names: Deciphering U.S. Military Plans, Programs, and Operations in the 9/11 World (Hanover: Steerforth Press, 2005), p. 137.

<sup>71</sup> See Lefebvre, Stéphane, “The Difficulties and Dilemmas of International Intelligence Cooperation,” International Journal of Intelligence and CounterIntelligence, Vol. 16, No. 4, Winter 2003, pp. 527-542, for a general discussion on this subject.

<sup>72</sup> Drogin, Bob and Greg Miller, “Israel Has Long Spied on U.S., Say Officials,” The Los Angeles Times, September 3, 2004.

and given how close the intelligence relationship between these two countries has been over the years, it can be asserted that the classified information that Franklin, Rosen and Weissman allegedly communicated to Israeli officials did not fundamentally affect the policies implemented, or objectives pursued by each country. As far as we know, and unlike egregious espionage activities on behalf of U.S. 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 allegedly very clearly violated U.S. laws, it certainly can afford not to lay specific blame on Israel in the pursuit of more important objectives. However, until more is known about the intelligence compromised by the actions of Franklin, Rosen and Weissman, there will continue to be doubts as to the role exactly played by Israeli officials in Washington. At a very minimum, they seem to have been passive players, if Franklin's guilty plea is to be believed. But no matter how the story ultimately ends, the U.S.-Israeli intelligence relationship will survive this episode. In the meantime, the U.S. government should strictly enforce its newly released counterintelligence strategy and U.S. statutes on espionage.