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Making Fiction of Facts in the Israeli Spy Case

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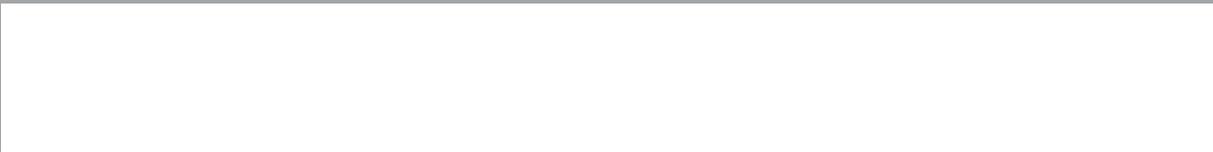
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OPINIONS

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Making fiction of facts in the Israeli spy case

by *Kenneth Lasson, Angelo Codevilla, Lawrence Korb and John Loftus* - Dec. 29, 2010 10:37 AM

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'Tis the season, apparently, for leaking and spinning government secrets, from both the right and the left.

Now comes retired Navy Capt. M. E. Bowman, who claims to know the real damage Jonathan Pollard, an American serving a life term for spying, caused the United States by passing on classified data to Israel more than a quarter-century ago. And the *New Republic's* Martin Peretz asserts Pollard "spied . . . for both Israel and Pakistan."

Both are entitled to their opinions, but not to fictionalize the facts.



Do either presume to know the particulars better than James Woolsey, former director of the CIA; or Dennis DeConcini, former chairman of the Senate's Select Intelligence Committee; or Michael Mukasey, former U.S. attorney general under George W. Bush; all of whom have publicly supported commuting Pollard's sentence to time served?

Do either have greater moral suasion from both sides of the political aisle than the Rev. Theodore Hesbergh of Notre Dame or Pastor John Hagee, each of whom have expressed similar sentiments?

It is now acknowledged by intelligence professionals that the vague, secret charges initially leveled against Pollard for somehow causing the then-unexplained loss of U.S. agents working in the Soviet Union were for crimes committed by two others: Aldrich Ames, who had been in charge of CIA counterintelligence for Eastern Europe but was actually a Russian mole, and Robert Hanssen, an FBI special agent who confessed having betrayed American agents. (Ames was finally caught and convicted in 1994, Hanssen in 2001.)

The intelligence community had been chasing a false trail. Moreover, its failure to realize Pollard lacked the Blue Stripe

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clearance necessary to betray our spy networks seriously impaired the subsequent search for the real traitors.

There is no credible evidence Pollard ever passed information to a third country. In fact, he kept his part of a plea bargain with federal prosecutors under which he agreed to cooperate fully with its investigation in return for a less-than-maximum sentence. By all indications the government did not. The judge ignored the agreement and sentenced Pollard to life in prison.

Most who were there believe he was heavily swayed by secret declarations from then-Secretary of Defense Caspar Weinberger.

Both Bowman and Peretz do little more than damn by hearsay and innuendo, their assertions utterly incompatible with the government's own carefully crafted submissions to the court. Its Victim Impact Statement (designed to state the harshest provable case against the defendant) portrays, at worst, short-term friction between the U.S. and unnamed Arab countries, and a temporary reduction in bargaining leverage by the U.S. over Israel.

There is no charge that Pollard ever passed information to a third country. In fact, no permanent, overwhelming damage to U.S. national security is even alleged, much less proven.

The real reason the intelligence community persists in its loud anti-Pollard whispers reflects its lingering defensiveness about U.S. policy in the 1970s and '80s - in particular its disastrously failed support for Saddam Hussein and Saudi Arabia, which remains the principal sponsor of al-Qaida's anti-American terrorism.

The security establishment was outraged when Israel destroyed Iraq's nuclear reactor in 1981, after which it cut the Israelis off from the normal interchange of intelligence. Pollard wrongly took it upon himself to remedy that failure.

You don't have to go to law school to understand how much this violates the bedrock principles of American fairness, justice and compassion. When the system fails, we pride ourselves on relentless self-scrutiny so that truth might ultimately prevail.

That noble sentiment was recently endorsed by 39 members of Congress who wrote President Obama urging clemency for Pollard - as well as hundreds of religious leaders of different faiths, all of them declaring in unison their fundamental belief that "Justice, only justice, shall you pursue" (Deuteronomy 16:20).

Last month, Jonathan Pollard completed his 25th year behind bars. In this season of good will, let us hope that President Obama has the courage and character to set him free.

Kenneth Lasson is a professor of law at the University of Baltimore. Angelo Codevilla served as a senior staff member of the Senate Intelligence Committee (1978-85). Lawrence Korb was assistant secretary of Defense (1981-85). John Loftus is a former U.S. prosecutor and Army intelligence officer.

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