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• [WORLD](#)/JULY 26, 2023

# The US and Russia's Standoff Over Prisoner Exchange

*Each has been using the other's civilians as pawns in an espionage blame game—and the FBI has consistently managed to make things worse.*

[JAMES BAMFORD](#)



US journalist Evan Gershkovich, arrested on espionage charges, stands inside a defendants' cage before a hearing to consider an appeal on his extended detention in Moscow on June 22, 2023. (*Natalia Kolesnikova / AFP / Getty*)

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ast March, in a stylish gallery on Mosfilmovskaya Street in Moscow, I listened as 56-year-old Viktor Bout, his bushy mustache tinged with gray, discussed art and composition. Dressed in black, with a silver cross of St. George military decoration pinned to his left breast, the former Russian arms dealer had recently been released from an American prison. Hanging from the studio's beige walls were dozens of his paintings, including portraits, landscapes, and still lifes. They ranged from cats and parrots to children and Soviet-era movie stars, as well as a number of self-portraits from behind bars. While confined in the federal maximum security penitentiary in Marion, Ill., Bout, fluent in English, had managed to turn his tiny cell into a makeshift art studio.

[In 2012](#), Bout was sentenced to 25 years in prison for conspiring to kill Americans and conspiracy to provide support to a terrorist organization. Off to the side, in a glass display case, were a few reminders of that past life. Among them his red prison ID badge, #91641-054, a package of Pancho's Cantina Shredded Beef, a worn pair of gray wool gloves, and a notification of his continued status in the euphemistically named Communications Management Unit, where inmates were largely isolated from the outside world.

"If only someone could think when I painted all this, that one day all these works will be in such a beautiful hall and in such beautiful frames," [he said](#). "What happened is another confirmation that all our dreams come true and that our confidence and loyalty to ourselves always help." For Bout, the dream that came true was being exchanged for the American basketball player Brittney Griner, who had been [sentenced in 2022 to nine years](#) in a Russian prison for drug possession.

It was a lopsided trade. During the Trump administration, the Kremlin had quietly offered to trade Bout for another prisoner, Paul Whelan, but the offer was turned down by the White House because Bout was considered far more important than Whelan. "It's like if a major-league team signed me up out of the blue and then tried to trade me for the best player in baseball," [said one official](#). "We're not equivalents." Paul Whelan, now in the fifth year of his 16-year sentence for espionage, was once again left in the bureaucratic dust. Soon there would be still another American potentially facing years in a Russian work camp for spying.

Sadly, they were both arrests that never needed to happen in the first place.

For decades, beginning deep in the Cold War, I have traveled throughout Russia both as a visitor and a writer. On March 29, 2023, three days after one of my visits to Moscow, *Wall Street Journal* reporter Evan Gershkovich was arrested and charged with

espionage. The [first Western journalist](#) held on such charges since the Soviet era, he was later transported to Moscow's Lefortovo prison, where he remains today awaiting trial.

In early July, the talk of a trade was again in the air. "[I'm serious on a prisoner exchange](#)," President Joe Biden told reporters. "And I'm serious about doing all we can to free Americans being illegally held in Russia, or anywhere else for that matter, and that process is underway." But beyond those words, there was little to offer encouragement. "[I don't want to give false hope](#)," White House national security adviser Jake Sullivan said around the same time. "There have been discussions, but those discussions have not produced a clear pathway to a resolution, and so I cannot stand here today and tell you that we have a clear answer to how we are going to get Evan home."

There are certain subtle, unwritten rules that come into play when the US and Russia arrest nationals of each other's country. In general, those convicted of standard crimes, like Brittney Griner, get traded for others convicted of standard crimes, like Viktor Bout. Arrests for espionage, however, are rare, largely because both sides have long ago given up placing clandestine agents—known as "illegals"—in each other's country, agents who could become bargaining chips or double agents if arrested. Instead, both sides place their spies in embassies with the protection of diplomatic immunity.

The problem comes when Russia views the US as breaking the rules by arresting a Russian citizen on an espionage-like charge, especially when the arrest has little or no merit. Such was the case of the July 2018 arrest of Maria Butina, a Russian grad student in her 20s attending American University in Washington, D.C. The arrest came in the midst of the Russiagate frenzy, when the FBI was desperate to find a Russian to put behind bars, despite the fact that in the end the special counsel investigation would find no conspiracy. I first met Butina soon after she started at American University, and later [I wrote about her case](#) for *The New Republic*.

At first, the FBI accused Butina, who had to borrow money to pay her tuition, of helping funnel millions of dollars from President Vladimir Putin to the Trump campaign through the NRA. When that fizzled out, they accused her of being a Russian "red sparrow," attempting to use sex to gain influence, leading to endless lurid headlines. But again, the accusations [turned out to be completely false](#) and simply made up by prosecutors, who were reprimanded by the judge.

"I am troubled and hope there is a full inquiry," Frank Figliuzzi, the former head of the FBI's counterintelligence division, [told me](#). "This is disturbing. The question is whether this is convenient ineptitude or something far deeper." Others were even more skeptical. "They manipulated the evidence," was the opinion of a former assistant US attorney who

previously handled similar cases in the same office, but who asked that his name not be used. “The government is basically calling her a whore in a public filing. I think it was an attempt to influence media coverage.” Finally, as a last resort, they accused her of exchanging e-mails with a Russian official for whom she had once worked as an unpaid intern—innocent e-mails on ways to develop better relations between Russia and the US.

Locked in solitary confinement for months, 6,000 miles from her home and family in Siberia, and facing 15 years in a harsh prison, Butina felt she had no choice but to [plead guilty to a lesser charge](#) of conspiracy to act as an unregistered foreign agent. She was sentenced to 18 months in prison and eventually deported. Across Russia, there was enormous public outrage at how a young college student from the vastness of Siberia was treated—both by the false and sensationalized sexual allegations by the mainstream media, and the brutality of months in solitary confinement. “Having created unbearable conditions for her and threatening her with a long jail sentence, she was literally forced to sign up to absolutely ridiculous charges,” [declared](#) Russian Foreign Ministry spokeswoman Maria Zakharova at a news conference.

**L**ess than two weeks later Russia retaliated. Agents arrested an American citizen, Paul Whelan, 48 at the time, on espionage charges. Whelan was in Moscow to attend a wedding and staying at the Hotel Metropol, a fashionable Art Nouveau building a few blocks from the Kremlin and the Bolshoi Theater. It was the first time in nearly two decades that an American had been arrested and imprisoned for espionage in Russia.

Whelan, a former US Marine with multiple tours in Iraq, likely had been high on the FSB’s list of suspicious characters because of his frequent visits to Russia, [passports from multiple countries](#), and unusual friendships with more than a dozen members of the Russian military and intelligence service. They appeared less the activities of a normal tourist and more those of a spy—or a wannabe spy. Especially odd was his decade-long association with a slim, youthful, neatly dressed FSB second lieutenant named [Ilya Yatsenko](#), a career agent who had served in Crimea. Soon after arriving for the wedding, Whelan took a selfie of the two of them at an expensive restaurant enjoying a steak and red wine dinner. He posted it with the caption, “comrades.”

Three days later, in his hotel room, Whelan accepted a USB drive from Yatsenko that allegedly contained classified data, including the names and photos of students from Russia’s border guard school. He then [gave Yatsenko \\$1,200](#) in rubles, and moments later, FBS agents entered the room and arrested him. From the beginning, Whelan has protested his innocence, claiming he was told that the USB drive simply contained

vacation photos, and that the money was reimbursement for a loan rather than a payment for the drive.

Soon after his arrest, [Russia offered to trade](#) him for Butina and several others, but the offer was turned down by the Trump White House. As a result, Whelan was tried behind closed doors in a Russian court. Among those who testified was Yatsenko, [who claimed that](#) Whelan had tried to recruit him for US intelligence, and at another point it turned out that Whelan had given him two iPhones. Convicted, Whelan was sentenced to 16 years and was eventually sent to IK-17, a high-security prison colony an eight hour drive southeast of Moscow in the Mordovia region.

Then came the US [indictment](#) last March 25 of Sergey Cherkasov, 38, another Russian citizen accused by the FBI of espionage. At the time, he was in prison in Brazil, and his only connection to the United States was as a one-time graduate student at Johns Hopkins University's School of Advanced International Studies, where he had no access to classified information.

**L**ike clockwork, four days later another American citizen was arrested in Russia on espionage charges—an obvious quid pro quo, as with Whelan. This time it was *The Wall Street Journal's* [Evan Gershkovich](#), who was on assignment in the west-central Russian city of Yekaterinburg. As with Whelan, Gershkovich was likely high on the FSB's list of suspicious characters, despite being a journalist. According to Russian writer and filmmaker [Roman Super](#), who spoke with Gershkovich a few weeks before his arrest, the reporter knew he was constantly being watched but paid little attention to it. "It was commonplace," [he said](#). "Gershkovich goes to a café—behind him is a car with observers; Gershkovich goes to sleep in a hotel—there are observers behind him. This has long been the norm."

Gershkovich had flown to Yekaterinburg a few weeks earlier and met with Yaroslav Shirshikov, an activist and public relations specialist who accompanied the journalist around the city. "He was interested, first of all, in the attitude toward PMC 'Wagner [Group]' in society," [Shirshikov wrote](#) in his Telegram channel. A few weeks after Gershkovich's arrest, Shirshikov [was also arrested](#), but on charges of justifying terrorism. They related to comments he had made about Vladlen Tatarsky, a pro-war blogger murdered in a bombing attack at a St. Petersburg cafe on April 2.

On the later trip Gershkovich may have been attempting to speak to employees at one of Russia's largest tank production facilities at the time of his arrest, an action strictly forbidden, according to [Dmitry Kolezev](#), an independent Russian journalist from Yekaterinburg. A colleague of Gershkovich's, Kolezev fled from Russia to Lithuania after



expressing opposition to the invasion of Ukraine. Russia's Ministry of Internal Affairs later [placed him on its wanted list](#).

"I spoke with Evan Gershkovich before his trip to Yekaterinburg," [Kolezev wrote](#) on his Telegram channel. "From what I understand, Evan had an idea to talk to someone outside the defense factories for an interview about how they feel about the war. As I understand it, he hoped to catch someone on the street at the UVZ checkpoint in Nizhny Tagil or the Novator Design Bureau in Yekaterinburg." Both were highly restricted defense facilities producing weapons for Russia's war in Ukraine, including long-range anti-aircraft missiles.

[Kolezev added](#), "It seemed to me not only dangerous, but also unpromising, because it is unlikely that anyone will talk to an American in the current situation. Evan has good Russian, but the American is easily guessed in him. I do not know in the end whether he realized this idea, but for sure the very fact of the appearance of an American citizen not far from the place where tanks or missiles are made, the FSB today considers espionage." But [Kolezev said](#) Gershkovich believed his journalistic credentials would protect him. "He sounded pretty sure that they wouldn't touch him because he was an American journalist working for a famous newspaper." Then, at the [Bukowski Grill](#), a popular steak restaurant in downtown Yekaterinburg, plainclothes FSB officers grabbed Gershkovich, pulled his sweater over his head, and shoved him into a waiting minivan.



With two Americans in prison in Russia and an election coming up, President Biden is reportedly frantic to find people to trade. "The Biden administration is scouring the globe for offers that could entice Russia to release two wrongfully detained Americans, Evan Gershkovich and Paul Whelan, according to three sources familiar with the matter," [reported CNN](#). To that end, on April 25, the Biden Justice Department formally [asked the Brazilian government](#) to extradite Sergey Cherkasov to the US, possibly for an eventual trade for Whelan or Gershkovich. In a countermove resembling a diplomatic game of chess, the Kremlin has also asked Brazil for Cherkasov's extradition, but to Russia, based on likely fabricated charges of heroin trafficking. Because giving Cherkasov to one superpower would be an unfriendly gesture to the other superpower, it's likely Cherkasov will remain where he is.

However, what may interest Russia is a trade of Whelan and Gershkovich for Cherkasov and two "illegals" arrested in Slovenia last December, [Maria Mayer and Ludwig Gisch](#). Like the fictional Russian spy family on the popular television show *The Americans*, they are a married couple with a child. After moving to Slovenia from Argentina with Argentine passports, they allegedly used the country as a base to travel freely around Western Europe conducting assignments for Russia's Foreign Intelligence Service.

In the end, it all could have easily been avoided had the FBI been less interested in making headlines and more interested in finding solutions. With regard to Butina, all the FBI needed to do was cancel her student visa and she would have been gone on the next plane. And there was also no need to indict Cherkasov, since he was already in a Brazilian prison beginning a 15-year sentence for falsely obtaining and using Brazilian documents. In both cases, why create an elaborate spy vs. spy crisis with Russia for nothing? Wasn't it obvious how they would respond?

Had the FBI engaged in restraint rather than trophy-hunting, Whelan would have returned home from Moscow following the wedding and Gershkovich could have gone on reporting, or at the most had his Russian journalism credentials revoked by the Foreign Ministry. "Counterintelligence" is an appropriate term for the way the FBI often operates—with the emphasis on "counter."

## *James Bamford*

James Bamford is a best-selling author, Emmy-nominated filmmaker, and winner of the National Magazine Award for Reporting. His most recent book is [\*Spyfail: Foreign Spies, Moles, Saboteurs, and the Collapse of America's Counterintelligence\*](#), published by Twelve Books.