



October 29, 2021

VIA EMAIL: FOIARequest@state.gov

U. S. Department of State
Office of Information Programs and Services
2201 C Street N.W., Suite B266
Washington, D.C. 20520-0000

Freedom of Information Act Request: Support for Palestinian Terrorism

Dear FOIA Officer:

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. Pursuant to 5 U.S.C. § 552(a), we make the following Freedom of Information Act request.

I. Special Definition

“Record” has the meaning given at 44 U.S.C. § 3301(a)(1).

II. Requested Records

A. All records concerning, mentioning, or regarding (1) the Government of Israel’s designation of certain groups as terrorist organizations on or about October 22, 2021, as reported e.g. at <https://www.nytimes.com/2021/10/22/world/middleeast/israel-palestinian-rights-groups.html> and <https://news.yahoo.com/israel-designates-six-palestinian-rights-192100871.html>, (2) the Union of Palestinian Women’s Committees, (3) Addameer – Prisoner Support and Human Rights Association, (4) Bisan Center for Research and Development, (5) Al-Haq organization, (6) Defense for Children International – Palestine, (7) the Union of Agricultural Work Committees, and/or (8) Benny Gantz. The relevant time frame for this Item is October 15, 2021, until the date it is processed.

B. All records concerning, mentioning, or regarding an American consulate in Jerusalem. The relevant time frame for this Item is October 1, 2021, until the date it is processed.

C. All records of communications with any person having an email address containing eop.gov or cia.gov regarding the subjects of Items A and B. The relevant time frame for this Item is October 5, 2021, until the date it is processed.

III. Custodians

A. All political appointees and career employees with a grade of GS-14 or its equivalent in the Office of the Secretary of State

B. All political appointees and career employees with a grade of GS-14 or its equivalent in the Bureau of Near Eastern Affairs

C. Anthony J. Blinken

D. Yael Lempert

E. Edward “Ned” Price

IV. Processing

The FOIA requires the Department of State to disclose records freely and promptly. It must liberally construe AFL’s requests and make a good faith effort to search for requested records using methods “which can be reasonably expected to produce the information requested.” At all times, FOIA must be construed to carry out Congress’s open government mandate according to the ordinary public meaning of its terms at the time of its enactment.¹ As a general matter:

- Redactions are disfavored as the FOIA’s exemptions are exclusive and must be narrowly construed. If a record contains information responsive to a FOIA request, then the Department must disclose the entire record, as a single record cannot be split into responsive and non-responsive bits. Our request includes any attachments to those records or other materials enclosed with a record when transmitted. If an email is responsive to our request, then our request includes all prior messages sent or received in that email chain, as well as any attachments.
- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. In conducting your search, please give full effect to all applicable authorities and broadly construe our Items and your obligations to provide responsive records.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such

¹ 5 U.S.C. §§ 552(a)(3)(A), 552(a)(6)(A); *Bostock v. Clayton Cty., Georgia*, 140 S. Ct. 1731, 1738 (2020); *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978); *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 151 (1989); *Oglesby v. United States Dep’t of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990).

as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA. It is not adequate to rely on policies and procedures that require officials to move records to official systems within a certain time. AFL has a right to records in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.

- Please use all available tools to conduct a complete and efficient search for potentially responsive records. Many agencies have adopted the National Archives and Records Administration (“NARA”) Capstone program or similar policies. These provide options for searching emails and other electronic records in a manner reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency’s archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; you may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- If some portions of the requested records are properly exempt from disclosure, then please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted before our Items are processed. If potentially responsive records are subject to potential deletion, including on a scheduled basis, please prevent deletion by instituting a litigation hold or other appropriate measures.

V. Fee Waiver

Per 5 U.S.C. § 552(a)(4)(A)(iii) and 22 C.F.R. § 171.17, AFL requests a waiver of all search and duplication fees. These authorities provide for fee waivers when, as here, “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” AFL’s request concerns identifiable operations or activities of the government, and the information requested is likely to contribute significantly to the public understanding of the Department of State’s activities with respect to the Biden Administration’s views and policies regarding its support for Palestinian organizations that directly or indirectly finance or otherwise support Palestinian terrorism and the steps it has taken to deny Jerusalem is the U.S.-recognized capitol of the State of Israel. These issues are matters of continuing and pressing concern to millions of Americans

Also, AFL is a qualified non-commercial public education and news media requester. AFL is a new organization, but it has already demonstrated its commitment to the public disclosure of documents and creation of editorial content. We distribute our work widely, posting government records for the benefit of the public, Congress, policymakers, and scholars, and creating and disseminating distinct work on media outlets of all sorts through the exercise of our editorial skills. For example, our officials routinely appear on national television, are quoted in other media outlets nationwide, and use social media platforms to disseminate the information we have obtained about federal government activities. Our email list contains over 65,000 unique email addresses, our Twitter page has nearly 10,000 followers, the Twitter page of our Founder and President has over 83,800 followers, and we have another 18,000 followers on GETTR. As a nonprofit organization primarily engaged in the dissemination of information to educate the public, AFL does not have a commercial purpose and the release of the information requested is not primarily in AFL's financial interest.

Our status as a qualified non-commercial public education and news media requester has been recognized by the Departments of Defense, Education, Energy, Interior, Health and Human Services, and Homeland Security, and the Office of the Director of National Intelligence.

VI. Production

AFL welcomes production on an agreed rolling basis to speed production and reduce agency burden. If possible, please provide responsive records in an electronic format by email, native format by mail, or in PDF format on a USB drive. Please send any responsive records being transmitted by mail to America First Legal Foundation, 600 14th Street NW, 5th Floor, Washington, D.C. 20005.

VII. Conclusion

If you have any questions about this request or believe further discussions regarding search and processing will speed the efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org. Finally, please contact us immediately if AFL's request for a fee waiver is not granted in full. Thank you in advance for your cooperation.

Sincerely yours,

/s/ Reed D. Rubinstein

Reed D. Rubinstein

America First Legal Foundation