



January 2, 2024

The Hon. Michael E. Horowitz, Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

Request for Investigation into the Department’s Failure to Investigate and Prosecute Pro-Hamas Violence Due to Improper Considerations or Bias

Dear Inspector General Horowitz:

America First Legal Foundation (“AFL”) is a national, nonprofit organization that protects the rule of law, due process, and equal protection for all Americans. Whether the President and the agencies he directs—including the U.S. Department of Justice—respect citizens’ rights and faithfully execute the laws passed by Congress is a core AFL concern.

On the morning of October 7, 2023, the designated Palestinian foreign terrorist organizations Hamas and Palestinian Islamic Jihad broke a longstanding ceasefire to commit mass atrocities, including but not limited to murder, rape, and kidnapping, against Israel’s citizens and residents.¹ At the same time, U.S.-based supporters, affiliates, and front groups of these foreign terrorist organizations launched a coordinated campaign of propaganda and street violence.²

The evidence is that this campaign is intended to provide the Palestinian terrorists with material support and assistance, in facial violation of 18 U.S.C. § 2339A(b). *See Holder v. Humanitarian Law Project*, 561 U.S. 1 (2010). Also, the evidence is that this campaign, which has included multiple acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, has been launched for the precise purpose of intimidating or coercing a civilian population and/or to influence the policy of a government by intimidation or coercion. This is domestic

¹ 18 U.S.C. § 2339A(b).

² Brian Monroe, *Unraveling a Complex Web: A Primer on Hamas Funding Sources, Iranian Support, Global Connections and Compliance Concerns, Considerations*, ASS’N CERTIFIED FIN. CRIME SPECIALISTS (Nov. 1, 2023), <https://bit.ly/41pRGhr>; Armin Rosen & Liel Leibovitz, *BDS Umbrella Group Linked to Palestinian Terrorist Organizations*, TABLET (June 1, 2018), <https://bit.ly/3tePNYp>; The Scroll, *Pro-Hamas Capitol Protest Backed by Democratic Dark Money*, TABLET (Oct. 22, 2023), <https://bit.ly/3v5J7w4>; *Fiscally Sponsored Project: Palestine Legal, Partner Directory*, TIDES, <https://bit.ly/4aoxErH> (last visited Dec. 18, 2023).

terrorism in violation of 18 U.S.C. § 2331(5).³ Finally, the evidence is that foreign nationals with origins in the Middle East are involved in such activities. Support for Hamas, however, is a federal crime and grounds for visa revocation and expulsion from the United States. However, the Massachusetts Institute of Technology (among others) is aiding and abetting this criminal activity by protecting pro-Hamas students from discipline and immigration action.⁴

Since January 2021, the Department has repeatedly demonstrated that it is capable of quickly mobilizing investigative and prosecutorial resources to address matters of concern to political leaders.⁵ Here, despite patent, nationwide lawbreaking, often by foreign nationals, targeting American Jews and Jewish institutions, the Department has taken no such action. This is very difficult to understand. The Department's political echelon has made "domestic terrorism" a central talking point and a singular domestic intelligence, investigative, and enforcement priority.⁶

³ E.g., Jerusalem Post Staff, *Watch: Cooper Union Jewish Students Attacked by Pro-Palestinian Student Group*, JERUSALEM POST (Oct. 26, 2023), <https://bit.ly/4aoxErH>; Patrick Reilly, *Jewish Students at MIT Blocked from Attending Classes by 'Hostile' Anti-Israel Protesters*, N.Y. POST (Nov. 10, 2023), <https://bit.ly/3RPVQfr>; *Demonstrators Brawl Outside LA's Museum of Tolerance After Screening of Hamas Attack Video*, ASSOCIATED PRESS (Nov. 9, 2023), <https://bit.ly/47TUtlh>; Jonathon Lloyd, *75 Arrested in Protest on 110 Freeway That Stopped Traffic in Downtown LA*, NBC LOS ANGELES (Dec. 13, 2023), <https://bit.ly/477JvHA>; Josh DuBose, *Man Charged with Vandalism, Hate Crimes for Antisemitic Graffiti*, KTLA (Dec. 12, 2023), <https://bit.ly/4antH6t>; Ben Tsujimoto, *Hate Crime by Muslim Student Against Jewish Teacher Tests Buffalo Schools' New Code of Conduct*, BUFFALO NEWS (Dec. 17, 2023), <https://bit.ly/3v1mYyR>; Martha McHardy, *Man Arrested for Spraying Substance on Two People and Yelling 'Gas the Jews' Outside Synagogue*, THE INDEPENDENT (Dec. 18, 2023), <https://bit.ly/3Tv8KAL>; Joe Hutchinson, *Shocking Moment Jewish Teacher Is Forced to Hide in Her Classroom at a Queens High School as 'Radicalized' Students Rampage Through Hallways While Demanding She Be Fired for Attending Pro-Israel Rally*, DAILY MAIL (Nov. 25, 2023), <https://bit.ly/4auf6pS>.

⁴ Letter from Sen. Marco Rubio, to the Hon. Antony Blinken, Sec'y, U.S. Dep't of State (Oct. 15, 2023), <https://bit.ly/3Rlh1nS>.

⁵ See Ryan J. Reilly, *The feds say they're in for the long haul in the Jan. 6 investigation*, NBC NEWS (Jan. 6, 2023), <https://nbcnews.to/3GMAFVd>; NAT'L SEC. COUNCIL, *National Strategy for Countering Domestic Terrorism* at 7 (June 2021), <https://bit.ly/3PSdw6G>; For example, on October 4, 2021, the Department unleashed federal law enforcement against parents protesting racial indoctrination and extreme gender ideology. This was the result of the Biden Administration's effort to mitigate the potential electoral consequences of parent engagement with and mobilization against the use of Critical Race Theory-based indoctrination and extreme gender ideology in public schools. Press Release, *America First Legal Seeks Two Federal Investigations on Attorney General Merrick Garland's Infamous Oct. 4th Memo Sicking the FBI on Concerned Parents*, AM. FIRST LEGAL FOUND. (Mar. 14, 2022), <https://bit.ly/3Qc7LRp>; *DOJ Suppression of Parent's Speech at Schools*, AM. FIRST LEGAL FOUND. (Oct. 7, 2021), <https://bit.ly/3RxyzspP>; *DOJ Suppression of Parent's Speech at Schools (CRIM)*, AM. FIRST LEGAL FOUND. (Oct. 7, 2021), <https://bit.ly/3TwZV9j>; *DOJ Suppression of Parent's Speech at Schools (CRT)*, AM. FIRST LEGAL FOUND. (Oct. 7, 2021), <https://bit.ly/484bXLM>; *DOJ Suppression of Parent's Speech at Schools (OLC)*, AM. FIRST LEGAL FOUND. (Oct. 7, 2021), <https://bit.ly/48rPh8j>; *DOJ Suppression of Parent's Speech at Schools (EOUSA)*, AM. FIRST LEGAL FOUND. (Oct. 7, 2021), <https://bit.ly/4apfpIV>.

⁶ NAT'L SEC. COUNCIL, NATIONAL STRATEGY FOR COUNTERING DOMESTIC TERRORISM at 7 (June 2021), <https://bit.ly/3PSdw6G>; *Domestic Terrorism Backgrounder*, DEP'T OF JUST. (Feb. 26, 2021), (available

On May 21, 2021, the FBI and the Department of Homeland Security (DHS) jointly reported to Congress that, generally speaking, “There are no differences in how the FBI reviews and prioritizes [domestic terrorism] and [international terrorism].”⁷ Among other things, the FBI/DHS report establishes that the criteria and methodology used to identify or assign a “domestic terrorism classification” are necessarily partisan choices.⁸ In fact, it appears the Department uses the “domestic terrorism” label selectively to single out politically disfavored citizens for heightened legal scrutiny and consequences.⁹ For example, the Biden Administration has characterized all January 6 protestors as “domestic terrorists.”¹⁰ However, as noted above, it has not applied the same label to pro-Hamas groups, notwithstanding the fact that these groups have engaged in violent conduct that precisely meets the statutory definition of “domestic terrorism.”

In this case, our concerns are heightened because information we have obtained from former colleagues and career attorneys in the Civil Division and in CRT suggests that political leaders in the Office of the Attorney General and the Assistant Attorney General for Civil Rights have issued an effective stand-down order to United States Attorneys and to federal law enforcement concerning incitement, violence, and vandalism by Hamas’s network of U.S.-based supporters and front groups.¹¹ It is not clear whether this order originated in the White House or among the Department’s political appointees and career staff. Either way, it appears that concerns regarding the potential electoral consequences of protecting Jewish Americans and enforcing American anti-terrorism laws and/or sympathy for Hamas’s aims¹² are inappropriately biasing the Department’s decision-making.

at <https://bit.ly/3vKsGD2>); see also Letter from Rep. Jim Jordan to Christopher A. Wray (July 27, 2022), <https://bit.ly/3BPUt8P>; Katie Benner, *Justice Dept. Forms Domestic Terrorism Unit*, N.Y. TIMES (Jan. 11, 2022), <https://nyti.ms/3A794M0>; Merrick B. Garland, Atty’ Gen., Dep’t of Just., *Remarks: Domestic Terrorism Policy Address* (June 15, 2021), <https://bit.ly/3SB32uc>.

⁷ F.B.I. AND DEP’T OF HOMELAND SEC., STRATEGIC INTELLIGENCE ASSESSMENT AND DATA ON DOMESTIC TERRORISM at 13, 17 (May 2021), <https://bit.ly/3P12OJJ>. In §§ 5602(b)(3)(A) and (B) of Title LVI of the National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, Congress mandated that FBI and DHS report to Congress on, *inter alia*, the criteria for opening, managing, and closing domestic terrorism investigations and the FBI’s standards and procedures with respect to the review, prioritization, and mitigation of domestic terrorism threats.

⁸ *Id.* at 15–16.

⁹ NATIONAL STRATEGY FOR COUNTERING DOMESTIC TERRORISM at 15–16, 20, 22, 26–28, 30.

¹⁰ *Id.* at 5.

¹¹ Snejana Farberov & Olivia Land, *Radical Michigan Imam Believed to Have Inspired London Terror Attack Calls for Muslims to Wage Jihad in US*, N.Y. POST (Dec. 15, 2023), <https://bit.ly/48s6q1H>.

¹² We note that Saeed Mody, the Department’s “Hate Crimes Resources Coordinator,” identified himself as the co-chair of the “Palestine Solidarity Committee” at the University of Texas. See Miguel Liscano, *Student Says Arafat Not Responsible for Palestinian Suicide Bombings*, 102 Daily Texan 131 (Apr. 15, 2002) (available at <https://bit.ly/3NAfeui> and <https://bit.ly/3v6DY7b>). The “Palestine Solidarity Committee” is currently known as “Students for Justice in Palestine,” an organization that supports Hamas, praised the atrocities of October 7, and calls for the destruction of the State of Israel.

Accordingly, we write now to request that your office, consistent with Section 8e of the Inspector General Act, investigate whether political considerations have impermissibly infected the Department's investigative and enforcement decision-making with respect to the above-described pro-Hamas activity, individuals, and groups in the United States.

Sincerely,

/s/ Reed D. Rubinstein

Reed D. Rubinstein

America First Legal Foundation

CC: The Hon. Richard J. Durban, Chairman, U.S. Senate Committee on the Judiciary
The Hon. Charles E. Grassley, Ranking Member, U.S. Senate Committee on the Judiciary
The Hon. Jim Jordan, Chairman, U.S. House Committee on the Judiciary
The Hon. Jerold Nadler, Ranking Member, U.S. House Committee on the Judiciary
The Hon. James Comer, Chairman, U.S. House Committee on Oversight and Accountability
The Hon. Jamie Raskin, Ranking Member, U.S. House Committee on Oversight and Accountability