



March 29, 2021

Office of Information Programs and Services (IPS)
A/GIS/IPS/RL
U.S. Department of State, State Annex 2 (SA-2)
515 22nd Street, NW
Washington, DC 20522-8100
Telephone: (202) 261-8484
Facsimile: (202) 261-8579

RE: FOIA Request to the U.S. Department of State Regarding U.S. Aid to the Palestinian Authority and the Taylor Force Act

To Whom it May Concern:

This letter is a request (“Request”) in accordance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the corresponding department/agency implementing regulations.

The Request is made by the American Center for Law and Justice (“ACLJ”)¹ on behalf of its members. The ACLJ respectfully seeks a waiver of fees related to this Request as set forth in an accompanying memorandum.

To summarize, this Request seeks records pertaining to the U.S. Department of State’s knowledge and efforts surrounding the breaking story that the Biden Administration is pursuing increasing U.S. aid to the Palestinian Authority in spite of the limitations imposed by the Taylor Force Act.

Background

Pursuant to State Department FOIA regulation 22 C.F.R. § 171.4(b), this Background addresses “the subject, timeframe, names of any individuals involved, a contract number (if applicable), and reasons why the requester believes the Department may have records on the subject of the request.” 22 C.F.R. § 171.4(b).

¹The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring governmental accountability and the ongoing viability of freedom and liberty in the United States and around the world.

★

[REDACTED]

Former Secretary of State Mike Pompeo, now Senior Counsel for Global Affairs at the ACLJ, wrote:

The Biden Administration has signaled its desire to resume aid to the Palestinian Authority (PA) as a way to jumpstart the moribund Israeli-Palestinian “peace process.” The obstacle to peace, however, is not the absence of U.S. assistance but the PA’s incentivizing of terrorism. The bipartisan Taylor Force Act blocks U.S. funding for the PA until it changes this behavior. There is no indication that it has, making any resumption of U.S. taxpayer aid a contravention of this important law and a further hindrance to peace.²

Further, according to Secretary Pompeo:

To address this despicable system, Congress passed the Taylor Force Act (TFA) – a bill the ACLJ has long supported – cutting off U.S. aid to the PA until the pay-for-slay bureaucracy is dismantled and the laws governing it are repealed. The logic is simple: since money is fungible, aid that supplants the governance responsibilities of the PA frees up PA money to reward terrorists.

The Taylor Force Act corrected a profoundly immoral policy that had American taxpayer funds being laundered unwittingly through PA accounts to incentivize murder. The bill also offered a simple litmus test of the PA’s seriousness about making peace: If the PA cannot revoke the laws and infrastructure conferring special treatment for terrorists, then the PA itself remains an obstacle to the “peace process.”³

“The State Department maintains any resumption in aid will be done in compliance with the law, which does include exemptions for humanitarian assistance.”⁴ More specifically, “[a] State Department official said the new administration would ‘fully comply with U.S. law, including the Taylor Force Act,’ when it resumes U.S. aid to the Palestinians but did not outline any specific projects or causes that might receive funding. U.S. aid will be spent on economic development projects and humanitarian causes, the official said.”⁵ As is reflected in media reports, members of

²Mike Pompeo, Sander Gerber & Stuart Force, *Is the Biden Administration Planning on Violating the Taylor Force Act, as the PA Continues Its Despicable Anti-Israel, Anti-America Pay-for-Slay Policy?*, ACLJ.org (Mar. 10, 2021), <https://aclj.org/israel/is-the-biden-administration-planning-on-violating-the-taylor-force-act-as-the-pa-continues-its-despicable-anti-israel-anti-america-pay-for-slay-policy>.

³ *Id.*

⁴ Adam Kredo, *Biden Admin Will Have to Thread Needle as it Resumes Palestinian Aid*, WASH. FREE BEACON (Jan. 28, 2021), <https://freebeacon.com/biden-administration/biden-admin-will-have-to-thread-needle-as-it-resumes-palestinian-aid/>.

⁵ *Id.*

Congress are signaling that they will closely monitor the Biden Administration and the State Department to ensure the Administration complies with the Taylor Force Act.⁶

According to a report by *The Washington Free Beacon* earlier this month:

The Biden administration will resume U.S. taxpayer aid to the Palestinians, even though the Palestinian government continues to use this money to pay convicted terrorists and their families.

State Department spokesman Ned Price confirmed this week that the administration will reverse a decision by former President Donald Trump to cut off American aid to the Palestinian government and United Nations organizations that provide services in the region. The United States now intends “to provide assistance that will benefit all Palestinians, including [Palestinian] refugees,” Price said.⁷

The Washington Examiner reported that,

new reports coupled with recent confirmation from the State Department indicate that the Biden administration intends to find a workaround to the current law by reopening funding channels to the Palestinian Authority, even as the PA increases payouts to terrorists. Just recently, the families of two Palestinians, who killed five members of the Fogel family while asleep in their beds, were gifted an increase in monthly payments.⁸

The Washington Free Beacon also reported on a report it obtained confirming facts it had previously covered:

⁶ See *id.* (“Rep. Mike Gallagher (R., Wis.) told the *Free Beacon* the Taylor Force Act is vital to ensuring that American taxpayer dollars do not fund terrorists and their families. ‘In the absence of change, it is insane that we would unilaterally resume this assistance and in so doing, risk being complicit in these horrific actions,’ Gallagher said.”); Adam Kredo, *Palestinians Funneled Hundreds of Millions to Terrorists, State Dept Report Reveals*, WASH. FREE BEACON (Mar. 22, 2021), <https://freebeacon.com/national-security/palestinians-funneled-hundreds-millions-terrorists-state-dept-report-reveals/> (“Congress correctly and overwhelmingly passed the Taylor Force Act to limit assistance to areas controlled by the Palestinian Authority, because the Palestinian Authority just shifts fungible resources to pay terrorists,’ the spokesman said. ‘Sen. Cruz is concerned that in the rush to elevate the Palestinians and downgrade the U.S.-Israel relationship, the Biden administration is looking for ways to circumvent the restrictions on American taxpayer dollars going to those areas in ways that will benefit the Palestinian Authority.’”).

⁷ Adam Kredo, *Biden Admin to Restart Palestinian Aid as Payments to Terrorists Flow*, WASH. FREE BEACON (Mar. 4, 2021), <https://freebeacon.com/national-security/biden-admin-to-restart-palestinian-aid-as-payments-to-terrorists-flow/>.

⁸ Sandra Parker, *The Biden administration must enforce the Taylor Force Act*, WASH. EXAMINER (Mar. 25, 2021), <https://www.washingtonexaminer.com/opinion/op-eds/the-biden-administration-must-enforce-the-taylor-force-act>.

The Biden administration privately confirmed to Congress last week that the Palestinian Authority has continued to use international aid money to reward terrorists but said the finding won't impact its plans to restart funding.

In a non-public State Department report obtained by the Washington Free Beacon, the administration said the Palestinians spent at least \$151 million in 2019 on its “pay-to-slay” program, in which international aid dollars are spent to support imprisoned terrorists and their families. Financial statements further indicate that at least \$191 million was spent on “deceased Palestinians referred to as ‘martyrs.’” Despite this practice, which violates U.S. law and prompted the Trump administration to freeze aid to the Palestinians, the “Biden-Harris Administration has made clear its intent to restart assistance to the Palestinians in the West Bank and Gaza,” according to the report.

It remains unclear how the Biden administration will restart American aid without violating a 2018 bipartisan law known as the Taylor Force Act, which prohibits the U.S. government from resuming Palestinian aid until the payments to terrorists are stopped.⁹

As reported by The Jerusalem Post:

The Palestinian Authority is attempting to conceal its “pay-for-slay” stipends to terrorists by creating thousands of new civil and security service positions, according to a report by the NGO Palestinian Media Watch.

Palestinians released from Israeli prisons will be provided with special jobs within the PA. These 7,500 positions can only be held by those imprisoned by Israel, notably those who were convicted for terrorism offenses. By holding these special positions, the stipends will be disguised as paychecks, PMW alleged. The concealed stipends would frustrate interference by Israel, the US or the EU.¹⁰

Questions arise over whether the Department of State is considering these reports as it reportedly pushes toward restoring aid to the Palestinian Authority even while possibly circumventing the Taylor Force Act. “The Palestinian Authority (PA) has been meeting with American, European and Israeli government representatives to end-run both the American Taylor Force Act (anti-‘pay

⁹ Adam Kredo, *Palestinians Funneled Hundreds of Millions to Terrorists, State Dept Report Reveals*, WASH. FREE BEACON (Mar. 22, 2021), <https://freebeacon.com/national-security/palestinians-funneled-hundreds-millions-terrorists-state-dept-report-reveals/>.

¹⁰ Michael Starr, *Palestinian Authority attempting to Conceal Terrorist Stipends – Report*, THE JERUSALEM POST (Mar. 19, 2021), <https://www.jpost.com/middle-east/palestinian-authority-attempting-to-conceal-terrorist-stipends-report-662546>.

for slay’) and the Israeli law prohibiting financial transfers to the Palestinians in the amount the PA remunerates terrorist ‘salaries.’ Why are Western governments having this discussion?”¹¹

These stories continues to receive significant and increasing news coverage on major networks and outlets.

PLO Mission in Washington, DC

Writing on ACLJ.org, Secretary Pompeo also spoke on the story that the Biden Administration is considering allowing the PLO to reopen its mission in Washington: “The Administration also appears set to endorse and empower the PA by giving it preemptive rewards, such as re-opening the PLO mission in Washington, D.C., the office that directly administers the pay-for-slay program.”¹²

As reported by Reuters and *The Jerusalem Post*, “US President Joe Biden's plan to work to reopen the Palestinians' diplomatic mission in Washington could be held up over a law that exposes Palestinian officials to US anti-terror lawsuits, officials and advisers to the Palestinians say.”¹³ Further, “Speaking to the United Nations Security Council” in January, “Acting US envoy Richard Mills said Washington ‘intended to take steps to reopen diplomatic missions that were closed for the last US administration,’ without giving a timeline.”¹⁴ And, “There are also questions about how Biden will fulfill a pledge to resume economic aid to the Palestinians. The Taylor Force Act, passed by Congress in 2018, restricts some aid until the Palestinians end payments to people jailed by Israel over violent crimes, among other conditions.”¹⁵

Records Requested

For purposes of this Request, the term “record” means “any information” that qualifies under 5 U.S.C. § 552(f), and includes, but is not limited to, the original or any full, complete and unedited copy of any log, chart, list, memorandum, note, correspondence, writing of any kind, policy, procedure, guideline, agenda, handout, report, transcript, set of minutes or notes, video, photo, audio recordings, or other material. The term “record” also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, e.g.,

¹¹ Shoshana Bryen, ‘*Money Laundering*’ for Terrorists | *Opinion*, NEWSWEEK (Mar. 24, 2021), <https://www.newsweek.com/money-laundering-terrorists-opinion-1577960>.

¹² Mike Pompeo, Sander Gerber & Stuart Force, *Is the Biden Administration Planning on Violating the Taylor Force Act, as the PA Continues Its Despicable Anti-Israel, Anti-America Pay-for-Slay Policy?*, ACLJ.org (Mar. 10, 2021), <https://aclj.org/israel/is-the-biden-administration-planning-on-violating-the-taylor-force-act-as-the-pa-continues-its-despicable-anti-israel-anti-america-pay-for-slay-policy>.

¹³ Reuters, *Biden Pledge to Reopen PLO Mission in Washington Faces Legal Hurdles*, THE JERUSALEM POST (Jan. 29, 2021), <https://www.jpost.com/arab-israeli-conflict/biden-pledge-to-reopen-plo-mission-in-washington-faces-legal-hurdles-657159>.

¹⁴ *Id.*

¹⁵ *Id.*

electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government or private account or server, consistent with the holdings of *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145 (D.C. Cir. 2016) (rejecting agency argument that emails on private email account were not under agency control, and holding, “If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.”).

For purposes of this Request, the term “briefing” includes, but is not limited to, any in-person meeting, teleconference, electronic communication, or other means of gathering or communicating by which information was conveyed to one or more person.

For purposes of this Request, the term “DOS official” includes, but is not limited to, any person who is (1) employed by or on behalf of the DOS, any Mission of the United States, or any Delegation of the United States, in any capacity; (2) contracted for services by or on behalf of the DOS, any Mission of the United States, or any Delegation of the United States, in any capacity; (3) appointed by the President of the United States to serve in any capacity at or within the DOS, any Mission of the United States, or any Delegation of the United States; or (4) any such person’s staff, agent or employee; all without regard to the component, bureau, or office in which that person serves.

For purposes of this Request, all sources, documents, letters, reports, briefings, articles and press releases cited in this Request are incorporated by reference as if fully set forth herein.

For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is November 1, 2021, to the date this request is processed.

Pursuant to FOIA, 5 U.S.C. § 552 *et seq.*, ACLJ hereby requests that the DOS produce the following:

1. **All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official referencing, connected to, or regarding in any way U.S. aid or funds of any kind being given to the Palestinian Authority,** including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.
2. **All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official referencing, connected to, or regarding in any way the Taylor Force Act,** including but not limited to any record located on

backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

3. **All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official referencing, connected to, or regarding in any way the issue of allowing the PLO mission to reopen in the United States,** including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

4. **For purposes of this Request only, the timeframe of records requested herein is November 8, 2016, to the date this request is processed: All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official from former Secretary of State John Kerry or any person acting on his behalf, referencing, connected to, or regarding in any way the U.S. funding or aid to the Palestinian Authority, the Taylor Force Act, or allowing the PLO mission to reopen in the United States,** including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

CONCLUSION

If this Request is denied in whole or in part, the ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

Moreover, as explained in an accompanying memorandum, the ACLJ is entitled to a waiver of all fees associated with this Request. The ACLJ reserves the right to appeal a decision to withhold any information sought by this request and/or to deny the separate application for expedited processing and waiver of fees.

Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

Jordan Sekulow, Executive Director
Benjamin P. Sisney, Senior Litigation Counsel
American Center for Law and Justice



I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

Respectfully submitted,

Handwritten signature of Jordan Sekulow in cursive.

Jordan Sekulow
Executive Director

Handwritten signature of Benjamin P. Sisney in cursive.

Benjamin P. Sisney
Senior Litigation Counsel