



March 24, 2022

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**RE: FOIA Request Regarding Reports that the Biden Administration Is Considering Removing the Iranian Revolutionary Guard Corps (IRGC) from the Foreign Terrorist Organization (FTO) List**

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")<sup>1</sup> on behalf of its members.

To summarize, this Request seeks records pertaining to the U.S. Department of State's knowledge and efforts surrounding the story that the Biden Administration State Department is considering removing the Iranian Revolutionary Guard Corps from the Foreign Terrorist Organization (FTO) list.

### **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).

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<sup>1</sup>The 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.

According to a recent report by *Axios*:

The Biden administration is considering removing Iran's Islamic Revolutionary Guard Corps from a terror blacklist in return for a public commitment from Iran to de-escalation in the region, three Israeli officials and two U.S. sources tell me..<sup>2</sup>

Further,

The IRGC is not only Iran's most feared military branch, it's also a powerful political and economic player. The terror designation means that even if Biden lifts nuclear sanctions to return to compliance with the deal, criminal penalties could still be imposed on anyone doing business with individuals or businesses connected to the IRGC.

But removing the designation is a political hot potato for Biden. It would create an uproar from Republicans and likely several Democrats in the Senate.

Between the lines: The IRGC designation is not directly related to the nuclear deal, and any decision would take the form of a separate bilateral understanding between the U.S. and Iran, according to the U.S. and Israeli sources.<sup>3</sup>

And, as picked up by Fox News:

The Biden administration is considering removing the Islamic Revolutionary Guards Corps (IRGC) from the Foreign Terrorist Organization (FTO) as Iran and the West try to restore a nuclear deal, two sources familiar with the deliberations told Fox News.

*Axios* first reported that the administration is considering removing the military force from the FTO in return for a commitment from Iran to de-escalate in the region. The sources told Fox that such a move is under consideration but no decision has yet been made.<sup>4</sup>

Further:

The designation was put onto the IRGC during the Trump administration, and Iran has continually called for it to be removed as part of the negotiations. Such a move would be controversial given the IRGC's high profile role in destabilizing the region via proxies. Talks have been ongoing for weeks in Vienna to bring Iran back

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<sup>2</sup> Barak Ravid, *Scoop: U.S. weighs deal to remove Iran's IRGC from terror blacklist*, *AXIOS* (Mar. 16, 2022), <https://www.axios.com/us-weighs-deal-remove-irans-irgc-from-blacklist-c4aa21ed-5b57-4be7-bce6-3670a5dac453.html>.

<sup>3</sup> *Id.*

<sup>4</sup> Adam Shaw & Rich Edson, Biden admin considering removing Iran's IRGC from terror list as part of Iran deal talks: sources, *FoxNews.com* (Mar. 16 2022), <https://www.foxnews.com/politics/biden-admin-considering-removing-irans-irgc-terror-iran-deal-talks>.

into the 2015 Joint Comprehensive Plan of Action (JCPOA), from which both the U.S. and Iran had left.

The FTO designation was put in place by the Trump administration in 2019 after it left the deal a year earlier. The administration also launched a strike to take out IRGC's Gen. Qassem Soleimani, who headed up its paramilitary Quds Forces.<sup>5</sup>

The issue is causing bipartisan concern in Congress:

A bipartisan group of 21 House members, including 11 Democrats, recently wrote to President Biden expressing concern about the deal, including taking the IRGC off the FTO.

"Among other issues, we are highly concerned about reports indicating the potential lifting of the Foreign Terrorist Organization (FTO) designation of the Islamic Revolutionary Guard Corps (IRGC) and of the sanctions placed on members of the office of the Supreme Leader," the letter said.<sup>6</sup>

Adding another perspective of the concern, in another report by Fox News:

A top Iranian resistance group is warning that any move to take the Islamic Revolutionary Guards Corps off the U.S. Foreign Terrorist Organization (FTO) list will "heighten terrorism and mayhem" in the region, amid fears the Biden administration will make such a move as part of negotiations to bring Iran back into the 2015 nuclear deal.

"A potential IRGC exclusion from the FTO list and taking these individuals off the terror blacklist, as requested by Iran's ruling theocracy, will no doubt heighten terrorism and mayhem in the region," the report by the National Council of Resistance of Iran (NCRI), released Thursday, said.<sup>7</sup>

### **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., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Adam Shaw, Iranian dissidents warn that removing IRGC's terror designation will lead to 'terrorism and mayhem', FoxNews.com (Mar. 10, 2022), <https://www.foxnews.com/politics/iranian-dissidents-irgcs-terror-designation-terrorism-and-mayhem>.

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.”).

All requests seek records which include, but are 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.

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 January 20, 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 of communications by or with Secretary of State Antony Blinken, involving or regarding the whether to remove the IRGC from the FTO list.**
2. **All records of communications by or with any other DOS official within the Secretary’s Office (S), involving or regarding the whether to remove the IRGC from the FTO list.**

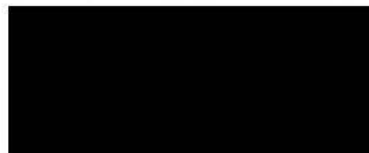
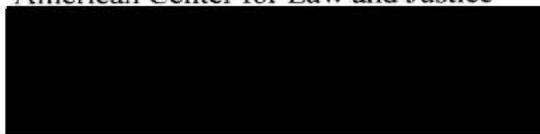
3. All records of communications between any DOS official within the Deputy Secretary's Office (D) or the Chief of Staff's Office (COS), involving or regarding the whether to remove the IRGC from the FTO list.
4. All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official within the Bureau of Democracy, Human Rights, and Labor (DRL), involving or regarding the whether to remove the IRGC from the FTO list.
5. All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official within the Bureau of Near Eastern Affairs (NEA), involving or regarding the whether to remove the IRGC from the FTO list.
6. All records of communications between any DOS official within the Bureau of Counter Terrorism and Countering Violent Extremism (CT), involving or regarding the whether to remove the IRGC from the FTO list.
7. All records of communications between any DOS official within the Office of the Undersecretary for Civilian Security, Democracy, and Human Rights (J), involving or regarding the whether to remove the IRGC from the FTO list.

### 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.

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  
John A. Monaghan, Senior Litigation Counsel  
American Center for Law and Justice

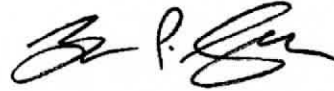


I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

Respectfully submitted,



Jordan Sekulow  
Executive Director



Benjamin P. Sisney  
Senior Litigation Counsel



John A. Monaghan  
Senior Litigation Counsel