



October 27, 2023

Via Web Portal Only

U.S. Department of State
Office of Information Programs and Services
A/GIS/IPS/RL
2201 C Street N.W., Suite B266
Washington, D.C. 20520-0000
Facsimile: (202) 485-1669

RE: FOIA Request Regarding Hamas to the U.S. Department of State

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 expedited processing and 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 Hamas’s response and suppression of dissidents.

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.

According to the *New York Times*:

With a cease-fire between Israel and Palestinian militants underway, the Biden administration is now turning to how it can help rebuild the besieged Gaza Strip — and in turn bring pressure, through promises of financial support, on Hamas not to resume fighting.²

A senior Biden administration official said the United States was planning to be at the fore of an international response, most likely costing billions of dollars, to include restoring health and education services, and other reconstruction.³

These efforts would likely include assisting with “rebuilding Gaza.”⁴

Rebuilding Gaza is a necessary part of the diplomacy — and not only as what some officials see as a moral imperative to help residents. Officials and experts said it was also a point of leverage with Hamas, the militant group that governs the Gaza Strip but has lost popularity among residents who criticize its authoritarian approach and poor administration.

‘In a sense, you need to put Hamas in a position where they have to choose between their rockets and the well-being of Gaza,’ said Dennis B. Ross, a veteran American negotiator of peace efforts between Israel and the Palestinians and Middle East policy for at least four U.S. presidents.⁵

A longer-term reconstruction effort in Gaza could cost billions of dollars, and administration officials predicted that it would be welcomed by Hamas as it shores up its base of support among residents.⁶

As reported by the Council on Foreign Relations:

U.S. aid to the Palestinians began shrinking under the Trump administration in 2018, as it reduced assistance to the West Bank and Gaza and discontinued contributions to UNRWA. In 2019, Trump signed an antiterrorism law that allowed Americans to sue recipients of U.S. foreign aid, including the PA, over alleged complicity in acts of war. Fearing lawsuits, the PA requested that Washington cut off its aid. Though the antiterrorism law remains in effect, the Biden administration has resumed aid to the West Bank and Gaza. It has so far announced more than \$600 million for UNRWA, as well as \$100 million for hospitals in East Jerusalem and \$15 million to mitigate food insecurity worsened

² Lara Jakes, *U.S. Looks to Rebuild Gaza, but Aid Could Hinge on Hama’s Rocket Arsenal*, NEW YORK TIMES (June 16, 2021), <https://www.nytimes.com/2021/05/20/us/politics/israel-gaza-hamas-biden-netanyahu.html>.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

by the war in Ukraine, though some of these funds will require congressional approval.⁷

Additionally, the White House announced plans to give “\$316 million to support the Palestinian people.” Under the Biden Administration, the United States has given half a billion dollars to the Palestinians.⁸

In 2022, the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) donated \$1,488,539 to Islamic Relief Worldwide.⁹ Multiple sources believe that Islamic relief has ties to Hamas.¹⁰ Additionally, the United Nations Relief and Works Agency for Palestine Refugees in the Near East received \$219,053,330 from UNOCHA.¹¹ In the same year, the United States donated \$81,463,200 to the Occupied Palestinian Territory through UNOCHA.¹² The United States also contributes to UNRWA.¹³

Further, National Review reported:

Hammas has also been caught using foreign aid to fund terrorist operations. It has even used donated construction equipment and cement to build so-called ‘terror tunnels,’ through which Hamas operatives can kidnap and attack Israelis. The network of tunnels, which is estimated to cover 300 miles, is intricate. It is also expensive: According to Israel Defense Forces estimates, some individual tunnels cost as much as \$3 million to build.¹⁴

In January 2023, National Review reported that “Palestinians are beginning to stand up to

⁷ Kali Robinson, *What is U.S. Policy on the Israeli-Palestinian Conflict?*, COUNCIL ON FOREIGN RELATIONS (July 20, 2022), <https://www.cfr.org/backgrounder/what-us-policy-israeli-palestinian-conflict#chapter-title-0-8>.

⁸ *Fact Sheet: The United States-Palestinian Relationship*, WHITE HOUSE (July 14, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/07/14/fact-sheet-the-united-states-palestinian-relationship/>.

⁹ *Occupied Palestinian Territory 2022*, FINANCIAL TRACKING SERVICE UNOCHA, <https://fts.unocha.org/countries/171/recipients/2022> (last visited Feb. 6, 2023).

¹⁰ Beniamno PARENZO, *How the United Nations Indirectly Funds Hamas*, JERUSALEM INSTITUTE OF JUSTICE (July 24, 2019), <https://jij.org/news/united-nations-funds-hamas/>; *Islamic Relief Worldwide*, NGO MONITOR (Jan. 21, 2021), https://www.ngo-monitor.org/ngos/islamic_relief_worldwide_irw_/; Kyle Shideler, *Funding Terrorists Must End*, WASHINGTON TIMES (Nov. 29, 2015), <https://www.washingtontimes.com/news/2015/nov/29/kyle-shideler-funding-terrorists-must-end/>.

¹¹ *Occupied Palestinian Territory 2022*, FINANCIAL TRACKING SERVICE UNOCHA, <https://fts.unocha.org/countries/171/recipients/2022> (last visited Feb. 6, 2023).

¹² *Occupied Palestinian Territory 2022*, FINANCIAL TRACKING SERVICE UNOCHA, <https://fts.unocha.org/countries/171/donors/2022> (last visited Feb. 6, 2023).

¹³ *Government Partners*, UNRWA, <https://www.unrwa.org/our-partners/government-partners#:~:text=UNRWA%20is%20funded%20almost%20entirely,used%20exclusively%20for%20administrative%20costs> (last visited Feb. 6, 2023); *United States Announced Restoration of U.S. \$150 Million to Support Palestine Refugees*, UNRWA (April 7, 2021), <https://www.unrwa.org/newsroom/press-releases/united-states-announces-restoration-us-150-million-support-palestine>.

¹⁴ Sean Durns, *What’s Really Happening in Gaza*, NATIONAL REVIEW (Jan 31, 2023), <https://www.nationalreview.com/2023/01/whats-really-happening-in-gaza/>.

Hamas.”¹⁵ The Center for Peace Communications (CPC) conducted the Whispered in Gaza campaign to show the human rights violations occurring at the hands of Hamas.¹⁶ The campaign uses testimony from “everyday Gazans living under Hamas rule.”¹⁷

More recently, this July 30, 2023, “[h]undreds of citizens took to the streets of the Gaza Strip, especially in the cities of Khan Younis and Rafah, in the south of the territory, in protest against the power outages and other painful conditions, aggravated by the unusual heat¹⁸... Apparently the demonstrations were organized on social media by a group called “Alvirus Alsakher”.¹⁹

Hamas has a history of crushing protests and dissent. This time was the same, police quickly dispersed the protests and made some arrests.²⁰

The Los Angeles Times also covered the event, saying: “Several thousand people briefly took to the streets across the Gaza Strip on Sunday to protest chronic power outages and difficult living conditions, providing a rare public show of discontent with the territory’s Hamas government. Hamas security forces quickly dispersed the gatherings.”²¹

“Marches took place in Gaza City, the southern town of Khan Younis and other locations, chanting “what a shame” and in one place burning Hamas flags, before police moved in and broke up the protests. Police destroyed mobile phones of people who were filming in Khan Younis, and witnesses said there were several arrests.”²²

Protesters also criticized Hamas for deducting a roughly \$15 fee from monthly \$100 stipends given to Gaza’s poorest families by the wealthy Gulf state of Qatar.”²³

Recent polls of Gaza further show the unpopularity of Hamas with the Palestinians.²⁴ There is even significant dissent with the Hamas policy of “from the river to the sea” i.e. Jewish eradication.

This Request investigates the State Department’s knowledge of the suppression of the Palestinians by Hamas.

Records Requested

¹⁵ Sean Durns, *What’s Really Happening in Gaza*, NATIONAL REVIEW (Jan. 31, 2023), <https://www.nationalreview.com/2023/01/whats-really-happening-in-gaza/>.

¹⁶ *Id.*; *Whispered in Gaza*, PEACE COMMUNICATIONS, <https://www.peacecomms.org/gaza> (last visited Feb. 8, 2023).

¹⁷ Durns, *supra* note 16.

¹⁸ Timothy Jones, *www.DW.com*, (Aug. 6, 2023), <https://www.dw.com/pt-br/calor-extremo-exacerba-revolta-entre-povo-palestino/a-66454231> (PT).

¹⁹ *Id.*

²⁰ *Id.*

²¹ Associated Press, *www.latimes.com* (Jul., 30, 2023 1:50 PM) <https://www.latimes.com/world-nation/story/2023-07-30/thousands-take-to-streets-in-gaza-in-rare-public-display-of-discontent-with-hamas>.

²² *Id.*

²³ *Id.*

²⁴ Amarney A. Jamal and Michael Robbins, *What Palestinians Really Think of Hamas*, FOREIGN AFFAIRS (OC. 25, 2023) <https://www.foreignaffairs.com/israel/what-palestinians-really-think-hamas>

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 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, or any office or function of these agencies, 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, or any office or function of these agencies, 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 any office or function of these agencies; 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 February 8, 2023, 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 at a GS-14 level or higher or an appointee within the Secretary’s Office referencing, connected to, or regarding in any way funds given by the United States to Palestine, Palestinian use of the funds, and efforts to prevent Hamas use of the funds for terrorist activities**
- 2. All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official at a GS-14 level or higher**

or an appointee within the Secretary's Office referencing, connected to, or regarding in any way financial support of Hamas by the United States, uses of the financial support by Hamas, and mechanisms used by the United States to ensure that Hamas does not use the funds for terrorist activities or to oppress its people.

- 3. All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any senior level DOS referencing, connected to, or regarding in any way speeches made by Hamas and its leaders in response to the dissenters, including translations of such speeches.**
- 4. All records of communications by or with Secretary of State Antony Blinken, involving or regarding Hamas's actions taken in response to or against dissenters in Gaza.**
- 5. All records of communications by or with any other DOS official within the Secretary's Office (S), involving or regarding Hamas's actions taken in response to or against dissenters in Gaza.**
- 6. All records of communications by or with any other DOS official within the Secretary's Office (S), involving or regarding Hamas's actions taken in response to or against participants and organizers of the "Whispered in Gaza" Project.**

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:

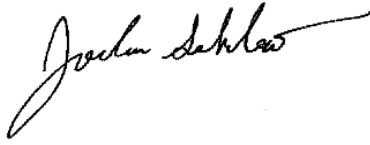
Jordan Sekulow, Executive Director
Benjamin P. Sisney, Senior Litigation Counsel
John A. Monaghan, Senior Litigation Counsel
American Center for Law and Justice
American Center for Law and Justice

[REDACTED]

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jordan Sekulow". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jordan Sekulow
Executive Director

A handwritten signature in black ink, appearing to read "Ben P. Sisney". The signature is cursive and compact, with a prominent initial "B" and "P".

Benjamin P. Sisney
Senior Litigation Counsel

A handwritten signature in blue ink, appearing to read "John A. Monaghan". The signature is cursive and elegant, with a clear "A" in the middle.

John A Monaghan
Senior Litigation Counsel