



September 22, 2023

Via Web Portal Only

Office of Information Programs and Services (IPS)
A/GIS/IPS/RL
U.S. Department of State, State Annex 2 (SA-2)
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Washington, DC 20522-8100
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RE: FOIA Request Regarding Special Envoy Robert Malley’s interactions with Iran, his leave from Special Envoy, and his suspended security clearance.

Dear FOIA Officer:

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 American Center for Law and Justice (“ACLJ”)¹ makes this Request on behalf of its members.

To summarize, this Request seeks records pertaining to Special Envoy Robert Malley’s interactions with Iran, his leave from Special Envoy, and his suspended security clearance.

Background

Pursuant to U.S. Department of State (DOS) 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).

As acting Envoy for Iran, Robert Malley (also known as “Bob Malley” and “Rob Malley”) was “responsible for developing, coordinating, and implementing the State Department’s Iran

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.

policy and reports directly to the Secretary of State.”² He was “the top diplomat involved in talks with Tehran.”³ Before he was the Special Envoy for Iran, Robert Malley helped to negotiate the Joint Comprehensive Plan of Action (Iran Deal)⁴ and was the Middle East coordinator for the Obama Administration.⁵ Although the Department of State has placed Malley on leave, the Biden Administration continues to attempt a revival of the previously canceled Iran Deal.⁶ Now, “Malley’s top goal as President Joe Biden’s special envoy for Iran was restoring the 2015 Iran nuclear deal.”⁷ Interestingly, the Tehran Times attempts to paint Malley in a negative light, claiming, “Malley is no dove on Iran. Right from the start, he sought to get some Iran hawks in Washington on board in his mission to further tighten the noose on Iran.”⁸ They also suggested that “[d]uring the tenure of Malley, the U.S. heaped more sanctions on Iran and threw its full weight behind the wave of unrest that gripped Iran in 2022, which indicate that the Biden administration seeks regime change in Iran. Malley implemented this policy wholeheartedly.”⁹ It also suggested,

Malley’s remarks [about the deal negotiations] prove in no uncertain terms that he and the Biden administration were pursuing exactly the same Iran policy as the Trump administration, with the difference that Malley’s perceived softness on Iran makes it difficult to blame the U.S. for the failure of the Iran talks. This is while the U.S. has been the main reason why, for instance, the prisoners swap deal negotiated recently came to naught.¹⁰

Robert Malley has been the Special Envoy for Iran since he was appointed on January 28, 2021.¹¹ However, Envoy Malley is now on leave from the position¹² and has a suspended security clearance¹³ while the FBI and Diplomatic Security investigate him for mishandling

² *Special Envoy for Iran*, U.S. DEPT. OF STATE, <https://www.state.gov/bureaus-offices/secretary-of-state/special-envoy-for-iran> (last visited Aug. 23, 2023).

³ Adam Kredo, *The Malley Investigation, Explained*, THE WASH. FREE BEACON (July 26, 2023), <https://freebeacon.com/biden-administration/the-malley-investigation-explained/>.

⁴ *Chairman Menendez: We Cannot Allow Iran to Threaten Us into a Bad Deal or an Interim Agreement that Allows It to Continue Building its Nuclear Capacity*, FOREIGN RELS. COMM. (Feb. 1, 2022), <https://www.foreign.senate.gov/press/dem/release/chairman-menendez-we-cannot-allow-iran-to-threaten-us-into-a-bad-deal-or-an-interim-agreement-that-allows-it-to-continue-building-its-nuclear-capacity>.

⁵ Background Conference Call on Iran, OBAMA WHITE HOUSE (July 14, 2015), <https://obamawhitehouse.archives.gov/the-press-office/2015/07/14/background-conference-call-iran>.

⁶ *Chairman Menendez*, *supra* note 4.

⁷ Nahal Toosi & Joe Gould, *An Iran Mouthpiece’s ‘Scoop’ Draws Republican Ire*, POLITICO (Aug. 28, 2023, 8:35 PM), <https://www.politico.com/news/2023/08/28/tehran-times-iran-rob-malley-00113259?nname=playbook&nid=0000014f-1646-d88f-a1cf-5f46b7bd0000&nrid=3c3da0e9-a41e-400d-8a2b-201c205001dc&nlid=630318>.

⁸ Sadra Torabi, *Exclusive: Secret Audiotape Reveals the True Colors of Rob Malley*, TEHRAN TIMES (July 24, 2023, 9:36 PM), <https://www.tehrantimes.com/news/487225/Exclusive-Secret-audiotape-reveals-the-true-colors-of-Rob-Malley>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Robert Malley: Special Envoy for Iran*, U.S. DEPT. OF STATE, <https://www.state.gov/biographies/robert-malley> (last visited Sept. 20, 2023).

¹² *Department Press Briefing – September 14, 2023*, U.S. DEPT. OF STATE (Sept. 14, 2023), https://www.state.gov/?post_type=state_briefing&%3Bp=92333.

¹³ Letter from Michael T. McCaul, Chairman, House Foreign Affs. Comm., to Antony Blinken, Sec’y of State (June 30, 2023), <https://foreignaffairs.house.gov/wp-content/uploads/2023/06/6-30-23-McCaul-Letter-to-Blinken->

classified documents.¹⁴ While the U.S. State Department never announced exact date of the suspension, the Tehran Times, “a pro-regime mouthpiece,”¹⁵ says that it began on April 21st according to a confidential source.¹⁶ Despite “Biden administration officials [telling] lawmakers that Malley was on extended personal leave,” “[j]ust a month later, it became clear that Malley was the subject of an investigation into his alleged mishandling of classified information, a charge so serious that the probe was later handed off from the State Department office responsible for diplomatic security to the FBI.”¹⁷

“Robert Malley had his security clearance and State Department credentials pulled in late April after ‘serious security concerns’ were internally raised about his handling of sensitive information, personal conduct, and use of classified networks, according to a leaked letter sent by the State Department’s security division.”¹⁸ According to the Washington Free Beacon, “Malley may have leaked classified information to a network of pro-Tehran advocates who supported the Obama administration’s Iran deal.”¹⁹ He “routinely [had] briefed this group to ensure they reiterated the Obama administration’s talking point about the deal” and “may have resumed briefing [them] as President Joe Biden pushes to resurrect the Iran deal.”²⁰ Additionally,

Iranian press reports indicate that Malley was holding secret talks with Iranian diplomats at the United Nations, perhaps without authorization from the State Department. Malley, in fact, has *a history of holding unsanctioned meetings with America’s enemies*, including in 2008, when he was fired from the Obama campaign for conducting talks with the Iranian-backed terror group Hamas.²¹

Potentially, Malley has “leaked information he was not authorized to disclose.”²² Also, it could be “possible Malley mishandled classified information. . . . If Malley misplaced a document or failed to secure a piece of information, the State Department’s diplomatic security section could revoke his clearance pending an investigation.”²³ The Free Beacon later reported that the leaked letter written by the State Department’s Security Division “indicates that, contrary to Malley’s public comments on the matter, the now-suspended official knew as early as April exactly why his security clearance was revoked,” the letter “detail[ing] how Malley may have

Robert-Malley.pdf.

¹⁴ *Secretary Antony J. Blinken With Andrea Mitchell of Andrea Mitchell Reports on MSNBC*, U.S. DEPT. OF STATE (July 11, 2023), <https://www.state.gov/secretary-antony-j-blinken-with-andrea-mitchell-of-andrea-mitchell-reports-on-msnbc>.

¹⁵ Kredo, *supra* note 3.

¹⁶ Sadra Torabi, *Exclusive: Inside the Downfall of Rob Malley*, TEHRAN TIMES (July 10, 2023), <https://www.tehrantimes.com/news/486714/Exclusive-Inside-the-Downfall-of-Rob-Malley>.

¹⁷ Kredo, *supra* note 3.

¹⁸ Adam Kredo, *Leaked Document: Robert Malley’s Security Clearance Revoked over Handling of Sensitive Info, Personal Conduct, and Use of Classified Networks*, THE WASH. FREE BEACON (Aug. 28, 2023), <https://freebeacon.com/national-security/robert-malleys-security-clearance-revoked-over-handling-of-sensitive-info-personal-conduct-and-use-of-classified-networks/>.

¹⁹ Kredo, *supra* note 3.

²⁰ *Id.*

²¹ *Id.* (emphasis added).

²² *Id.*

²³ *Id.*

breached three separate security guidelines meant to protect classified information.”²⁴ Malley has denied any wrongdoing.”²⁵

According to the Tehran Times, “a source at the U.S. State Department told the Tehran Times that the main problem of Malley stems from his secret talks with Iranian Ambassador to the UN Saeid Iravani and his meetings with some of Iranian-American figures in the U.S.”²⁶ The Tehran Times purports that Malley’s communications with Iranian Americans and other Iranians are merely a negotiation tactic accepted by the State Department in coordination with the National Security Advisor team.²⁷ It suggested, “[p]erhaps the reason why U.S. Secretary of State Tony Blinken did not meet and talk with Malley is because the U.S. top diplomat does not want the scope of this scandal to expand and tarnish his reputation.”²⁸ Additionally, it suggested, “Malley’s extreme closeness to his unofficial advisers of Iranian origin, which was perhaps his greatest strength and the reason for his appointment to this position in the new American government, has now become his Achilles’ heel and caused his downfall.”²⁹ The Tehran Times reported that the State Department suspended Malley’s security clearance because of “personal conduct, handling of protected information, and use of information technology,” yet it qualified the State Department’s memo on the matter as “cagy about the examples of Malley’s infractions.”³⁰

Further concerns have been raised relating to how the Tehran Times got the letter in the first place.³¹ According to the Free Beacon, “Richard Goldberg, a former White House National Security Council member who worked on Iran issues, also raised questions about how the internal State Department document made its way to an Iranian state-controlled mouthpiece.”³² According to Politico other U.S. officials are concerned about the State Department’s security as well, “Republican lawmakers are calling for the State Department to probe how the Tehran Times, an Iranian state-run media outlet, obtained a purported memo informing U.S. Special Envoy for Iran Rob Malley that his security clearance was suspended.”³³ They are also concerned that that the Biden Administration has “temporarily allow[ed] Malley to continue to work in the department after his security clearance was suspended over the investigation” and has “[kept] them in the dark about the probe for several weeks.”³⁴ Specifically, “House Foreign Affairs Committee Chair Mike McCaul (R-Texas), said [recently] in a statement that Foggy Bottom ‘needs to do a top to bottom security review, because I am concerned they have a leak,’” especially when “the Tehran Times has again obtained information that has eluded lawmakers who have demanded to know more about an ongoing investigation into Malley.”³⁵

²⁴ Kredo, *supra* note 19.

²⁵ Toosi, *supra* note 7.

²⁶ Sadra Torabi, *Exclusive: The Secret Talks that Doomed Rob Malley*, TEHRAN TIMES (July 16, 2023), <https://www.tehrantimes.com/news/486875/Exclusive-The-secret-talks-that-doomed-Rob-Malley>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Sadegh Fereydounabadi, *Final Say*, TEHRAN TIMES (Aug. 27, 2023, 10:48 PM), <https://www.tehrantimes.com/news/488429/Final-Say>.

³¹ Toosi, *supra* note 7.

³² *Id.*

³³ Toosi, *supra* note 7.

³⁴ *Id.*

³⁵ *Id.*

McCaul's concern partially stems from the fact that "this is not the first time the Iranian regime's mouthpiece has appeared to have sensitive U.S. government information recently while Congress is kept in the dark."³⁶ "Sen. Bill Hagerty (R-Tenn.), of the Senate Foreign Relations Committee" added, "[i]t is shocking and, to my knowledge, unprecedented that a propaganda arm of Iran's terrorist regime got its hands on what appears to be a 'Sensitive But Unclassified' April 2023 memo related to the suspension of Special Envoy Rob Malley's security clearance."³⁷ Hagerty has suggested that the inspector general's office should investigate to see "whether any State Department officials have violated any laws or regulations in what appears to be an unauthorized disclosure of this [sensitive] communication related to Malley and national security."³⁸ Only adding to the reasons for officials to be concerned, "[a] person familiar with the investigation into Malley who has seen the original memo told POLITICO that the Tehran Times' version appeared to match that original."

According to Politico, "it's possible that, given that other parts of the administration are involved in the Malley investigation, the State Department was not the source of the information in the Tehran Times article," but "[a] former senior official with the State Department's Diplomatic Security Bureau said the document's formatting, language, date stamp and names mentioned all appeared to follow standard State Department style."³⁹

In the past, such as in the case of Martin Indyk, Ambassador to Israel during the Clinton Administration, "the State Department was transparent about the charges"; but in Malley's case, "[t]he Biden administration has provided no public information about the investigation into Malley, and will not even publicly confirm that his security clearance is revoked."⁴⁰ "Several sources also said they were hard pressed to think of a similar case in which a top American diplomat was removed from their post for security reasons."⁴¹

According to the Tehran Times, after Malley's security clearance had been suspended, "to prevent the matter from becoming public, some of his limited and non-critical accesses were maintained, such as his communication with the families of American prisoners in Iran."⁴² During his extended leave and clearance suspension, "Malley was still conducting activities in his official role, in violation of State Department protocols."⁴³ While the Department of State still has not announced the termination of Robert Malley, he has apparently given up on reinstatement, accepting a visiting professor position at Princeton University.⁴⁴ During Robert Malley's absence, Deputy Special Envoy Abram Paley is temporarily replacing his superior.⁴⁵

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Kredo, *supra* note 3.

⁴¹ *Id.*

⁴² Torabi, *supra* note 28.

⁴³ Kredo, *supra* note 3.

⁴⁴ Tom Durso, *Senior State Department Official to Join SPIA Faculty as Visiting Professor and Lecturer*, PRINCETON SCH. OF PUB. & INT'L AFFS. (Aug. 15, 2023), <https://spia.princeton.edu/news/senior-state-department-official-join-spia-faculty-visiting-professor-and-lecturer>.

⁴⁵ *Department Press Briefing – August 14, 2023*, U.S. DEPT. OF STATE (Aug. 14, 2023), <https://www.state.gov/briefings/department-press-briefing-august-14-2023/>.

According to the Committee on Foreign Affairs, the Department of State has not been amenable to oversight concerning both Robert Malley’s suspension and leave as well as State Department interactions with Iran generally.⁴⁶

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 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(s).

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.

⁴⁶ Letter from Michael T. McCaul, Chairman, House Foreign Affs. Comm., to Antony Blinken, Sec’y of State (June 30, 2023), <https://foreignaffairs.house.gov/wp-content/uploads/2023/06/6-30-23-McCaul-Letter-to-Blinken-Robert-Malley.pdf>.

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, any individual or entity's name includes any alias or pseudonym.

For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is **January 28, 2021, to the date this request is processed.**

For purposes of this Request, and unless otherwise indicated, **the following databases or the database accessed by the program are requested to be searched:** Center for Analytics (CfA) [SBU], Consular Affairs Cloud Salesforce (CACSF), Document Imaging System (DIS), DOS Email Systems (Email), eRecords Management System (ERecords), Gift Registry, Knowledge Center (KC), Overseas Building Operation Link (OBOLINK), Risk Analysis Management (RAM), and State Messaging and Archive Retrieval toolset (SMART).

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 sent or forwarded by any GS-14 level or higher DOS official or a DOS appointee to the Whitehouse involving or regarding the suspension of Robert Malley's security clearance.
2. All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any GS-14 level or higher DOS official or a DOS appointee regarding or involving Robert Malley's prior activities, negotiations, and meetings in Iran, both state sanctioned and unapproved.
3. All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any GS-14 level or higher DOS official or a DOS appointee involving or regarding Robert Malley's continued activities regarding Iran after his security clearance suspension.
4. All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any GS-14 level or higher DOS official or a DOS appointee involving or regarding Robert Malley's communications with American-Iranians and Iranians regarding Iran.
5. All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any GS-14 level or higher DOS official or a DOS appointee involving or regarding the letter published by the Tehran Times and the State Department's communications with the Tehran Times.

6. All records between any GS-14 level or higher DOS official or a DOS appointee and any GS-14 level or higher FBI official or FBI appointee involving or regarding the Robert Malley.
7. All records, communications or briefings in the custody of Antony J. Blinken, the Secretary of State about Robert Malley.

As to all Requests above, the ACLJ does NOT request the law investigation record of any investigation.

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



Respectfully submitted,

Handwritten signature of Jordan Sekulow in blue ink.

Jordan Sekulow
Executive Director

Handwritten signature of Benjamin P. Sisney in blue ink.

Benjamin P. Sisney
Senior Litigation Counsel

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John A Monaghan
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