

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERICA FIRST LEGAL  
FOUNDATION,  
611 Pennsylvania Ave., SE #231  
Washington, D.C. 20003

*Plaintiff,*

v.

UNITED STATES DEPARTMENT OF  
STATE,  
Harry S. Truman Federal Building  
2201 C. Street NW,  
Washington, D.C 20520

*Defendant.*

Civil Action No.: 23-419

**COMPLAINT**

1. Plaintiff America First Legal Foundation (“AFL”) brings this action against the United States Department of State (“State Department”), to compel compliance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

2. Secretary of State Antony J. Blinken recently said “our commitment to truth, transparency, and accountability is a mission that we must live at home and exemplify abroad.” Dep’t. of State, Statement by Secretary Antony J. Blinken (Feb. 23, 2021), <https://bit.ly/3vjyW3Y>.

3. Yet, even as the Secretary spoke to the importance of transparency abroad, the State Department was stonewalling, refusing to disclose politically

sensitive records in response to AFL's requests under the Freedom of Information Act; refusing to even issue a denial in writing and instead stalling indefinitely.

4. The State Department has let AFL's FOIA requests languish for months beyond FOIA's statutory deadlines, with some requests pending over a year beyond the statutory deadlines.

5. It seems that instead of pursuing "truth, transparency and accountability" at home like the Secretary argues we must, the State Department is attempting to stonewall oversight to prevent the public from learning the truth about its actions, and thus avoid any accountability for the policies it has pursued.

#### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. Additionally, it may grant declaratory relief pursuant to 28 U.S.C. § 2201, *et seq.*

7. Venue is proper in this District pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

#### **PARTIES**

8. Plaintiff AFL is a nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, ensure due process and equal protection for all Americans, and encourage public knowledge and understanding of the law and individual rights guaranteed under the United States Constitution and the laws of the United States. AFL's mission includes promoting government transparency and accountability by gathering official information, analyzing it, and

disseminating it through reports, press releases, and/or other media, including social media platforms, all to educate the public.

9. Defendant, the State Department, is an agency under 5 U.S.C. § 552(f), with headquarters in the Harry S. Truman Federal Building, located at 2201 C. Street NW, Washington, D.C, 20520.

10. Defendant has possession, custody, and control of the requested records.

### **AFL'S FOIA REQUESTS**

#### **U.N. Rapporteur Request**

11. On August 2, 2021, AFL submitted a FOIA request to the State Department, seeking records related to the Secretary's decision to extend an invitation to the United Nations Special Rapporteur on Contemporary Forms of Racism, asking her to investigate "systemic racism" in law enforcement in the United States. A true and original copy of the FOIA request is attached to this at Exhibit A.

12. On August 10, 2021, AFL received an email from the State Department acknowledging receipt of AFL's FOIA request. That email is attached to the complaint as Exhibit B.

13. This email assigned AFL's request tracking number F-2021-08873. *Id.*

14. This email indicated that the State Department would be unable to respond within the statutory deadline. *Id.*

15. On October 28, 2022, AFL emailed the State Department to ask for a status update. This correspondence is attached to this complaint as Exhibit C.

16. On October 31, 2022, AFL received a reply indicating that the status of the request is “in process.” *Id.*

17. As of the date of this Complaint, AFL has received no further updates or communications from the State Department about its August 2, 2021, FOIA request.

*The Support for Palestinian Terror Request*

18. On October 29, 2021, AFL submitted a FOIA request to the State Department, seeking State Department records related to Israel’s designation of certain groups as terrorist organizations and the potential establishment of an American consulate in Jerusalem. A true and original copy of the FOIA request is attached to this complaint as Exhibit D.

19. On November 3, 2021, AFL received an email from the State Department acknowledging receipt of AFL’s FOIA request. This email is attached to the complaint as Exhibit E.

20. This email assigned AFL’s request tracking number F-2022-00890. *Id.*

21. This email indicated that the State Department would be unable to respond within the statutory deadline. *Id.*

22. As of the date of this complaint, AFL has received no further updates or communications from the State Department about its October 29, 2021, FOIA request.

*The Material Support for Palestinian Terrorism Request*

23. On March 16, 2022, AFL submitted a FOIA request to the State Department, seeking records that would shed light on claims that the Biden Administration, acting through the State Department, had been providing material support to Palestinian terrorists in violation of U.S. law, with the goal of undermining the security of the state of Israel and achieving other policy aims. A true and original copy of the FOIA request is attached to this at Exhibit F.

24. This request was limited to two custodians, Mr. Hady Amr and Mr. George Noll. *Id.*

25. On March 17, 2022, AFL received an email from the State Department acknowledging receipt of AFL's FOIA request. This email is attached to the complaint as Exhibit G.

26. This email assigned AFL's request tracking number F-2022-06040. *Id.*

27. This email indicated that the State Department would be unable to respond within the statutory deadline. *Id.*

28. As of the date of this Complaint, AFL has received no further updates or communications from the State Department about its March 16, 2022, FOIA request.

*The BDS Request*

29. On March 16, 2022, AFL submitted a FOIA request to the State Department, seeking records related to funding opportunity number "SFOP0008613"

and limited to records created after March 1, 2021. A true and original copy of the FOIA request is attached to this at Exhibit H.

30. On March 17, 2022, AFL received an email from the State Department acknowledging receipt of AFL's FOIA request. This email is attached to the complaint as Exhibit I.

31. This email assigned AFL's request tracking number F-2022-06035. *Id.*

32. This email indicated that the State Department would be unable to respond within the statutory deadline. *Id.*

33. As of the date of this Complaint, AFL has received no further updates or communications from the State Department about its March 16, 2022, FOIA request.

*The WHO Reforms Request*

34. On May 20, 2022, AFL submitted a FOIA request to the State Department, seeking records related to proposed reforms to the World Health Organization. A true and original copy of the FOIA request is attached to this at Exhibit J.

35. On May 27, 2022, AFL received an email from the State Department acknowledging receipt of AFL's FOIA request. This email is attached to the complaint as Exhibit K.

36. This email assigned AFL's request tracking number F-2022-08578. *Id.*

37. This email declined AFL's request for expedited processing. *Id.*

38. This email indicated that the State Department would be unable to respond within the statutory deadline. *Id.*

39. On August 31, 2022, AFL emailed the State Department to ask for a status update. This correspondence is attached to this complaint as Exhibit L.

40. On September 9, 2022, AFL received a reply indicating that the status of the request is “in process.” *Id.*

41. In this same email, the State Department provided no estimate of the date AFL can expect records. *Id.*

42. As of the date of this Complaint, AFL has received no further updates or communications from the State Department about its May 20, 2022, FOIA request.

**CLAIM FOR RELIEF**  
**Violation of FOIA, 5 U.S.C. § 552**

43. AFL incorporates paragraphs 1-42 by reference.

44. AFL properly requested records within the possession, custody, and control of the State Department.

45. The State Department failed to conduct a search for responsive records.

46. Moreover, because they failed to conduct a search, the State Department has failed to disclose any segregable, non-exempt portions of responsive records. *See* 5 U.S.C. § 552(b).

47. The State Department has failed to respond to AFL’s request within the statutory time period. *See* 5 U.S.C. § 552(a)(6).

48. Accordingly, AFL has exhausted its administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C).

49. The State Department has violated FOIA by failing, within the prescribed time limit, to reasonably search for records responsive to AFL's FOIA request and release nonexempt records.

**PRAYER FOR RELIEF**

WHEREFORE, AFL respectfully requests that this Court:

- i. Declare that the records sought by AFL's requests must be disclosed pursuant to 5 U.S.C. § 552;
- ii. Order Defendant to search immediately, demonstrating search methods reasonably likely to lead to the discovery of responsive records;
- iii. Order Defendant to produce by a date certain all non-exempt records responsive to AFL's FOIA requests, accompanied by a Vaughn index of any responsive records or portions of responsive records being withheld under claim of exemption;
- iv. Order Defendant to grant AFL's requests for fee waivers;
- v. Award AFL attorneys' fees and costs incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- vi. Grant AFL such other and further relief as this Court deems proper.

[signature page follows]



Date: February 14, 2023

Respectfully Submitted

/s/ Jacob P. Meckler

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