

EMPOWER OVERSIGHT

Whistleblowers & Research



February 26, 2024

VIA DOJ ELECTRONIC PORTAL

Arnetta Mallory, FOIA Initiatives Coordinator
National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
6th Floor Room 6150
Washington, DC 20530-001

**RE: Request for Records Pursuant to the Freedom of Information Act, 5
U.S.C. § 552**

Dear FOIA Officer:

INTRODUCTION

Empower Oversight Whistleblowers & Research (“Empower Oversight”) is a nonpartisan, nonprofit educational organization dedicated to enhancing independent oversight of government and corporate wrongdoing. We work to help insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seek to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same.

BACKGROUND

On June 4, 2018, the Foreign Agents Registration Act (“FARA”) Unit of the Department of Justice (“DOJ”) sent a letter to lawyers for Al Jazeera's social media-focused subsidiary, AJ+, explaining why it may be obligated to register under FARA.

That was more than five-and-a-half years ago.

According to an 11-page letter from Jay I. Bratt, then Chief of DOJ's Counterintelligence and Export Control Section, to Al Jazeera's attorneys at DLA Piper on September 14, 2020:

It is apparent that the Government of Qatar considers the Al Jazeera brand to be a means with which to project soft power. Qatari Ambassador Ahmed bin Saeed Al-Ruhaihi, an official in the Ministry of Foreign Affairs, recently stated: “For more

than two decades, the media represents an element of soft power for the State of Qatar.”

* * *

By producing and disseminating news programming in the United States as an agent of [its parent company] AJMN and the Government of Qatar, AJ+ meets the definition of acting as a publicity agent, and thus obligated to register under FARA.

* * *

AJ+ is obligated to register under FARA because it acts at the direction and control of both the Government of Qatar and AJMN. AJ+’s activities on behalf of the Government of Qatar and AJMN satisfy the definition of two specified categories of activities that require registration under FARA: (1) engaging in political activities, and (2) acting as a publicity agent. The content produced by AJ+ and disseminated in the United States seeks to “influence ... any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States, or with reference to the political or public interests, policies, or relations” of Qatar and other countries in the region, and is therefore “political activity.” *See* 22 U.S.C. § 611(o). AJ+’s role in producing and disseminating video news segments in the United States, at the order, request, or under the direction and control of the Government of Qatar and AJMN, means that it is serving as a “publicity agent,” separately triggering an obligation to register under the Act. *See* 22 U.S.C. § 611(h).

* * *

Please effect AJ+’s registration within thirty (30) calendar days of the date of this letter.

That was more than three years ago and Al Jazeera has still not registered as a foreign agent.

FARA is intended to ensure “complete public disclosure” by those who conduct political activity in the interests of foreign principals. Yet, DOJ has been criticized extensively for its “lax and selective enforcement” of the Act.

On March 6, 2018, nineteen Members of Congress wrote to then-Attorney General Sessions asking about Al Jazeera and its obligations under FARA.¹ On June 18, 2019, and July 1, 2021, Members of Congress including Senators Charles Grassley, Marco Rubio, Tom Cotton, Ted Cruz, and Todd Young wrote to then-Attorney General Barr² and Attorney General Garland about this matter as well.³ Additional letters sent in July 2021 sought among other things to learn what steps DOJ had taken to ensure that AJ+ registered as is required. It also sought copies of “all letters of inquiry and letters of determination the Department of Justice has sent to Al Jazeera Media Network, AJ+” and affiliated entities.

¹ https://hws-media-libraries.s3.us-east-2.amazonaws.com/gottheimer.house.indigov.us/uploads/legacy/uploadedfiles/3.6_gottheimer_zeldin_cruz_letter_to_doj_final_signed_copy.pdf (last visited Feb. 22, 2024).

² <https://www.grassley.senate.gov/news/news-releases/lawmakers-seek-fara-evaluation-qatari-owned-al-jazeera> (last visited Feb. 22, 2024).

³ <https://www.grassley.senate.gov/news/news-releases/qatari-backed-media-still-not-registered-under-foreign-agents-law-despite-justice-department-determination-senators-want-to-know-why> (last visited Feb. 22, 2024).

On January 28, 2022, Empower Oversight filed a Freedom of Information Act (“FOIA”) request with DOJ to obtain records regarding its handling of Congressional correspondence regarding Al Jazeera and FARA and communications regarding FARA and Al Jazeera between DOJ and Al Jazeera’s agents or representatives.

On January 20, 2023, when DOJ failed to provide the requested records, Empower Oversight filed suit to compel their disclosure. As a result of the litigation, DOJ National Security Division provided records of communications with Al Jazeera’s agents or representatives on August 4, 2023. Although the communications confirmed that DOJ had been in contact with Al Jazeera’s agents, the records were heavily redacted and did not include any records past July 2021. Thus, they did not explain why Al Jazeera had not registered as a foreign agent in the U.S., nor did they explain why DOJ National Security Division had failed to take action to compel Al Jazeera to do so.

RECORDS REQUEST

Accordingly, pursuant to FOIA, Empower Oversight requests all communications since January 1, 2018, between DOJ’s National Security Division and DLA Piper (or any other agent or representative of Al Jazeera, its affiliates, or the Government of Qatar) that discuss FARA and Al Jazeera (or its affiliates). This request includes the June 4, 2018 and September 14, 2020 DOJ letters referenced above. Empower Oversight also requests any internal DOJ documents regarding a final decision about whether or not Al Jazeera (or its affiliates) were required to register as foreign agents in the U.S.

DEFINITIONS

“COMMUNICATION(S)” means every manner or method of disclosure, exchange of information, statement, or discussion between or among two or more persons, including but not limited to, face-to-face and telephone conversations, correspondence, memoranda, telegrams, telexes, email messages, voice-mail messages, text messages, Slack messages, meeting minutes, discussions, releases, statements, reports, publications, and any recordings or reproductions thereof.

“DOCUMENT(S)” or “RECORD(S)” mean any kind of written, graphic, or recorded matter, however produced or reproduced, of any kind or description, whether sent, received, or neither, including drafts, originals, non-identical copies, and information stored magnetically, electronically, photographically or otherwise. As used herein, the terms “DOCUMENT(S)” or “RECORD(S)” include, but are not limited to, studies, papers, books, accounts, letters, diagrams, pictures, drawings, photographs, correspondence, telegrams, cables, text messages, emails, memoranda, notes, notations, work papers, intra-office and inter-office communications, communications to, between and among employees, contracts, financial agreements, grants, proposals, transcripts, minutes, orders, reports, recordings, or other documentation of telephone or other conversations, interviews, affidavits, slides, statement summaries, opinions, indices, analyses, publications, questionnaires, answers to questionnaires, statistical records, ledgers, journals, lists, logs, tabulations, charts, graphs, maps, surveys, sound recordings, data sheets, computer printouts, tapes, discs, microfilm, and all other records kept, regardless of the title, author, or origin.

“PERSON” means individuals, entities, firms, organizations, groups, committees, regulatory agencies, governmental entities, business entities, corporations, partnerships, trusts, and estates.

“REFERS,” “REFERRING TO,” “REGARDS,” “REGARDING,” “RELATES,” “RELATING TO,” “CONCERNS,” “BEARS UPON,” or “PERTAINS TO” mean containing,

alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing, or characterizing, either directly or indirectly, in whole or in part.

“INCLUDING” means comprising part of, but not being limited to, the whole.

INSTRUCTIONS

The words “and” and “or” shall be construed in the conjunctive or disjunctive, whichever is most inclusive.

The singular form shall include the plural form and vice versa.

The present tense shall include the past tense and vice versa.

In producing the records described above, you shall segregate them by reference to each of the numbered items of this FOIA request.

If you have any questions about this request, please contact [REDACTED] by e-mail at [REDACTED].

FEE WAIVER REQUEST

Empower Oversight agrees to pay up to \$25.00 in applicable fees, but notes that it qualifies as a “representative of the news media” and requests a waiver of any fees that may be associated with processing this request, in keeping with 5 U.S.C. § 552 (a)(4)(A)(iii).

Empower Oversight is a non-profit educational organization as defined under Section 501(c)(3) of the Internal Revenue Code, which helps insiders safely and legally report waste, fraud, abuse, corruption, and misconduct to the proper authorities, and seeks to hold those authorities accountable to act on such reports by, among other means, publishing information concerning the same.

Further, the information that Empower Oversight seeks is in the public interest because it is likely to contribute significantly to the public’s understanding of the Department’s handling of allegations that it or its employees was negligent or engaged in wrongdoing.

Empower Oversight is committed to government accountability, public integrity, and transparency. In the latter regard, the information that that Empower Oversight receives that tends to explain the subject matter of this FOIA request will be disclosed publicly via its website, and copies will be shared with other news media for public dissemination.

For ease of administration and to conserve resources, we ask that documents be produced in a readily accessible electronic format. Thank you for your time and consideration. Please do not hesitate to contact me with any questions.

Cordially,

/Tristan Leavitt/
Tristan Leavitt
President