

Designating the al-Aqsa Martyrs Brigades

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Brief Analysis

Responding to the al-Aqsa Martyrs Brigades' latest suicide bombing—which threatened to undermine the third straight peace mission of Middle East envoy Gen. Anthony Zinni—the State Department broke with tradition and announced the group's pending designation as a Foreign Terrorist Organization (FTO), even before Congress completed the process leading to its official listing in the Federal Register.

More telling than this break in procedure, however, is al-Aqsa's intimate relationship with Yasir Arafat's own Fatah organization, the dominant faction within the Palestine Liberation Organization (PLO), the Palestinian Authority (PA), and the various Palestinian security forces. Long hesitant to probe too closely into terrorism conducted by Fatah elements for fear of delegitimizing the PA as a peace partner, the State Department's addition of al-Aqsa to the FTO list underlines both the sharp rise in al-Aqsa terrorist tactics and Washington's post-September 11 zero tolerance for terrorism.

Who Is al-Aqsa?

The infrastructure, funds, leadership, and operatives that comprise the al-Aqsa Martyrs Brigades and facilitate the group's activity all hail from Fatah. For example, Israel's Public Security Ministry announced that among the more than 100,000 documents seized from Orient House, the PA's East Jerusalem headquarters, investigators found documents showing that the PA had transferred funds to Fatah, the Tanzim, and its affiliated fighters. The documents include a July 9, 2002, letter signed by Arafat empowering Kamil Hmeid—a Fatah leader in Bethlehem—to disburse payments to twenty-four Fatah activists, including Atef Abayat, an al-Aqsa commander in Bethlehem. Most of the Brigades' leadership are salaried members of the PA and its security forces, like Nasser Awais, a full-time employee of the Palestinian National Security Force and a senior al-Aqsa commander. In an official al-Aqsa statement faxed to Reuters, Awais called the designation "a medal of honor that we wear on our chests," and promised to "continue on the road of resistance and martyrdom unconcerned about the American decision."

While the State Department maintains that the extent of the knowledge and approval between al-Aqsa, other violent Fatah elements, and senior Fatah leadership remains unclear, Fatah is, by its own admission, al-Aqsa's parent and controlling organization. Asked if al-Aqsa is under Arafat's control, senior Fatah leader Hussein al-Sheikh openly responded, "of course, there is control." In another interview, al-Sheikh confirmed that Fatah controls al-Aqsa "to one extent or another."

Al-Aqsa members say much the same. According to the Brigades' Maslama Thabet, "the truth is, we are Fatah itself, but we don't operate under the name Fatah. We are the armed wing of the organization. We receive our instructions from Fatah. Our commander is Yasser Arafat himself."

Fatah officials who hold senior positions within the PA also consider al-Aqsa part of Fatah, and, more disturbingly, laud its accomplishments. Arafat's foreign media spokesman, Mohammed Odwan, confirmed to USA Today that the Brigades are "loyal to President Arafat." Just two days before al-Aqsa's latest suicide bombing in Jerusalem, West Bank Preventive Security Organization chief Jibril Rajoub described the group to the al-Ayyam newspaper as "the noblest phenomenon in the history of Fatah, because they restored the movement's honor and bolstered the political and security echelons of the Palestinian Authority." Rajoub further asserted that the PA would not dismantle the al-Aqsa Brigades.

Rajoub's stance will now be tested, in light of both the FTO designation and Secretary of State Colin Powell's demand that Arafat issue "unambiguous orders to the Palestinian security services to enforce the cease-fire and a serious effort to prevent terror attacks." The will of security officers on the ground will also be tested, since most al-Aqsa operatives, like Mohammed Hashaika (the al-Aqsa suicide bomber who struck Jerusalem on March 21) are current or former PA police officers.

FTO As a Counterterrorism Measure

Al-Aqsa commander Marwan Zaloum responded to news of the group's pending designation, promising that attacks would "continue until we vanquish the occupation." Unfortunately, the FTO designation alone is unlikely to impact the group's ability to conduct terrorist attacks. The move makes it illegal for Americans to provide the group with any kind of "material support"—including funds, goods, or services—and requires U.S. banks to freeze funds held in its name. As an FTO, members of al-Aqsa can be denied visas to enter the United States. Realistically, the fact that al-Aqsa is a semantic subsidiary of Fatah (its military wing) means that U.S. investigators are unlikely to find bank accounts in al-Aqsa's name. Nor will they find individuals or front organizations raising funds for al-Aqsa as distinct from Fatah.

Similarly, the denial of visas under the FTO designation will likely have little tangible impact. Self-proclaimed al-Aqsa commanders are unlikely to venture a trip to the United States, and the State Department's hesitancy to address Fatah's role in al-Aqsa terrorism means that the visa ban is unlikely to extend to the groups leaders like Marwan Barghouti and Hassan al-Sheikh.

According to State Department deputy spokesman Philip Reeker, the department is already preparing to take the next important steps. These include listing the al-Aqsa Martyrs Brigades as a Specially Designated Global Terrorist (SDGT) group under President George W. Bush's September executive order (EC 13224), and listing individual terrorists such as Nasser Awais, Abdel Karim Oweiss, Marwan Zaloum, Maslama Thabet, and Nasser Badawi as Specially Designated Terrorists (SDT) under the 1996 terrorism legislation passed under the Clinton administration. This would subject the group to full financial blocking orders and empower the secretary of the treasury to sanction foreign banks that provide services to those listed. Additionally, the SDGT designation allows the government to block the assets of any individual or organization that associates with designated SDGTs. As a result, Fatah and the PA would be forced to cease funding al-Aqsa and paying the salaries of its members or risk financial sanctions for engaging in financial dealings with an SDGT group.

The "Martyrs of al-Aqsa" group, identical to the al-Aqsa Martyrs Brigades, is already featured among the original slate of groups included on the attorney general's Terrorist Exclusion List (TEL) established under the USA Patriot Act of 2001. Al-Aqsa's listing on the TEL, which reportedly used a variation of the group's name by mistake, should be amended to reflect the name used in the FTO listing. An Immigration and Naturalization Service memorandum

guiding regional offices in the implementation of the USA Patriot Act explains that the TEL enhances the government's ability to deport or deny admission to any alien who, like Barghouti and other Fatah officials, use their "position of prominence to endorse or espouse terrorist activity or to persuade others to support terrorist activity in a way that the Secretary of State has determined undermines United States efforts to reduce or eliminate terrorist activities."

Shot over the PA's Bow

The designation of al-Aqsa is a clear message to the PA and its affiliate groups, especially Fatah, that they could be next. In his press briefing, Deputy Spokesman Reeker noted that last year's Palestine Liberation Organization Commitments and Compliance Act (PLOCCA) report already referred to Fatah elements being "involved in acts of violence." In the wake of the State Department's request that Congress facilitate al-Aqsa's designation as an FTO, Congress will now expect a much more blunt and straightforward assessment of the relationship between Fatah, the PA, and al-Aqsa in this year's PLOCCA report, to be issued in the next few weeks. Congress should anticipate a detailed accounting of the nature of the fungible financial links between these organizations. In particular, the State Department should be obliged to explain how it intends to distinguish between terrorist and other funds floating among and between these groups, and between the many individuals who belong to al-Aqsa, Fatah, and/or the PA.

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