



FREE SPEECH AND MATERIAL SUPPORT CHARGES

The events in Palestine affect us all and many feel compelled to organize, speak out, and help the Palestinian people. US law regulates political and religious speech, as well as humanitarian and financial aid. The information below is aimed at educating Americans about the relevant law, please reach out to us for advice on specific issues.

DOES THE FIRST AMENDMENT PROTECT ALL OF MY POLITICAL AND RELIGIOUS SPEECH?

No. Political and Religious speech is generally protected from criminal prosecution unless it presents a clear **exception** like speech that is a "true threat" or incites violence. [Note: Private entities can regulate speech in their spaces].

A **true threat** is a statement that frightens or intimidates one or more specified persons into believing they will be seriously harmed by the speaker or by someone acting at the speaker's behest.

Supreme Court in *Brandenburg v Ohio*: "...the constitutional guarantees of free speech and free press do not allow a State to forbid or proscribe advocacy of the use of force or law violation **except where such advocacy is directed to inciting or producing imminent lawless action** and is likely to incite or cause such action."

Note: In our experience, even vague/veiled speech that could be interpreted as threats have been prosecuted against American Muslims. Online speech by minors, where people are more uninhibited, has also led to FBI investigation and then state prosecution of American Muslims.

ARE PRO-HAMAS STATEMENTS PROHIBITED?

Hamas is a designated foreign terrorist organization in the US. Making statements that are independently supportive of Hamas, or their activities, is not per se prohibited.

BUT, in our experience statements made in support of designated foreign terrorist organizations has opened individuals up to FBI investigation. The Supreme Court in *Holder v Humanitarian Law Project* found that **even intangible support like speech, made in conjunction with, on behalf of, or for the benefit of, a foreign terrorist organization is not protected**, and constitutes criminal material support of the designated terrorist organization.

EXAMPLES of our cases where the government brought charges against Muslims for speech-related conduct:

Individual who created an online Signal chat group to discuss self-defense. FBI undercover agents posing as young Muslims pushed political discussions and asked what groups could be supported. They did a few minutes Google search of Hamas and shared a link to their website where the group raises funds. This was charged as providing material support to Hamas even though the individual had no contact with Hamas, and no donations were ever made.

Individual was befriended by multiple FBI undercover agents. In online group chats on encrypted platforms, agents surveilled chats and pushed extremist messaging. Individual attempted to dissuade agents from their extremist leanings and their alleged desire to travel to Syria. This was charged with providing material support to a terrorist organization because she shared a social media contact handle with the FBI undercover in the hopes the Syrian contact would dissuade the undercover.

Individual who believed he understood his First Amendment rights used a public Twitter account to troll the FBI agents who were investigating him by insulting them and their families. Eventually, he posted vague tweets like "The zero hour is approaching" and the coordinates to FBI Headquarters, thinking this was approaching the line, but not crossing it. He was charged and convicted of multiple counts of making true threats against the FBI.

If you have questions or concerns about your speech, about individuals/speech you encounter online, or if you are approached for questioning by the FBI or other government agency – please contact Muslim Legal Fund of America for free legal advice at (972) 914-2507 or submit a request for help on our website mlfa.org "Apply for Help".