

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

This CCR-produced guide provides a summary of information gathered from documents released by the United States government pursuant to Freedom of Information requests being litigated in *CCR v. Dep't of Defense, et al.* Documents produced by the United States agencies are referred to below by the name of the U.S. agency that produced the document and the Bates-number assigned to the relevant page; all documents are available [here](#). A compilation of documents related to Furkan Doğan can be accessed [here](#). An overview of the attack on the Flotilla and the FOIA case is available [here](#) and a legal analysis of the attack [here](#).

I. The 2010 Gaza Flotilla: The Killing of American Citizen Furkan Doğan

Furkan Doğan, an 18 year-old U.S. citizen and Turkish legal permanent resident who felt deeply concerned for the suffering of Palestinian children, asked his parents for permission to participate in the Gaza Freedom Flotilla to deliver humanitarian aid to Gaza the summer before he planned to start medical school.¹ Taking pride in their son's concern for others, his parents reluctantly allowed him to make the journey, never imagining the violence that he would encounter.² Knowing that their son was travelling on a U.S. passport gave Furkan's parents some comfort that he would remain safe.³ During the attack on the flotilla at approximately 4:00am on May 31, 2010 in international waters, Israeli commandos shot Furkan five times, including one shot to the head at point-blank range.⁴ At the time of the attack, it is believed Furkan was filming with a small video camera on the top deck of the *Mavi Marmara*.

After learning of the Israeli attack on the Gaza Flotilla, Professor Ahmet Doğan, Furkan's father, made numerous urgent calls to U.S. officials asking them to find out the whereabouts of

¹ Ahmet Doğan, *A Father Speaks for His Son*, TIMES UNION, February 24, 2011 available at <http://www.timesunion.com/opinion/article/A-father-speaks-for-his-son-1027970.php>; *Turkey puts Israeli Generals on Trial for Mavi Marmara Attack*, THEREALNEWS.COM (Nov. 12, 2012), available at http://therealnews.com/t2/index.php?option=com_content&task=view&id=31&Itemid=74&jumival=9105.

² *Id.*

³ See a summary of Ahmet Doğan's remarks, available at: <http://antiauthoritarian.net/NLN/?p=898>.

⁴ UNITED NATIONS HUMAN RIGHTS COUNCIL, REPORT OF THE INTERNATIONAL FACT-FINDING MISSION TO INVESTIGATE VIOLATIONS OF INTERNATIONAL LAW, INCLUDING INTERNATIONAL HUMANITARIAN AND HUMAN RIGHTS LAW, RESULTING FROM THE ISRAELI ATTACKS ON THE FLOTILLA OF SHIPS CARRYING HUMANITARIAN ASSISTANCE 29 (September 27, 2010) [hereinafter UN Human Rights Council Report], available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.15.21_en.pdf ("In total Furkan received five bullet wounds, to the face, head, back thorax, left leg and foot. All of the entry wounds were on the back of his body, except for the face wound which entered to the right of his nose. According to forensic analysis, tattooing around the wound in his face indicates that the shot was delivered at point blank range."). See also SIR GEOFFREY PALMER, REPORT OF THE SECRETARY-GENERAL'S PANEL OF INQUIRY ON THE 31 MAY 2010 FLOTILLA INCIDENT (September 2011) [hereinafter The Palmer Report], available at http://www.un.org/News/dh/infocus/middle_east/Gaza_Flotilla_Panel_Report.pdf ("...Furkan Doğan, was shot at extremely close range. Mr. Doğan sustained wounds to the face, back of the skull, back and left leg. That suggests he may already have been lying wounded when the fatal shot was delivered, as suggested by witness accounts to that effect."); Department of State, Bureau of Consular Affairs, *Email: IHH Releases its Report on the Gaza Flotilla*, July 6 2010, **StateDept0727-0728** [hereinafter *Email: IHH Releases its Report*].

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

his son.⁵ Despite his repeated inquiries to US officials about his son, State Department and Department of Defense documents reveal that U.S. officials did not become aware of Furkan's death until three days after the attack when his remains were discovered by his father amongst the bodies of deceased Turkish passengers that the Israeli government returned to Turkey on June 2, 2010.

Below is a timeline that documents the U.S. government's attempts to locate Furkan and its awareness of Furkan's participation in the flotilla, his citizenship, and his death.⁶

The Immediate U.S. Government Action and Reaction: A Time-line

- On May 31, 2010, the day of the attack of the Gaza Freedom flotilla, the United States European Command and the Department of Defense's attaché office in Tel Aviv sent a joint "serious incident report" to the United States Central Command indicating that "Israeli Naval Forces" had intercepted the Gaza Freedom Flotilla and "conducted an opposed boarding" of the Turkish flagged *Mavi Marmara*, but that "current information indicate[d] no U.S. casualties."⁷
- At 10:50am (Tel Aviv time) on June 1, 2010, Eve Zuckerman, a consular assistant from the U.S. Embassy in Tel Aviv trained in the identification of remains, visited the morgue where the deceased passengers were purportedly taken.⁸ Instead of viewing the bodies of the deceased passengers, she was shown what she was told were photos of nine men killed during the attack, which were frontal photos from the shoulders up. None of photos of the deceased showed evidence of bullet wounds, damage, or distortion, except for bruises and hematomas.⁹
 - That same day at 11:13am, Daniel Keen, Vice Consul General at the U.S. Embassy in Ankara sent an email to Elisa Greene, the Chief of American Citizen Services in Tel Aviv, asking if she had any information about Furkan because his

⁵ Department of State, Bureau of Consular Affairs Office of Overseas Citizens, *Email: Protest re Amcit death*, June 3 2010, **StateDept0669-0672** [hereinafter *Email: Protest re Amcit death*].

⁶ For a timeline of events following Furkan's death, according to U.S. officials, see Department of State, Bureau of Consular Affairs Office of Overseas Citizens, *DAS Pettit's Meeting with Mr. Dogan*, February 23, 2011, **StateDept0763-0764**.

⁷ Department of Defense, Central Command, *Serious Incident Report, Incident Leading to Significant International Interest*, June 5 2010, **DeptofDefense0018**.

⁸ Department of State, Bureau of Consular Affairs Office of Overseas Citizens, *Email: Today's Guidance*, June 4 2010, **StateDept0689-0692** [hereinafter *Email: Today's Guidance*]; Department of State, Bureau of Consular Affairs, *Email: Background on Furkan Dogan Notification of Death*, June 4 2010, **StateDept0693-0695** [hereinafter *Email: Background on Furkan Dogan*].

⁹ *Id.* As detailed below, after US officials learned of Furkan's death, Andrew Parker reported that Eve had "just spoken" with the chief medical examiner of Israel, who "[b]efore clamming up and referring her to the Min. of Defense" said that Furkan had "two bullet wounds, one to the right cheek and one to the head." *Id.* at StateDept0693.

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

“parents believed he was on the flotilla.”¹⁰ In response, Greene called the consular officials Johnny Skran, Susan Plott, and Jason Green who were visiting U.S. citizen passengers being held at Ella prison in Beer Seva, but they had turned off their phones when they entered the prison.¹¹ At approximately 11:35am (Tel Aviv time), Greene called Zuckerman who was on her way back from the morgue and stated that she “was concerned that [Furkan] was amongst the dead, particularly since the dead were reported to have been Turkish citizens.”¹² Greene then described him to the consular official as “young looking, eighteen years old, with a clean complexion, brown hair, protruding ears, olive-skinned.”¹³ The consular official indicated while there was a man in his 20’s to 30’s in the photos she was shown at the morgue, Greene’s description did not match any of the men she had been shown.¹⁴ Greene then emailed Daniel Keen to notify him that Furkan did not “appear to be amongst the dead.”¹⁵

- Upon her return to the US Embassy in Tel Aviv, Eve Zuckerman was provided a photograph of Furkan Doğan. She indicated that the photograph “did not appear to [have] any similarity with the photos she had seen” at the morgue.¹⁶ Also, none of the photographs she viewed depicted any visible bullet wounds, although it was later discovered that Furkan had sustained a bullet wound to his face.¹⁷
Commentary: *This indicates that Ms. Zuckerman was not shown all of the photos of all deceased, and raises questions about whether she was in fact shown photos of any of the actual victims.*

- On Thursday June 3, 2010 at 5:49am EST Andrew Parker, the Consul General at the U.S. Embassy in Tel Aviv, emailed Susan Abeyta, the Consular Section Chief at the U.S. Consulate General in Istanbul (ccing officials in the U.S. State Department’s Bureau of Consular Affairs including Michelle Bernier-Toth, the Managing Director of the Office of Overseas Citizens Services, Richard Appleton, the U.S. Consul General at the U.S. Embassy in Ankara, and a number of low level consular officials in Turkey) with a link to a story run by the Turkish press reporting the death of Furkan.¹⁸

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* See also Email: *Today’s Guidance*, *supra* note 8.

¹⁵ Email: *Background on Furkan Dogan*, *supra* note 8.

¹⁶ Email: *Today’s Guidance*, *supra* note 8.

¹⁷ *Id.*; Email: *Background on Furkan Dogan*, *supra* note 8. See also UN Human Rights Council Report, *supra* note 4 (“Forensic analysis demonstrates that...Furkan Doğan received a bullet in the face.”).

¹⁸ Email: *Protest re Amcit death*, *supra* note 5. (See article from Turkish press at

<http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=eight-turkish-one-us-citizens-died-in-israeli-attack-to-aid-ship-examination-says-2010-06-03>.)

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

- In response to this email, Bernier-Toth asked “Any idea whi [sic] this might be, if it’s true?”¹⁹ at 5:55am EST. Richard Appleton, the U.S. Consul General at the U.S. Embassy in Ankara, replied at 6:09am EST (adding U.S. Ambassador to Turkey James Jeffrey to the email chain) that Furkan’s his family had been calling the U.S. Embassy in Ankara following the attack on the flotilla “at least twice a day for several days.”²⁰ In the same email, Appleton indicated that he would not contact the family until he received confirmation from the Israeli Foreign Ministry.²¹ Parker replied saying that the family also spoke to a duty officer at the US Embassy in Tel Aviv who passed their request for information about Furkan to Consular Affairs.²² The released records do not reflect the exact time or date of the call. *Commentary: Despite repeated calls to U.S. Embassies in Turkey and Tel Aviv from Furkan’s family inquiring about the whereabouts of his son for several days after the attack on the flotilla, this email appears to be the first time that anyone in Washington was notified that Furkan might have been killed in the attack. It is noteworthy that Appleton’s first response was not to call Professor Doğan, but to wait for confirmation from the Israeli government.*
- In a subsequent email sent at 7:11am EST in the same chain, Appleton reported that on the evening of June 2, 2010, Professor Ahmet Doğan traveled to the airport in Istanbul to pick up his son whom he believed had been deported from Israel and returned home. Professor Doğan was met by Turkish officials who informed him that they believed that his son was among the dead.²³ In the same email, he reiterated that he would “call the father as soon as we have confirmation” from the Israeli Foreign Ministry.²⁴
- After not getting any response from the Israeli government, Appleton decided to contact Furkan’s father at “COB Ankara even if there is no confirmation from [the Israeli government].”²⁵
- At 7:28am EST on June 3, 2010, Kim Richter, a Citizen Services Specialist at the State Department, forwarded this email chain to Wesley Reisser, a Foreign Affairs Officer in the Bureau of Near Eastern Affairs (NEA), who informed her that he had notified the White House and needed Consular Affairs to “get some

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at **StateDept0680_**

²³ *Id.*

²⁴ *Id.*

²⁵ Department of State, Bureau of Consular Affairs Office of Overseas Citizens, *Email: RE: WH Inquiry; Press Report; Possible Amcit among bodies sent to Turkey*, June 3 2010, **StateDept0673-0678** [hereinafter *Email: RE: WH Inquiry*].

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

press guidance out ASAP.”²⁶ Thomas Goldberger, the director of Office of Israel and Palestinian Affairs at the NEA, instructed Richter and Reisser to draft a démarche cable to Tel Aviv and submit to the National Security Council at the White House for review.²⁷

- On June 3, 2010 at approximately 8:05am EST, the White House Situation Room called with a request from Robert Gibbs, the White House Press Secretary, asking for more information about Furkan’s death. Philip Beekman, a Senior Watch Officer in the Operations Center “briefed out the information” that had been provided by Appleton in his June 3, 2010 email at 7:11am, but decided not to forward the email itself.²⁸
- On June 3, 2010 at 9:56am EST, Appleton emailed Bernier-Toth (cc’ing a number of State Department officials who had been on prior emails, Ambassador Jeffrey, and Assistant Secretary of State for Public Affairs P.J. Crowley) to inform them that Professor Doğan had called at 4:30pm (Ankara time) [9:30am EST] just after loading his son’s body onto a plane bound for his hometown of Kaiseri and “confirmed” that he “had identified the body was his son’s.” Professor Doğan said that his son was young, unarmed, and had been shot “five times from very close range.”²⁹ Furkan’s father asked Appleton why the United States government had not done anything to locate his son and whether it was “because this child was a Muslim.”³⁰ He said he was really saddened and “wanted to know what the U.S. government [would] do perceptibly regarding the issue.”³¹
 - Andrew Parker Consul General at the U.S. Embassy in Tel Aviv reported that he and his staff had asked about Furkan every time they asked the Israeli foreign ministry for news of American citizens,³² searched for him among the detainees in Israeli prisons,³³ and on Wednesday June 2, 2010 “reviewed the list [of passengers on the *Mavi Marmara*] for anyone identified as an [American citizen]

²⁶ *Email: Protest re Amcit death*, supra note 5.

²⁷ *Id.*

²⁸ *Email: RE: WH Inquiry*, supra note 25, at **StateDept0674**.

²⁹ *Id.* at **StateDept0673**; Department of State, Bureau of Consular Affairs Office of Overseas Citizens, *Email: Deceased confirmed as Amcit*, June 3 2010, **StateDept0680-0681**.

³⁰ *Id.*

³¹ *Id.* In response to the accusation that the US government had done nothing because Furkan was Muslim, a consular official at the US Embassy in Tel Aviv asked the Consular General in Ankara to inform Furkan’s father that “many of the [U.S. passengers] sought and located were Muslim” and that they “have Muslims on staff” at their office in Tel Aviv. *Commentary: Although this language appears in its entirety on StateDept0680, the State Department also produced this email at StateDept1204, but this language is inappropriately redacted under the b(6) exemption, which protects personal privacy interests.*

³² *Id.*

³³ *Id.*

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

but failed to review the 400 or so names of Turks, where [Parker] would have seen Doğan listed as a Turk.”³⁴

- On June 3, 2010 at 10:17am EST, Bridget Brink, the Director of the Division for the South Caucasus of the National Security Council, requested “the latest guidance we can use on the [American citizen] death on the Turkish flotilla.” Adriana Gallegos, a press officer for the State Department, forwarded the following language to Brink “We can confirm a U.S.-Turkish dual national was among those killed in the raid on the Free Gaza flotilla. Our Mission in Turkey has been in contact with the family and will provide all appropriate consular assistance. Out of respect for the family we cannot comment on this incident.”³⁵
- On June 3, 2010 at 11:16am EST, Bernier-Toth asked James Jeffrey, the U.S. Ambassador to Turkey, to call Furkan’s family to offer the Department of State’s condolences and explain the efforts undertaken by the U.S. Embassy in Tel Aviv to locate Furkan.³⁶ In response, Ambassador Jeffrey stated “As predicted. I’ll call.”³⁷
- On June 3, 2010 at 12:35pm EST, at the State Department Daily Press Briefing, the Assistant Secretary of State for Public Affairs P.J. Crowley stated – incorrectly – that U.S. consular officials had seen Furkan’s body at the morgue in Israel, but that they did not know that he was an American citizen at the time.³⁸ When questioned by the press corps about the nature Furkan’s gunshot wounds, Crowley stated that he was “not going to characterize” and “I’ve said all I’m going to say on that.”³⁹
- On June 4, 2010, Eve Zuckerman, the consular official who had examined the photographs purportedly of the nine men killed during the attack, spoke to the chief medical examiner of Israel who had previously examined the bodies at the morgue. The examiner stated that all of the bodies had gunshot wounds, but could not confirm that any of the bodies showed evidence of four entry wounds because he only made superficial evaluations of the bodies and suspected that the some wounds were exit wounds.⁴⁰

³⁴ *Id.* at **StateDept0680-0681**.

³⁵ Department of State, Bureau of Consular Affairs Office of Overseas Citizens, *Email: RE: Amcit death on Turkish flotilla*, June 3 2010, **StateDept0679**.

³⁶ *Email: Today’s Guidance, supra* note 9, at **StateDept0692**.

³⁷ *Id.*

³⁸ Department of State, DRL, *On the Record, Off-Camera Daily Press Briefing*, June 3 2010, **StateDept1456-1470, StateDept1465**. A cable on June 6, 2010, however, stated “No USG official, in either Turkey or Israel, viewed the body of Mr. Dogan because he was transported to Turkey prior to identification as a U.S. citizen and was positively identified by his father upon arrival.” Department of State, Bureau of Consular Affairs Office of Overseas Citizens, *Cable: Tel Aviv: Demarche regarding death of/injuries to U.S. Citizens*, June 6 2010, **StateDept0415**. *See also Email: Background on Furkan Dogan, supra* note 9.

³⁹ *Id.* at **StateDept1460, 1465**.

⁴⁰ Department of State, Central Foreign Policy Records, *Cable: Turkey: SitRep 8 on IHH Flotilla*, June 4 2010, **StateDept0392-0396, StateDept0394** [hereinafter *Cable: Turkey: Sit Rep 8*]; *Email: Today’s Guidance, supra* note 8, at **StateDept0689**; *Email: Background on Furkan Dogan, supra* note 98, at **StateDept0693**.

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

(Turkey had requested that the Israeli authorities not conduct autopsies.) The examiner further explained that he had limited, if any contact, with officials from the Turkish Embassies concerning the deceased Turkish citizens and that they had not provided him with photographs of their citizens. Thus, he explained, no identifications were made prior to the bodies' arrival in Turkey, but he believed that one of the bodies appeared to be that of a 19-year old.⁴¹ During a later conversation – “before clamming up and referring her to the [Minister] of Defense,” – he said that the body of the teen-ager “had two bullet wounds, one to the right cheek and one to the head (not specified where)...[and] there were NO shots to the back of the head.”⁴²

- On June 4, 2010, in a cable to the Secretary of State in Washington D.C., the U.S. Embassy in Tel Aviv reported that Israeli officials Barukh Binah, the Deputy Director General of the North American Division, and Sara Weiss, the Senior Assistant to the Legal Advisor of the Israeli Foreign Ministry, stated that Israel was not aware that Furkan Doğan was an American citizen and that at the behest of the Turkish government none of the bodies underwent an autopsy before being transported back to Turkey.⁴³

II. The U.S. Government's Response to Calls for an Investigation into the Killing of American Citizen Furkan Doğan

Autopsies of Furkan Doğan conducted in Turkey revealed that all of the entry bullet wounds were to the back of his body, except for the wound to his face which entered to the right of his nose.⁴⁴ According to forensic analysis, the wound to Furkan's face was inflicted by a bullet shot at point blank range and was compatible with the shot being received while he was lying on the ground on his back.⁴⁵ Despite this disturbing evidence, no U.S. investigation into the death of U.S. citizen Furkan Doğan has ever been launched. The US government instead deferred to the Israeli government to conduct “a fair, credible, transparent investigation,” even after the Israeli government was unwilling to share any information discovered in the course of its investigation. The following section describes the reaction and actions of the U.S. government with respect to calls for the investigation into Furkan's killing.

U.S. Government Declines to Conduct its Own Investigation and Defers to Israel

At a press conference on June 3, 2010, the Assistant Secretary of Public Affairs P. J. Crowley recognized that the US government had the option of conducting its own investigation into Furkan's death, stating “any time an American is killed overseas, we have the option of evaluating the circumstances and if we think a crime has been committed, then working with the host government we have the option of our own investigation” but expressed faith that the Israeli government was fully capable of conducting “a fair, credible, transparent investigation” and

⁴¹ *Id.* at **StateDept0689-0690**.

⁴² *Email: Background on Furkan Dogan, supra* note 9, at **StateDept0693**.

⁴³ Department of State, Central Foreign Policy Records/U.S. Embassy Tel Aviv, *Cable: Tel Aviv: Demarche Regarding Death of/Injuries to U.S. Citizens*, June 3 2010, **StateDept0082-0084**.

⁴⁴ UN Human Rights Council Report, *supra* note 4, at 27 &29.

⁴⁵ *Id.* at 29.

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

therefore the U.S. would not begin its own investigation.⁴⁶ He stated that the U.S. government was open to “different ways of assuring a credible investigation, including international participation.”⁴⁷

Démarche to U.S. Embassy in Tel Aviv

On the same day that the U.S. government learned of Furkan’s death, June 3, Thomas Goldberger, the director of Office of Israel and Palestinian Affairs at NEA, instructed his staff to work with the Citizen Services to draft a *démarche* cable to the U.S. Embassy in Tel Aviv and submit to the National Security Council at the White House for review.⁴⁸ On June 7, 2010, the State Department delivered the *démarche* to James Cunningham, the U.S. Ambassador to Israel, asking that he “seek an explanation from the [Government of Israel] of the specific circumstances surrounding the death of U.S. citizen Furkan Dogan, [c]onfirm that the return of Furkan Dogan’s remains to Turkey without identification or notice to the U.S. Embassy... was because the [Government of Israel] was unaware of his identity as an American citizen” ...[and] reinforce[ing] that [the U.S. Government] expects a thorough, credible, and transparent investigation into these incidents.”⁴⁹

Following the direction of the *démarche*, the Assistant Deputy Chief of Mission and other consular officials met with senior officials in the Israeli Ministry of Foreign Affairs, including Barukh Binah, Sara Weiss, and Yigal Tzarfati Head of the Consular Affairs Bureau on June 7, 2010 to express concern about Furkan’s death and the mistreatment of another U.S. passenger in the course of his arrest and detention, and asked for an investigation into these incidents.⁵⁰ The Israeli officials stated that the Government of Israel was not aware that Furkan was an American citizen while his remains were in Israel and that no autopsy was conducted in Israel out of deference for Turkey’s request that all Turkish citizens be repatriated immediately to Turkey.⁵¹ The officials assured the U.S. government that “each incident would be thoroughly and transparently investigated by appropriate GOI agencies and that information from those investigations will be made available to the [U.S. government] as soon as they are available.” They further promised to “provide a timeline of events on the *Mavi Marmara* including the decision to use lethal force” against Furkan, but added that investigations would be lengthy since they would involve coordination among various agencies.⁵² During the meeting, Binah thanked the United States “for standing by Israel in the international arena during this difficult time.”⁵³

⁴⁶ Department of State, DRL, On the Record, Off-Camera Daily Press Briefing, June 3 2010, **StateDept1456-1470**, at **StateDept1462 & StateDept 1467**.

⁴⁷ *Id.* at **StateDept01458**.

⁴⁸ *Email: Protest re Amcit death*, supra note 5.

⁴⁹ Department of State, Bureau of Consular Affairs Office of Overseas Citizens, *Cable: Tel Aviv: Demarche regarding death of/injuries to U.S. Citizens*, June 6 2010, StateDept0414-0416.

⁵⁰ Department of State, Central Foreign Policy Records/U.S. Embassy Tel Aviv, *Cable: Demarche delivered regarding death of/injuries to U.S. citizens*, June 8 2010, StateDept0088-0089.

⁵¹ *Id.* at **StateDept0088-0089**.

⁵² *Id.* at **StateDept0089-0090**.

⁵³ *Id.* at **StateDept0089**.

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

Israel Denies Requests for Information about Investigation

On June 15, 2010, Secretary of State Hillary Clinton met with Israeli Ambassador Oren. On the agenda for the meeting was the investigation into Furkan's death. The pre-meeting primer noted that the Israeli government had "not yet provided detailed information on the circumstances of the death of Furkan Dogan" and that Secretary Clinton "may wish to remind Oren that these cases are still pending and ask for his help in prompting substantive [Government of Israel] responses."⁵⁴ The records do not indicate whether Secretary Clinton actually raised this concern in the meeting, but on June 16, 2010, in response to an email inquiry from the U.S. Embassy in Tel Aviv, the Israeli government indicated that it would not release any information about Furkan to the U.S. government, because it was considered "investigative material" and was unlikely to be passed along until its investigation was complete.⁵⁵

On June 29, 2010, Andrew Parker forwarded a request to the Israeli consular official Yigal Tzarfati requesting assistance in obtaining the photos taken of Furkan's remains, "in particular photos showing entry and exit wounds caused by multiple shots to the head and body, and any written reports that describe the injuries."⁵⁶ In response, the Israeli government "explained that it was too early to expect a report of the investigation. The investigation is under way and will take time" and advised the U.S. government to contact the Turkish government for photos and information from the autopsy. The Israeli government also asked that the U.S. government warn its citizens not to participate in "pro-Hamas flotillas."⁵⁷

As of July 13, 2010, the Israeli government "had not yet provided detailed information" or "substantive responses" to the U.S. about the circumstances of Furkan's death.⁵⁸ In discussions between US consular officials in Tel Aviv and Israeli authorities on November 30, 2010, the Israeli government indicated that information regarding Furkan's death "would not be forthcoming until the Turkel Commission has finished its overall inquiry into the incident" and requested the autopsy report conducted by Turkish government.⁵⁹ *Commentary: Despite its initial promise to provide the U.S. government with information regarding its investigation in Furkan's killing as soon as it was available, the Israeli government at every step of the way declined to provide the U.S. government information regarding the investigation.*

⁵⁴ Department of State Memorandum: *The Secretary's Meeting with Israeli Ambassador Michael Oren, Tuesday June 15, 2010, 3:30 PM.* **StateDept1361-65.** Due to redactions, it is not possible to confirm which other cases involving U.S. citizens were included as "these cases."

⁵⁵ Department of State, Embassy Tel Aviv Email: Request for info regarding Furkhan Dogan, June 2010, **StateDept2452.**

⁵⁶ Email: *IHH Releases its Report*, supra note 4, at **StateDept0728.**

⁵⁷ *Id.*

⁵⁸ *Id.* at **StateDept01344 & StateDept01350-01351.**

⁵⁹ Department of State, Bureau of Consular Affairs, *NEA Press Guidance: Israel: Furkan Dogan and Rachel Corrie*, December 16 2010, **StateDept0741-0742**, at **StateDept0741**; Department of State, Bureau of Consular Affairs, Email: *RE: Inquiry on Furkan Dogan/Possibly Rachel Corrie*, December 20 2010, **StateDept0743-0747**, at **StateDept0745.**

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

During the months following the raid, Under Secretary Nicholas Burns, Deputy Secretary Steinberg, and Assistant Secretary of State for the NEA Jeffrey Feltman met multiple times with Israeli officials, including Israeli Deputy Minister of Foreign Affairs Daniel Avalon and Israeli Ambassador to the US Michael Oren, to discuss and request details about the circumstances of Furkan's death, among other things. Initially, this discussion was a priority for these meetings and US officials asked that they be provided "in an expeditious fashion" but beginning on September 15, 2010, it was slated to only be brought up as a topic of conversation "if time permitted."⁶⁰

The Reaction of the Department of Justice

Records reveal that in response to initial media reports of Furkan's murder, on June 3, 2010 Kevin Perkins, the Assistant Director of Criminal Investigative Division of the Department of Justice (DOJ) instructed Amy Hess, the section chief in the International Operations Division at the Federal Bureau of Investigation, to have her "folks check out" whether a U.S. citizen had been killed during the Israeli commando raid on the flotilla.⁶¹

The Criminal Division released at least 10 documents, all heavily redacted, that relate directly to the death of Furkan and the meeting held between Teresa McHenry, the Chief of the DOJ Human Rights and Special Prosecutions Section, Professor Doğan, and CCR attorney Katherine Gallagher.⁶² One Memorandum written by a Trial Attorney from the Human Rights and Special Prosecutions Section, entitled "transfer of documents to possession of the FBI" is fully redacted beyond the subject line and date.⁶³ The Criminal Division also produced an email from a Trial Attorney in the DOJ to an employee at the FBI which includes an attached letter from CCR, sent in March 2011, advising the DOJ that an Israeli defense force soldier who was present during the attack on the *Mavi Marmara* vessel was scheduled to speak at NYU and

⁶⁰ Department of State, Bureau of Near Eastern Affairs, *The Secretary's meeting with Israeli Foreign Minister Avifdor Lieberman*, September 15 2010, StateDept1328-1365.

⁶¹ Department of Justice, Federal Bureau of Investigation, *Email: Death of U.S. Cit*, June 3 2010, **CCR-472-473**; Department of Justice, Criminal Division, *Email: RE: Death of US Cit*, February 15, 2011, **DOJCrDiv0022-0023**;

⁶² *Id.*; Department of Justice, Criminal Division, *Email: RE: AmCit killed in flotilla incident*, June 3, 2010, **DOJCrDiv0002-0003**; Department of Justice, Criminal Division, *Email: FW: DOS meeting re: [(b)(6)]*, February 18, 2011, **DOJCrDiv0015**; **DOJCrDiv0018**; Department of Justice, Criminal Division, *Email: RE: Meeting re: [(b)(6)]*, February 17, 2011, **DOJCrDiv0017**; Department of Justice, Criminal Division, *Email: FW: READOUT of meeting with [(b)(6)]*, February 23, 2011, **DOJCrDiv0024**; Department of Justice, Criminal Division, *Email: RE: request for meeting with DOJ by [(b)(6)] In USC/flotilla/gaza matter*, February 25, 2011, **DOJCrDiv0025-0026**; Department of Justice, Criminal Division, *Memorandum: Subject [(b)(6)]*, February 24, 2011, **DOJCrDiv0028-0031**.

⁶³ *Id.* at **DOJCrDiv0031**.

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

inquiring whether they planned to investigate him.⁶⁴ The Trial Attorney's message states "Feel free to do with it whatever you best see fit."⁶⁵

The Reaction of U.S. government officials in Turkey

On June 4, 2010, the U.S. Embassy in Ankara, Turkey made an urgent official request to the Turkish government for information about who had custody of Furkan's effects, whether he used his U.S. passport when he exited Turkey, and the cause and place of death of Furkan.⁶⁶ On June 7, 2010, in an email exchange between consular officials in Turkey, they stated that they were "working 24/7 on the flotilla issue" and that they "need to be VERY careful on the American citizen issue."⁶⁷ US Ambassador to Turkey James Jeffrey called Furkan's father on June 9, 2010 to report developments and reiterate that "It is the responsibility of foreign authorities to determine cause of death and, when appropriate, conduct an investigation."⁶⁸

The U.S. Embassy in Ankara made an official request to the Turkish government for the burial certificate and autopsy report on June 7, 2010, and "expressed its strongest possible dismay" that the Turkish government released Furkan's autopsy report to the press and IHH.⁶⁹ On July 29, 2010, Ambassador Jeffrey told the press that U.S. government had still not received burial, autopsy, or death reports from the Turkish government, although on the same day U.S. consular officials called Furkan's father to notify him that they had received the autopsy report and were reviewing it.⁷⁰ On September 30, 2010, Furkan Doğan's autopsy report, death report, and official Consular Report of Death of an American Citizen Abroad (CRODA) were finally sent to a US consular official in Tel Aviv via email.⁷¹

Meeting in 2011 between Professor Doğan and the State Department

In preparation for a meeting on February 23, 2011 with Furkan's father in Washington, D.C., the Bureau of Consular Affairs prepared the following talking points for James Pettit, the Deputy Assistant Secretary of State for Overseas Citizens Services:

- "The Department of State has no higher priority than the welfare of U.S. citizens overseas."

⁶⁴ Department of Justice, Criminal Division, *Email: RE: [(b)(6)(b)(6) about gaza flotilla*, March 20, 2011, **DOJCrDiv0016**. See also Department of Justice, Criminal Division, *Facsimile from CCR: Announcement regarding "Aboard the Turkish Flotilla: A Firsthand Account" event at NYU*, **DOJCrDiv0072**.

⁶⁵ *Id.*

⁶⁶ Department of State, *Embassy Ankara Diplomatic Note No. Cons 10-011328 to Turkish Government*, June 4, 2010, **StateDept2201-2202**.

⁶⁷ Department of State, Embassy Ankara Email: *Country Team Notes, June 7, June 7, 2010*, **StateDept2135-2136**.

⁶⁸ Department of State, Bureau of Consular Affairs Office of Overseas Citizens, *DAS Pettit's Meeting with Mr. Dogan and Email: READOUT Meeting with Professor Dogan*, February 23 2011, **StateDept0760-0766** [hereinafter *Pettit Meeting with Mr. Dogan*], at **StateDept0763**.

⁶⁹ *Id.*; Department of State, *Embassy Ankara Diplomatic Note No. Cons 10-01137 to Turkish Government*, June 7, 2010, **StateDept2198-2200**, at **StateDept02199**;

⁷⁰ *Id.*; Department of State, Embassy Ankara Email: *AMB's Last Morning Meeting; 7/30, July 30, 2010*, **StateDept2139-2140**.

⁷¹ *Pettit Meeting with Mr. Dogan*, *supra* note 68, at **StateDept0763**.

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

- “The Department of State does not, however, investigate deaths of U.S. citizens overseas – regardless of circumstances leading to the death [and] instead rel[ies] on local authorities to investigate deaths within their jurisdiction.”
- “The Embassy in Tel Aviv and the Department of State has requested that the Government of Israel undertake a thorough, credible, and transparent investigation and provide us with its findings.”
- The State Department “cannot speak to the finding of foreign governments or the United Nations regarding the circumstances of [Furkan’s] tragic death”
 - “*If pushed*: [State Department] would suggest that [Professor Doğan] consider options for reviewing locally.”
- If asked about Furkan’s personal property, the State Department “would encourage him to work through the local court systems and reach out to his own government.”⁷²

On February 23, 2011, Professor Doğan and CCR senior staff attorney Katherine Gallagher met with Pettit, who informed them that there would be no U.S. investigation, at least not until after the release of the report by the United Nations Palmer Commission.⁷³ Pettit “agreed that the autopsy report evidenced gunshots at close range, but that the characterization of the cause of death being summary execution was a call that would have to be made by experts who could determine the context.”⁷⁴ When Professor Doğan asked why the United States did not accept the findings of the earlier UN Human Rights Council report and was critical of that report, the Pettit responded that it was “seeking a more balanced and better informed study, noting that the UNHRC’s mandate had been somewhat unclear and the investigation a bit ‘rushed.’”⁷⁵ Pettit committed to requesting an update from the US Embassy in Tel Aviv about its efforts to locate Furkan’s video camera, which Furkan was believed to have been using when he was murdered.⁷⁶
Commentary: *Professor Doğan pressed for the return of Furkan’s video-camera as it is believed to contain evidence related to the attack on the flotilla, if not his killing.*

U.S. Government Attempts to Locate Furkan’s Camera

On March 8, 2011, in response to an email exchange indicating that some cameras were in the possession of the Israeli Defense Forces, Kim Richter, a Citizen Services Specialist at the State Department inquired about the property from boats in flotilla. A U.S. consular official in Tel Aviv responded that there was a catalogue of property taken from the *Mavi Marmara* and that some of the property was handed over to the Israeli Defense Forces and the rest to the

⁷² *Id.* at **StateDept0762**.

⁷³ *Id.* at **StateDept0766**.

⁷⁴ *Id.*

⁷⁵ *Id.* Pettit stated in his notes about the meeting that “Alas, I had promised myself not to characterize any reports – but that reflects earlier statements by the USG. It would have been difficult not to answer at all.” Pettit also reported that when asked “who/when/how we engaged with the Israelis on this issue, whether we had asked for an apology, etc. My response was always ‘we’re waiting for the UN [Palmer] Report.’”

⁷⁶ *Id.*

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

Turkish embassy.⁷⁷ (See *CCR Production Guide: U.S. Passengers*, for more detailed information on the seizure of U.S. passenger property and efforts for its return).

On April 27, 2011, the U.S. Embassy in Tel Aviv sent a diplomatic note to the Israeli Ministry of Foreign Affairs asking that it locate and arrange for the return of Furkan's belongings, including his camera.⁷⁸ This is the last communication in the production related to the efforts by the United States to retrieve Furkan Doğan's possessions from Israeli officials, including the video-camera he was believed to have been using during the attack on the *Mavi Marmara*.

Investigation by other Entities

Numerous investigations into the death of Furkan Doğan found evidence that strongly pointed to unlawful actions by the Israeli commandos that attacked the flotilla. A fact-finding mission by the United Nations Human Rights Council concluded in September 2010 that the circumstances of Furkan's killing and at least five others amounted to "extra-legal, arbitrary and summary executions prohibited by international human rights law" and violated international human rights law.⁷⁹

Even the Report of the Secretary-General's Panel of Inquiry, known as the "Palmer Report," which drew some criticism given its composition and concerns regarding its independence, concluded that Furkan had been shot at extremely close range, sustaining "wounds to the face, back of the skull, and back of the leg [and] [that] he may already have been lying wounded when the fatal shot was delivered, as suggested by witness accounts to that effect" and that "no satisfactory explanation has been provided to the Panel by Israel for any of the nine deaths. Forensic evidence showing that most of the deceased were shot multiple times, including in the back, or at close range has not been adequately accounted for in the material presented by Israel."⁸⁰

In contrast, the report by the Turkel Commission of the Israeli government⁸¹ exonerated all of the Israeli soldiers involved in the attack and concluded that all of their actions were legal.⁸² The Turkel Commission's final report released on January 23, 2011 did not include any information about how and under what circumstances Furkan was killed.⁸³ The only reference to

⁷⁷ Department of State, Bureau of Consular Affairs Office of Overseas Citizens, *Email: Flotilla Property*, March 8 2011, **StateDept0767-0769**.

⁷⁸ Department of State, Bureau of Consular Affairs Office of Overseas Citizens, *Email: Update on Amcit cases: CONS TLV Meets with MFA*, May 5 2011, **StateDept0770-0774**.

⁷⁹ UN Human Rights Council Report, *supra* note 4 **Error! Bookmark not defined.**, at 38.

⁸⁰ The Palmer Report, *supra* note 4 **Error! Bookmark not defined.**, at 59-61:

⁸¹ The Turkel Commission (officially The Public Commission to Examine the Maritime Incident of 31 May 2010) is an inquiry set up by Israeli Government to investigate the Gaza flotilla raid, and the Blockade of Gaza. The State Department production included the complete report by the Turkel Commission. See **StateDept2664-2955**.

⁸² TURKEL COMMISSION, SUMMARY OF REPORT OF THE PUBLIC COMMISSION TO EXAMINE THE MARITIME INCIDENT OF 31 MAY 2010 - PART ONE, available at <http://www.turkel-committee.com/files/worddocs/7896summary-eng.PDF>.

⁸³ TURKEL COMMISSION, REPORT OF THE PUBLIC COMMISSION TO EXAMINE THE MARITIME INCIDENT OF 31 MAY 2010 - PART ONE 218 (January 23, 2011): <http://www.turkel-committee.gov.il/files/worddocs/8808report-eng.pdf>

GAZA FLOTILLA FOIA PRODUCTION GUIDE: FURKAN DOĞAN

Last updated: February 2013

Furkan in the report portrayed him as a “jihadist” and cited an unsubstantiated newspaper report that Furkan wrote in his diary about becoming a martyr.⁸⁴

The Turkish National Commission of Inquiry reported that Furkan “was shot in the back of head as well as in his back, nose, left leg and left ankle all from less than 50 cm range.”⁸⁵ Their report also included video footage and testimony from eye witnesses that establish Israeli defense forces repeatedly kicked and beat a flotilla passenger believed to be Furkan when he was lying on the ground.⁸⁶ On February 11, 2011, in its final report on the *Mavi Marmara* to the United Nations, the Turkish government stated that Furkan was shot with five bullets including three to the head. It reported that the first bullet hit him in the foot and after he fell down, two Israeli soldiers kicked him and shot him execution style.⁸⁷

Despite strong evidence of serious violations of international law by Israeli commandos forces and the inadequate investigation by the Israeli government, the U.S. government has never conducted its own investigation into the killing of Furkan Doğan. The U.S. government continues to defer to the Israeli government’s investigation.

⁸⁴ *Id.* at 219.

⁸⁵ TURKISH NATIONAL COMMISSION OF INQUIRY, INTERIM REPORT ON THE ISRAELI ATTACK ON THE HUMANITARIAN AID CONVOY TO GAZA ON 31 MAY 2010 56 (September 2010), available at <http://www.mfa.gov.tr/data/Turkish%20Interim%20Report.pdf>.

⁸⁶ *Id.* at Annex 5/4/xviii, at 2 (“On the upper level, a friend who I couldn’t identify was on the floor being kicked and shot at by two Israeli soldiers. Later I saw on television that this friend was Furkan Doğan.”).

⁸⁷ Department of State, *Email: Mavi Marmara; TRT (3)*, February 11, 2011, **StateDept2286**.