

Association Release

The Society of American Archivists (SAA) and the Association of Canadian Archivists (ACA) are deeply concerned about the whereabouts, current custody, and ultimate fate of records captured or otherwise obtained by the United States of America, and those removed by private parties, during the first and second Gulf Wars. SAA is the world's largest organization of archivists, comprising more than 5,100 members from around the globe. ACA represents 600 archivists from Canada and internationally. Archivists are professionals who are engaged in identifying, preserving, and making accessible the historical and governmental manuscripts and records that document the cultural patrimony and political accountability of localities and nations.

We are concerned about events related to archives and archival records that have transpired in Iraq during conflicts involving the United States, and also about the precedents that these events may have set for the conduct of the United States and other nations in future conflicts. We believe that the American government has an obligation under commonly shared international agreements and its own past practices to return to the lawfully established government of Iraq – with all deliberate speed – Iraqi records now in its possession. Moreover, the United States government has the responsibility to intercede, to the greatest extent possible, in ensuring the return of Iraqi records removed by private parties during the conflicts. The U.S. should also intercede with its Kurdish allies in Iraq to return records seized by their fighters from the Iraqi government and third parties.

The records under consideration comprise five sets.

Records seized by the U.S. military and intelligence agencies during the Second Gulf War. The U.S. military and intelligence agencies seized millions of pages of Iraqi records during the military campaign. The U.S. military scanned some, if not all, of the seized records. *The major issue with these records is to what institution in Iraq the originals will be returned – and when. As reported by John Gravois in the Chronicle of Higher Education (February 8, 2008), the Iraq National Library and Archives and the Iraq Memory Foundation each have made public claims of ownership of these records. For records of the Iraqi government, including the Baath Party records as an arm of the state, the archival principle of inalienability requires that they be returned to the national government of Iraq for preservation in the national archives.*

Records seized from non-governmental combatants. In the fall of 2007 the U.S. military seized a quantity of records in the northern Iraqi town of Sinjar from an al-Qaeda affiliate in Iraq. The quantity of records seized is not known, nor is the records' current location – although at least a portion were scanned and provided to the Army's Center for Combating Terrorism at West Point, where an analysis was published based on the records. *These records were never records of the Iraqi government. Returning them to the creator or its successors clearly is not plausible. A strong case can be made for sending these to the Iraqi government for deposit in the National Archives, as part of the national patrimony of Iraq.*

Records obtained by the Iraq Memory Foundation. The Iraq Memory Foundation, a U.S.-based non-governmental organization (NGO), went to Baghdad shortly after the invasion and began gathering as



many documents as it could find. Under the laws of war, such actions may be considered an act of pillage, which is specifically forbidden by the 1907 Hague Convention. The Foundation's website says its main holdings are "a collection of 2.4 million pages of official Iraqi documents captured by Iraqi Kurdish groups during the 1991 uprising; ...a collection of 750,000 pages of Iraqi documents captured in Kuwait after its liberation...in 1991; ...approximately 3.0 million pages gathered from Baath Party Regional Command Headquarters in Baghdad following the fall of Saddam in 2003." This is the body of materials that in January 2008 the Hoover Institution at Stanford University agreed to store. *The records of the government bodies and the Baath Party should be returned to the government of Iraq to be maintained as part of the official records in the National Library and Archives.*

Records seized by Kurds during the First Gulf War. During the First Gulf War, Kurdish groups seized an estimated eighteen tons of Iraqi records in northern Iraq. These included the records of the Iraqi secret police in the three northern Kurdish governates of Iraq, records of the Baath Party from the region, and records of local and regional governments. These records have been digitized by the U.S. Defense Intelligence Agency. *The United States government should appeal to the government of Kurdistan to return this material to the Iraqi government's National Library and Archives.*

Iraqi Jewish archives. In May 2003, the U.S. Army discovered a body of Jewish documents in the basement of the Iraqi Security Services. The materials had been damaged by flooding and mold. Ultimately the materials were flown to the U.S. by the military, freeze dried at a facility in Texas, and then transferred to the U.S. National Archives where they remain, pending conservation and possible digitization. The U.S. has signed an agreement to return this archives to Iraq. *The documentary evidence of the historic Iraqi Jewish community is part of the archival patrimony of Iraq. We urge the government to repatriate the records to Iraq as soon as practicable.*

During the 20th century the United States seized records during four conflicts: World War II, Korea, Vietnam, and Grenada. In all of these previous instances, U.S. practice has been to repatriate the records after their primary utility was exhausted and after copies were made for historical purposes and broad public access. America should follow these same precedents now.

The SAA and ACA urge the United States government to take steps with all deliberate speed to bring the treatment and custody of records seized from Iraq into conformance with laws, customs, and U.S. precedents. This is required by a just regard for the government and people of Iraq as well as by the best interests of the U.S. in its role as an ally to the new Iraqi regime. As archivists, we believe strongly in the inalienable character of national records and the importance that these records can play in the reconstruction, administration, and cultural stability of Iraq.

At the same time, we urge the government of Iraq to support and strengthen the Iraqi National Library and Archives (INLA), and we urge INLA to take all steps consistent with professional archival practice to preserve and make accessible the records entrusted to it. We also call upon the U.S. government and relevant private parties and regional governments to find appropriate repositories for copies made from the Iraqi records and to ensure that these repositories make the copies accessible to researchers at the earliest practical date.



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In closing, we urge all stakeholders in this matter to follow the spirit of the 1907 Hague IV Convention respecting the Laws and Customs of War on Land, which narrowly restricts the purposes for which a combatant can seize enemy records and forbids confiscation of private property, and of the 1954 Hague Convention for the Protection of Cultural Property in the event of Armed Conflict, which states: “Each High Contracting Party undertakes to return, at the close of hostilities, to the competent authorities of the territory previously occupied, cultural property [including “manuscripts . . . and important collections of books or archives”] which is in its territory, if such property has been exported in contravention of the principle laid down in the first paragraph.”

Sincerely,

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