



July 31, 2017

Office of Information Programs and Services (IPS)
A/GIS/IPS/RL
U.S. Department of State, State Annex 2 (SA-2)



**RE: FOIA Request to U.S. State Department Regarding Removal of the Word
“Genocide” from Speeches and other Official Documents.**

Dear Sir or Ma’am:

This letter is a request (“Request”) in accordance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the corresponding department/agency implementing regulations.

The Request is made by the American Center for Law and Justice (ACLJ)¹ on behalf of itself and over 323,000 of our members who have signed our petition to stop the Islamic State’s (ISIS) genocide against Christians and other religious minorities. The ACLJ respectfully seeks expedited processing and a waiver of fees related to this Request as set forth in an accompanying memorandum.

To summarize, the numbered requests contained herein seek any and all records of discussions and decisions leading up to and surrounding the State Department’s removal of the word “genocide” from speeches and official documents concerning ISIS’s atrocities against Christians, Yazidis, and other religious minorities in Iraq and Syria.

Background

Pursuant to State Department FOIA regulation 22 C.F.R. § 171.4(b), this Background addresses “the subject, timeframe, names of any individuals involved, a contract number (if applicable), and reasons why the requester believes the Department may have records on the subject of the request.” 22 C.F.R. § 171.4(b).

¹ The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity with respect to international affairs, and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring the ongoing viability of freedom and liberty in the United States and around the world.



On July 25, 2017, the Washington Free Beacon reported:

The State Department's top lawyers are systematically removing the word 'genocide' to describe the Islamic State's mass slaughter of Christians, Yazidis, and other ethnic minorities in Iraq and Syria from speeches before they are delivered and other official documents, according to human rights activists and attorneys familiar with the policies.²

The report, also cited by Fox News, Town Hall, and others,³ further explained that "Richard Visek, who was appointed by President Obama as head [of] the State Department's Office of Legal Adviser in October 2015, is behind the decision to remove the word 'genocide' from official documents" The State Department is aware of the report: "A State Department spokesman on Monday said he would look into the matter and respond."⁵

The report on the decision to remove the word "genocide" from official speeches and documents comes a little over a year after former Secretary of State John Kerry formally declared that ISIS "committed genocide against Yazidis, Christians, Shiite Muslims and other religious minorities in its rampages across the Middle East."⁶

Since former Secretary Kerry's formal declaration in 2016, ISIS's genocidal acts against Christians and other minorities have not only continued in Iraq and Syria, but also spread to other countries around the world. Thus, orders to remove the word "genocide" from official speeches and documents are alarming. The American people have a right to know who is responsible for these instructions and the rationale behind them.

Records Requested

For purposes of this Request, the term "record" is "any information" that qualifies under 5 U.S.C. § 552(f), and includes, but is not limited to, the original or any full, complete and unedited copy of any log, chart, list, memorandum, note, correspondence, writing of any kind, policy, procedure, guideline, agenda, handout, report, transcript, set of minutes or notes, video, photo, audio recordings, or other material. The term "record" also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format.

²Susan Crabtree, *State Department Lawyers Removing References to ISIS 'Genocide' Against Christians, Other Religious Minorities*, FREEBEACON.COM (July 25, 2017, 5:00 AM), <http://freebeacon.com/national-security/state-department-lawyers-removing-references-isis-genocide-christians-religious-minorities/>.

³Susan Crabtree, *State Department Lawyers Removing References to ISIS 'Genocide' Against Christians, Other Religious Minorities*, FREEBEACON.COM (July 25, 2017, 5:00 AM), <http://www.foxnews.com/politics/2017/07/25/state-department-lawyers-removing-references-to-isis-genocide-against-christians-other-religious-minorities.html>. The story has now also been picked up by Town Hall and appears to be gathering steam. See Katie Pavlich, *State Department Lawyers are Scrubbing References to ISIS Genocide of Christians*, TOWN HALL (July 25, 2017), <https://townhall.com/tipsheet/katiepavlich/2017/07/25/state-department-lawyers-are-erasing-genocide-when-talking-about-isis-and-christians-n2359687>.

⁴Crabtree, *supra* note 2.

⁵*Id.*

⁶Carol Morello & William Branigin, *Kerry Declares Islamic State has Committed Genocide*, THE WASHINGTON POST (Mar. 17, 2016), https://www.washingtonpost.com/world/national-security/kerry-declares-islamic-state-has-committed-genocide/2016/03/17/35eaa5e6-ec3e-11e5-a6f3-21cedbc5f74e_story.html?utm_term=.49199ac37a6e.

e.g., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government or private account or server, consistent with the holdings of *Competitive Enterprise Institute v. Office of Science and Technology Policy*, No. 15-5128 (D.C. Cir. July 5, 2016)⁷ (rejecting agency argument that emails on private email account were not under agency control, and holding, “If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.”).

For purposes of this Request, the term “briefing” includes, but is not limited to, any meeting, teleconference, electronic communication, or other means of gathering or communicating by which information was conveyed to one or more person(s).

For purposes of this Request, the term “DOS official” includes, but is not limited to, any person who is (1) employed by or on behalf of the DOS, any Mission of the United States, or any Delegation of the United States, in any capacity; (2) contracted for services by or on behalf of the DOS, any Mission of the United States, or any Delegation of the United States, in any capacity; (3) appointed by the President of the United States to serve in any capacity at or within the DOS, any Mission of the United States, or any Delegation of the United States; or (4) any such person’s staff, agent or employee; all without regard to the component, bureau, or office in which that person serves.

For purposes of this Request, all sources, documents, letters, reports, briefings, articles and press releases cited in this Request are incorporated by reference as if fully set forth herein.

For purposes of this Request, the timeframe of records requested herein is November 8, 2016, to the date this Request is processed, unless otherwise indicated.

Pursuant to FOIA, 5 U.S.C. § 552, ACLJ hereby requests that the DOS respond to the following numbered requests and produce all responsive records:

1. Records of Secretary Richard Visek Regarding Removal of Word “Genocide” from Official Speeches and/or Documents

All records, communication or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by Richard C. Visek, Acting Legal Adviser, Office of the Legal Adviser, referencing or regarding in any way the removal of the term “genocide” from any State Department or other agency’s files, records, training material or curricula, memoranda, speeches, communications, opinions, directives, guidance, directions, instructions, briefings, or any other item or document, as referenced in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any

⁷ *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145 (D.C. Cir. 2016).

electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

2. Records of Secretary Richard Visek Regarding the Word “Genocide” in Connection With ISIS

All records, communication or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by Richard C. Visek, Acting Legal Adviser, Office of the Legal Adviser, containing the term “genocide” and together in the same record with one or more of the following terms: the “Islamic State,” “ISIS,” “ISIL,” “Daesh,” “IS,” or any other term, title or acronym for the Islamic State, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

3. Records From Which the Word “Genocide” has Been Removed

All files, records, memoranda, speeches, communications, opinions, directions, directives, guidance, training material or curricula, instructions, briefings, or publications, created, generated, forwarded, transmitted, sent, shared, saved, published, circulated, received, or reviewed from which the term “genocide” has been removed or from which the term “genocide” has been directed or marked for removal by any State Department official, including but not limited to any person within the:

- (a) Office of the Legal Adviser (L), including but not limited to Richard C. Visek, Acting Legal Adviser;
- (b) Office of the Under Secretary for Political Affairs (PA), including but not limited to Under Secretary Thomas A. Shannon, Jr.;
- (c) Bureau of Near Eastern Affairs (NEA);
- (d) Office of the Under Secretary for Civilian Security, Democracy, and Human Rights (J), including but not limited to Under Secretary Sarah Sewell;
- (e) The Office of Global Criminal Justice (GCJ) and the Office of the Special Coordinator for Global Criminal Justice, including but not limited to Todd F. Buchwald;
- (f) Office of the Under Secretary for Public Diplomacy and Public Affairs, including but not limited to Acting Under Secretary D. Bruce Wharton; or
- (g) Office of the Counselor of the Department (C), including but not limited to Kristie A. Kenney;
- (h) Office of the Special Presidential Envoy for the Global Coalition to Counter ISIL, including but not limited to Brett McGurk; or
- (i) Office of the U.S. Special Envoy for Syria, including but not limited to Michael Ratney;

containing the term “genocide” and the “Islamic State,” “ISIS,” “ISIL,” “Daesh,” “IS,” or any other term, title or acronym for the Islamic State, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

4. Records of Officials within the Office of the Legal Adviser Regarding Removal of Word “Genocide” from Official Speeches and/or Documents

All records, communication or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any State Department official within the Office of the Under Secretary for Political Affairs (PA), including but not limited to Under Secretary Thomas A. Shannon, Jr., referencing or regarding in any way discussions and/or decisions to remove the word “genocide” from any speech and official document in connection with the atrocities committed by ISIS as referenced in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

5. Records of Officials within Other Offices Regarding Removal of Word “Genocide” from Official Speeches and/or Documents

All records, communication or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any State Department official within the:

- (a) Office of the Legal Adviser (L), including but not limited to Richard C. Visek, Acting Legal Adviser;
- (b) Office of the Under Secretary for Political Affairs (PA), including but not limited to Under Secretary Thomas A. Shannon, Jr.;
- (c) Bureau of Near Eastern Affairs (NEA);
- (d) Office of the Under Secretary for Civilian Security, Democracy, and Human Rights (J), including but not limited to Under Secretary Sarah Sewell;
- (e) The Office of Global Criminal Justice (GCJ) and the Office of the Special Coordinator for Global Criminal Justice, including but not limited to Todd F. Buchwald;
- (f) Office of the Under Secretary for Public Diplomacy and Public Affairs, including but not limited to Acting Under Secretary D. Bruce Wharton; or

- (g) Office of the Counselor of the Department (C), including but not limited to Kristie A. Kenney;
- (h) Office of the Special Presidential Envoy for the Global Coalition to Counter ISIL, including but not limited to Brett McGurk; or
- (i) Office of the U.S. Special Envoy for Syria, including but not limited to Michael Ratney;

referencing or regarding in any way discussions and/or decisions to remove the word “genocide” from any speech and official document in connection with the atrocities committed by ISIS as referenced in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

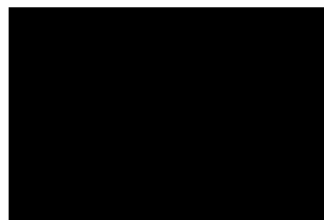
CONCLUSION

If this Request is denied in whole or in part, ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

Moreover, as explained in an accompanying memorandum, the ACLJ is entitled to expedited processing of this Request as well as a waiver of all fees associated with it. The ACLJ reserves the right to appeal a decision to withhold any information sought by this request and/or to deny the separate application for expedited processing and waiver of fees.

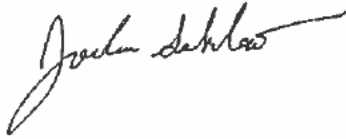
Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

Jordan Sekulow, Executive Director
Colby M. May, Senior Counsel
Craig L. Parshall, Special Counsel
Carly F. Gammill, Senior Litigation Counsel
Benjamin P. Sisney, Senior Litigation Counsel
American Center for Law and Justice



I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

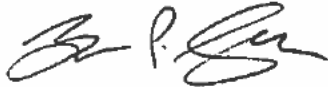
Respectfully submitted,



Jordan Sekulow
Executive Director



Colby M. May
Senior Counsel



Benjamin P. Sisney
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