

Report of the Advisory Committee on Historical Diplomatic Documentation January 1-December 31, 2018

The Advisory Committee on Historical Diplomatic Documentation to the Department of State (HAC) has two principal responsibilities: 1) to oversee the preparation and timely publication of the *Foreign Relations of the United States (FRUS)* series by the department's Office of the Historian (OH); and 2) to monitor the declassification and release of State Department records.

The Foreign Relations Authorization Act of 1991 (Public Law 102-138 [105 Stat. 647, codified in relevant part at 22 U.S.C. § 4351 *et seq.*]) mandates these responsibilities. Known popularly as the Foreign Relations statute, it calls for publishing a “thorough, accurate, and reliable” documentary record of United States foreign relations no later than 30 years after the events that they document. The statute also requires the HAC to review the “State Department's declassification procedures” and “all guidelines used in declassification, including those guidelines provided to the National Archives and Records Administration [NARA].”

While 2018 produced notable successes, it presented challenges that threaten the continued progress that the HAC has reported over the past several years. Throughout 2018 the pace of the reviews of *FRUS* volumes submitted to the interagency review process was disappointing. Although the underfunding and understaffing that pervades both the interagency process and NARA contributed significantly to this problem, the performance of the Department of Defense (DoD) was especially unacceptable. Further, owing to the hiring freeze, OH operated without a director for all of 2018, and it was unable to fill four vacant FTE historian positions.

Exacerbating these phenomena, the unprecedented decision of the State Department's leadership in the final month of 2017 to reject OH's request to renew three HAC members and request nominees potentially to replace all other members unsettled the HAC and OH and diverted the time and energy of both. Not until June 2018 was a resolution reached by which State and the HAC agreed that three of the current members would be replaced, the remaining six would be replaced over the next two years, and a system of three-year terms and regular rotations would be established. A fourth member, Robert McMahon, resigned to protest State's initial decision. Because State did not select replacements until the week prior to the August meeting, none of them had received security clearances by the meeting in December. Discussions of *FRUS* issues were thereby impaired.

Publications of the *Foreign Relations* Series

Compiling the multiplicity of records necessary to document an administration's foreign relations, culling from them the limited number that can be managed in one volume while still providing a “thorough, accurate, and reliable” documentary history, steering the draft volume through the interagency declassification review process and then editing it for publication, poses a demanding and time-consuming challenge. OH still managed to publish 6 *FRUS* volumes in 2018. Although a decline from the number of volumes published over the previous three years (8, 8, and 10, a rate of publication that meets the goal OH calculates is necessary to achieve the 30-year timeline for publication mandated by the Foreign Relations statute), publishing 6 volumes despite the challenges OH confronted is impressive. The titles of the volumes are:

1. *FRUS*, 1969–1976, Volume XIX, Part 2, Japan, 1969–1972

2. *FRUS*, 1917–1972, Volume VIII, Public Diplomacy, 1969–1972
3. *FRUS*, 1977–1980, Volume XVII, Part 2, Sub-Saharan Africa
4. *FRUS*, 1917–1972, Volume VII, Public Diplomacy, 1964–1968
5. *FRUS*, 1977–1980, Volume XXIV, South America; Latin America Region
6. *FRUS*, 1977–1980, Volume XII, Afghanistan

The publication of the first of the three volumes that will cover the War in Afghanistan from 1977-1988 warrants particular attention because it may turn out to be an anomaly. The HAC is delighted with this publication. Still, because so many of the compiled volumes in the Reagan subseries include documents on intelligence operations and parallel sensitive information, the HAC fears that they will encounter severe declassification problems that will significantly delay their publication. Further, intelligence issues were integral to the foreign relations of subsequent administrations as well, this concern extends to the publication of future subseries.

No less notable than OH's managing to publish 6 volumes in 2018 despite the obstacles, under the leadership of Joseph Wicentowski it completed its 10-year project to digitize and post online at history.state.gov all 512 back catalogue *FRUS* volumes dating back to the series' origin in 1861. Each volume is fully-searchable and downloadable in multiple formats. Notwithstanding the difficulties, OH now plans to digitize all the microfiche supplements.

The Challenge of the 30-Year Requirement

Despite the prodigious efforts of OH's compilers, reviewers, and technical editors, and its relentless and creative efforts to gain approval from the interagency process to declassify documents, the office is unlikely to maintain in 2019 and beyond the record-breaking rate of *FRUS* publication that it produced over the previous six years, when it published on average some 8 volumes a year. As a result, rather than closing the gap to reaching the 30-year timeline, as mandated by the Foreign Relations statute, that gap will almost certainly widen.

In large part the problem inheres in the explosion of documents which the statute requires that OH's historians locate among the multiple departments, agencies, and executive offices that contribute to the foreign relations process. Since the Reagan years, an increasing number of these documents concern sensitive intelligence information. The time required to declassify these documents is frequently prolonged—considerably—because in most cases diverse agencies and departments hold an “equity” (interest or concern) in the document and therefore are entitled to approve or deny its release in part or full. Further, because the same declassification offices in many agencies are responsible for Freedom of Information Act (FOIA) and Mandatory Declassification Review (MDR) requests as well as *FRUS* systematic reviews and declassification, and FOIA/MDR requests require time-sensitive responses, in many instances they receive priority over *FRUS*'s requirements. For a volume such as the one on the Iran Hostage Crisis, moreover, intractable legal issues can cause indefinite delays.

The rigor and vigor of the reviews conducted by the State Department's Office of Information Programs and Services (IPS) should serve as a model for other agencies and departments. In 2018 OH referred 3 more volumes to IPS than it did in 2017—a total of 9. IPS provided responses to 7 of these volumes, and did so on average in less than 75 days—far faster than any other agency. Moreover, the quality of the reviews was exemplary.

The National Security Council's (NSC) Office of Access Management likewise warrants plaudits. Assisted by an IPS reviewer, it provided OH with timely and high quality reviews of documents with White House equities and commented on the declassification decisions of other reviewing agencies. In addition, despite such burdens as the Kyl-Lott Amendment, which requires page-by-page reviews of documents for Restricted and Formerly Restricted Data (the guidelines for which are ambiguous) related to nuclear matters, the Department of Energy (DOE) has improved the pace of its reviews, although it can improve further.

But once again the Department of Defense in 2018 performed so negligently and so egregiously violated the requirements mandated by the Foreign Relations statute that it more than offset the commendable efforts of the other agencies and departments. The statute requires all departments and agencies to conduct a declassification review of a *FRUS* compilation submitted by OH within 120 days of receipt and to respond to any appeals of the first review within another 60 days. Should a department or agency judge it must withhold a record from declassification in order to protect national security information that remains sensitive, it must make an effort to redact the text for the purpose of making it releasable. Adhering to the mandated timelines for completing these tasks is vital to OH's ability to maintain the rate of publication required to approach the 30-year timeline.

By all but disregarding the mandated deadlines for its reviews and conducting these reviews so poorly as to require appeals and re-reviews, the Department of Defense crippled OH's ability to publish *FRUS* volumes. DoD is primarily culpable for the decline to 6 published volumes in 2018 and the projected publication of only 2 volumes in 2019. To illustrate, in the last month of 2017 DoD finally responded to 10 outstanding *FRUS* referrals, which had been under review an average of 429 days—more than 300 days beyond the statutory deadline. It denied in full a total of 589 historically significant documents referred to it by OH, an unprecedented number that reflected an inadequate understanding of the declassification guidelines, and it made no effort to redact any of them. In 2018 DoD revised its responses to only 6 of those volumes, but only 3 of these revised responses satisfied the statute's standard for publication. And it failed to revise at all its responses to 4 of the volumes. Forging ahead in its effort to close the gap on the 30-year timeline, OH referred 6 more volumes to DoD in 2018, adding to its backlog. (The HAC learned at its August 2018 meeting that DoD had missed the statutory deadline on all the referrals it was currently reviewing, approximately 621 documents, by an average of 625 days.) To its credit, DoD subsequently accelerated the pace of its reviews, and the quality of them is somewhat better. But it has made no progress in proposing redactions that will allow for the release of text that will enable the HAC to certify that a volume, notwithstanding the information that is withheld from declassification, is “thorough, accurate, and reliable.”

To address the challenges posed by DoD, the leadership of OH met in 2018 with staff members from the Office of the Under Secretary of Defense for Intelligence, the DOSPR, and the Joint Staff. Modest improvements resulted. But the HAC strongly believes that only the dedication of more resources to its review processes will enable DoD to meet its statutory responsibilities. It believes equally strongly that DoD must follow the path mapped out by the Central Intelligence Agency by prioritizing *FRUS* declassification and detailing an OH historian to DoD to help coordinate declassification of *FRUS* documents. Perhaps even more vital, DoD should adopt the structures innovated by both the CIA and Department of State and establish a centralized *FRUS*

declassification coordination team in which it vests some declassification authority and which can more efficiently and effectively meet DoD's mandate for the timely review and release of historically significant information that no longer needs to remain classified.

In this regard the HAC must highlight that after some stumbles in 2016 and 2017, the CIA in 2018 again demonstrated its commitment to partnering with OH for the purpose of publishing "thorough, accurate, and reliable" *FRUS* volumes. In contrast to DoD, the CIA years ago established a Historical Programs Staff to coordinate *FRUS* reviews. Recent reorganizations and changes in personnel has improved the staff's productivity. OH referred to CIA 10 new volumes during the calendar year. CIA returned final responses to 6 of them within the mandated timeline, and dialogue between it and OH on the others continues. Moreover, it resumed its participation in High Level Panel (HLP) decision-making, a coordinated interagency process institutionalized for the purpose of evaluating information on historical covert actions for publication in *FRUS*. After a 3-year hiatus, in 2018, CIA evaluated or reconsidered 5 HLP cases.

Yet troubling signs remain. The CIA's Historical Review Panel (HRP) advises the CIA on declassifying intelligence information vital to *FRUS*. The HAC is, therefore, concerned that the director did not convene a meeting of the HRP in 2018. Previously, the panel met twice annually since its formal establishment in the 1995.

The Review, Transfer, and Processing of Department of State Records

The HAC monitored the review and transfer of State Department records by State's Office of Information Programs and Services (IPS) and their accession and processing at NARA.

The HAC congratulates the staffs of IPS and NARA's National Declassification Center (NDC) for their progress. The NDC continues to process hundreds of thousands of pages, and benefiting from the interagency cooperation it promotes, its withholding rate is approximately 8%. It also reduced its FOIA backlog by about 10% and reports that its Index-on-Demand program was again very successful. Despite continued resource and personnel challenges and an ongoing reorganization effort, IPS likewise met its goals with regard its systematic review of records, its disposal of new FOIA and MDR requests, and reducing the FOIA and MDR backlog. The number of these requests continues to escalate, however, taxing time and resources. Moreover, insufficient funding, the lack of an appropriate secure space, and inadequate technology has incapacitated IPS's reviews of central file P- and N-reels from the 1980 on, the quality of which is rapidly deteriorating. IPS has not yet identified a solution other than to "pass the buck" by transferring the reels to NARA for handling. The implications are worrisome, IPS reports that 2018 was the tipping point when the dominance of paper records passed to electronic records.

The HAC is not sanguine about the capacity of IPS and NARA to manage records in the electronic age that is now upon us. The explosion in the volume of documents that characterizes contemporary government; the duplication of those documents across departments and agencies; the replacement of paper records with electronic ones, including audio and video files; and more had led to increased reliance on Artificial Intelligence and attendant technological efficiencies.

The HAC received briefings on plans to exploit technologies to store records, review and sort them, digitize unprocessed paper records, etc. But its questions about implementation have gone

largely unanswered. Both IPS and NARA appear to be relying on technologies that have not been proven effective. Nor has it received evidence that the present level of appropriations and acquisition is sufficient. The result may well be shortcuts—the elimination or degradation of finding aids, for example—and the postponement, possibly indefinitely, of public access to records.

Current initiatives for managing presidential libraries reinforce these concerns. NARA's plans to move classified documents from all of the Presidential Libraries to NARA II in order to consolidate declassification may complicate FRUS compilers access to them. The Obama Foundation's decision to house all presidential records at NARA II is likewise cause for concern. The HAC judges such decisions as driven by budgetary considerations that could prove costly to future researchers and call into question NARA's historic mission.

Recommendations:

- DoD should establish a centralized *FRUS* declassification coordination team which can more effectively meet DoD's mandate for the timely review and release of historically significant information that no longer needs to remain classified.
- NARA and IPS should publish plans to transition to technologically-driven records management and append detailed budgets and feasibility studies. IPS, for example, should provide a public explanation of how, with the new technology and cloud-based architecture, records will be declassified and transferred to NARA, NARA should explain how it plans to accession and make available these materials, and both should provide estimates of the costs.
- NARA should publish a detailed implementation strategy for consolidating all classified documents from the Presidential Libraries in NARA II that allows for public comments, includes a time schedule, and assures access by *FRUS* compilers.

Minutes for the HAC meetings are at <https://history.state.gov/about/hac/meeting-notes>.

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