

Report of the Advisory Committee on Historical Diplomatic Documentation January 1-December 31, 2019

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 as the Foreign Relations statute, it requires publishing a “thorough, accurate, and reliable” documentary record of US foreign relations no later than 30 years after the events that they document. This timeline reflects Congress's commitment to transparency and an informed public, two pillars of democratic governance. The statute also obligates 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].”

The challenges that threaten the future viability of both the *FRUS* series and NARA that the HAC identified in 2018 continued throughout 2019. The pace of the reviews of *FRUS* volumes submitted to the interagency review process was again disappointing. Notwithstanding some slight improvement, the Department of Defense (DoD) remained the principal obstacle.

OH's inability to halt the decline in the number of *FRUS* volumes it published was particularly frustrating because in 2019 it migrated from the Bureau of Public Affairs to the Foreign Service Institute (FSI), a more natural fit. Further, it filled the position of Historian (office director), which had been vacant throughout 2018. Although during this interregnum OH was ably co-directed by Deputy Historian Renee Goings and *FRUS* General Editor Adam Howard, Dr. Howard's appointment as Historian in 2019 and the selection of Kathleen Rasmussen as General Editor allowed Dr. Howard to focus exclusively on his responsibilities as office director as Dr. Rasmussen concentrated on overseeing *FRUS*. Both are exceptionally experienced and well qualified. Yet phenomena beyond their control thwarted *FRUS*'s production.

Publications of the *Foreign Relations* Series

Researching the multiplicity of records that 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 editing it for publication poses a demanding and time-consuming challenge. Nevertheless, despite publishing only 6 *FRUS* volumes in 2018, the average number of volumes OH has published since 2015 is 8. That is the number the office calculates it must publish in order ultimately to achieve the 30-year timeline mandated by the Foreign Relations statute.

In 2019, however, it published only 2 volumes, fewer than any year in a decade. Their titles are:

1. *FRUS*, 1977–1980, Volume XIX, South Asia (August 8)
2. *FRUS*, 1969–1976, Volume E–9, Part 2, Documents on the Middle East Region, 1973–76 (October 23)

The HAC can report some good 2019 news regarding *FRUS*. In 2018 OH completed its 10-year project to digitize all 512 previously-published *FRUS* volumes dating back to the series' origin in 1861. In 2019 it began to digitize the microfiche supplements released between 1993 and 1998 that contained additional documents from the Dwight D. Eisenhower and John F. Kennedy *FRUS* subseries. It completed the digitization 484 documents totaling 2,046 pages and covering Arms Control, National Security Policy, and Foreign Economic Policy during the Kennedy administration. One of the supplements it plans to digitize next is on the Cuban Missile Crisis.

These microfiche supplements, coupled with the 2 volumes OH did publish in 2019, brings the *FRUS* digital archive to a total of 307,105 documents from 538 volumes published in the 158 years between 1861 and 2019. The archive is accessible without charge online, searchable by full-text or by date, and downloadable in multiple ebook formats.

The Challenge of the 30-Year Requirement

OH's relentless efforts to gain approval through the interagency process to declassify documents for publication in *FRUS* continue to encounter obstacles. As the number of volumes declines as a result, the progress OH has made toward reaching the mandated 30-year timeline has stalled. Indeed, the gap is likely to begin to widen again.

The explosion of documents that OH's historians are statutorily required to locate among the multiple departments, agencies, and executive offices that contribute to the foreign relations process makes some decrease in the annual rate of publication unavoidable. Currently the office has submitted for declassification dozens of volumes from the Carter and Reagan *FRUS* subseries, stretching the interagency process to the breaking point. The reasons are readily understandable. An increasing number of the documents selected for publication concern sensitive intelligence information. In most cases, diverse agencies and departments hold an "equity" (interest) in these documents; they are entitled to approve or deny their release in part or full. Thus, the time required to complete the interagency process is frequently prolonged. Further, as explained in last year's report, 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. Responding to time-sensitive FOIA/MDR requests must take priority over *FRUS* reviews.

The responsibility of the contributing agencies for the breakdown of the process varies dramatically. The State Department's Office of Information Programs and Services (IPS) should serve as a model for other agencies and departments. The quality and timeliness of its reviews reflect the existence of team dedicated *FRUS* coordination and the experience and expertise of the former Foreign Service Officers that IPS employs to conduct the reviews. As in past years, State reviewed more volumes more promptly than any other agency.

The HAC also judges favorably the contributions of The National Security Council's (NSC's) Office of Records and Information Security Management. It both reviews documents with White House equities and comments on the declassification decisions of other reviewing agencies. Like State, its reviews were timely and of high quality. Further, the NSC was pivotal to resolving a seemingly intractable dispute between OH and DoD over one particular volume when National

Security Advisor John Bolton intervened directly to support OH's request to refer the volume to the Interagency Security Classification Appeals Panel (ISCAP).

That it required Mr. Bolton's intervention to overcome DoD's resistance to submitting the disputed volume to ISCAP was symptomatic of its attitude toward *FRUS* and the review process. In 2018 the HAC criticized DoD for violating "egregiously" the Foreign Relations statute's requirements that 1) it conduct a declassification review of a *FRUS* compilation within 120 days of receiving it from OH; 2) it respond to any appeals of the first review within another 60 days; and, in order to make releasable a record that contains sensitive national security information; 3) it make an effort to redact the text. In 2019 DoD's violations of timeliness and quality were equally egregious. It responded to less than one-third of the volumes that OH submitted for its review, it took more than 4-times longer than the mandated timeline when it did respond, and its few responses were of poor quality. OH's inability to publish more than 2 volumes in 2019 can be attributed largely if not exclusively to DoD's failure to provide timely and quality responses.

The HAC has reason for some cautious optimism, nevertheless. The Defense Office of Prepublication and Security Review (DOPSR), which coordinates *FRUS* declassification reviews within DoD, came under new leadership in 2019. Far more frequently than in past years, this new leadership attended HAC meetings, providing fuller briefings, and pledging to do whatever was within its limited authority to improve. For this purpose, DoD has adjusted some of its internal processes. Yet DoD's ability to comply with statutory responsibilities, and by doing so set OH back on the path of meeting the statutory timeline for publishing *FRUS* volumes, will require the commitment and direction of high-level DoD officials.

Toward this end OH has received strong support from the Foreign Service Institute, most notably Ambassadors Daniel B. Smith (Ph.D. in History) and Julieta Valls Noyes, FSI's Director and Deputy Director, respectively. Under Secretary of State Brian Bulatao provided further support by personally engaging his DoD counterpart. As a result, direct discussions regarding resolving the issues have begun between the State and Defense Departments. The HAC strongly believes that integral to a viable resolution must be DoD's establishment of a centralized *FRUS* declassification coordination team similar to those established by both State and CIA.

In addition, the HAC worked with staff on the US House Armed Services Committee to include a section in the National Defense Authorization Act of 2019 (NDAA) aimed at promoting DoD compliance with the Foreign Relations Statute. The provision requires the Secretary of Defense to submit a report to Congress on the "progress and objectives of the Secretary with respect to the release of documents for publication in the *Foreign Relations of the United States* series or to facilitate the public accessibility of such documents at the National Archives, presidential libraries, or both." This report should make more transparent DoD's performance and the reasons for its declassification delays, an important step in precipitating improvements.

The HAC urges DoD to take its cue from the CIA, notwithstanding the challenges that agency confronts in declassifying documents and meeting the mandated timelines for *FRUS* reviews. In fact, CIA's suspension in 2016 of the High Level Panel (HLP) mechanism that plays a vital role in evaluating OH's requests to acknowledge covert actions has contributed to the drop in the rate of *FRUS* publications, and OH still awaits 9 overdue responses from CIA on documents that OH submitted for declassification review. Still, CIA had resumed its participation in the HLP

process, and in 2019 it approved the first HLP issue since 2016. It also provided final responses on five volumes OH referred to it in previous years. Further, the CIA's declassification reviews and its responses to OH appeals are of the highest quality. This performance is a direct consequence of the dedicated FRUS coordination team that the CIA has in place. DoD should follow its lead.

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

The HAC monitored the review and transfer of State Department records and their accession and processing at NARA.

Consistent with past several years, the Systematic Review Program of the State Department's Office of Information Programs and Services (IPS) made excellent progress in meeting its systematic declassification review requirements, responding to FOIA and MDR requests, and reducing its backlogs of both. Similarly, a new director appointed at the National Archives' National Declassification Center (NDC) reinvigorated the Center's promotion of interagency cooperation, resulting again in reducing its FOIA backlog and processing hundreds of thousands of pages with a withholding-from-declassification rate of less than 10%.

What is more, signaling both tangible and symbolic progress, a joint venture by both State's IPS and NARA, led by the NDC, portends the resolution of problem that has festered for years. The two offices have formulated a yet-to-be-finalized plan by which IPS will perform the initial declassification review of the 1981 and 1982 N and P reels (microfilm of previously destroyed documents), perhaps at the secure NDC site. If implemented, this strategy will overcome the security and technological obstacles that have brought these reviews to a standstill.

The HAC compliments IPS and NARA on this initiative and will monitor progress toward bringing it to fruition. Yet it is concerned with other potential problems that loom ahead, all of which the HAC raised in the 2018 report and have if anything become more acute. These include budget-driven reductions in NARA's personnel that slowed the accessioning and processing of State Department records and adversely affected researchers' experiences by, for example, normatively producing skeletal finding guides rather than the detailed ones that researchers require. A greater concern is the capacity of both NARA and the State Department to manage the explosion of electronic records.

Developments in 2019 all but assure that this management challenge will intensify. A memorandum issued jointly by NARA and the Office of Management and Budget in June directs all agencies to manage *in their entirety* their permanent records electronically by December 31, 2022. This directive demands that the agencies digitize all their remaining paper records because NARA will no longer accept paper records after that date.

This policy confronts each agency with an unfunded mandate that, in an era of constrained budgets, staff shortages, and an urgent need to purchase advanced technologies, imposes a cost that creates a severe burden on them. The HAC imagines a scenario in which departments and agencies hold their documents hostage and do not transfer them to NARA until they receive additional appropriations. In worst-case scenarios, the poor quality of the digitized records renders them unusable, or agencies even destroy records.

The State Department anticipated the digital deluge, and according to IPS, “is currently developing plans to comply with the June 2019 OMB and NARA mandate for transitioning to electronic records.” The HAC did not receive a briefing on those plans. (The HAC chair and another member received abbreviated briefings.) In December, however, the IPS director distributed to the HAC a paper on its modernization program. It made explicit that IPS applauded NARA’s establishing benchmarks for achieving a fully-digitized records management system and enthusiastically embraced the challenge of meeting those benchmarks. The HAC understands that enthusiasm for modernizing records keeping. Yet it is concerned that the IPS paper neglects to discuss the costs of the modernization program and the potential risks that inhere in such a rapid transition from paper to electronic records management.

The paper focused on the development of new records disposition schedules, a core concern of the HAC. IPS has pledged to present full briefings in 2020. The HAC intends to use these briefings to raise fundamental questions about the costs and risks. It anticipates asking: 1) How the consolidation of records into “big bucket” schedules will affect their discoverability by researchers? 2) What is the likelihood that in the rush to transition to big bucket records schedules valuable records will be mistakenly categorized as temporary and thus earmarked for destruction? and 3) Is it realistic to expect IPS to complete the modernization program in two years, and what if it does not?

The HAC also worries about the effects of budgetary and staff shortages on the Presidential Library system. NARA is transferring to the NDC all classified records held at the libraries, anticipating an expedited declassification review. The processing and classification review of emails from the Reagan and George H.W. Bush administrations continue to be stalled for lack of resources. Solving these problems is central to the future research needs of *FRUS* compilers and the public at large.

Recommendations:

- Senior State Department Officials should work with counterparts at DoD to 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 solicit public comment on plans to convert to technologically-driven records management and big bucket records disposition schedules.

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

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