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Date 12/30/12



AUG 4 1988

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INFO MEMORANDUM
S/S

TO : M - Mr. Spiers
FROM : M/MO - C. Edward Dillery
SUBJECT: Historical Advisory Committee (HAC) Terms of Reference (TOR) and Related Problems
REF : Mary Ryan's July 11, 1988 note to me

In the wake of Charles Redman's June 14th meeting with HAC Chairman Perkins, there remain several untied strings:

1. An answer to your query about the HAC TOR;
2. Guidelines for amending HAC's charter prior to a mandatory charter review in late summer;
3. Emerging problems concerning a HAC member's security violation, clearances for other HAC members, charges of waste and mismanagement in PA/HO formally filed with the IG, and a letter from the National Coordinating Committee for the Promotion of History to the Chairman of the Senate's Governmental Affairs Committee complaining about the Department's handling of classified documents.

The HAC TOR

The Federal Advisory Committee Act (FACA) sets the general framework for all Federally chartered advisory committees. The key elements are:

- Committees shall be advisory only.
- All matters under consideration shall be determined by an officer of the agency involved.
- Advice and recommendations should not be influenced by any special interest.
- Membership should be balanced in terms of points of view represented.
- The committee should be essential to the sponsoring agency's functions.

The HAC charter states that the committee shall be advisory only. Its purpose is to advise PA/HO on professional problems connected with the FRUS series "and other responsibilities of the Office of the Historian." The charter also says the committee will keep interested learned societies informed of its activities. Membership is based upon nominations made by the learned societies (charter is at Tab 1).

CHARTER ISSUES

Despite the charter's statement that its role is advisory only, the HAC, in fact, is a single interest group that has adopted a confrontational posture in its relations with the Department (except for PA/HO). It does advise on administrative matters -- finances, personnel procedures -- but even this does not appear to meet the "professional problems" criteria. If it is, as PA/HO sometimes claims, advising on substantive matters connected with the FRUS series, this is not reflected in the minutes of its meetings, its annual reports or even in PA/HO's list of committee accomplishments (list is at Tab 2). Instead, it has seized upon the single issue of declassification to the near exclusion of all other subjects.

In M/MO's view, the committee as presently constituted strains the bounds of FACA's balanced membership injunction. All of the members and the professional societies they represent share a strong interest in the earliest and broadest possible access to government documents, and therefore provide no wider perspectives on the validity of classification procedures or practical working experience in handling national security information.

The public record makes it clear that the committee is a pressure group. Its members come from the "publish or perish" academic environment. Their attacks on A/CDC over the past five years and their stepped up campaign for increased access to classified information presents a clear conflict between their advisory duties and their own professional interests, and put them in an adversarial relationship with those responsible for safe-guarding national security information. A recent security violation by a HAC member up for tenure underscores the seriousness of this conflict.

CHARTER AMENDMENT

The committee's charter faces mandatory biennial review in September. We believe there are two key issues that require revision: the statements on purpose and selection of members.

The committee's original purpose -- to review and advise on volumes coming up for publication in the FRUS series -- has been diffused by tacking on a reference to advising on "other responsibilities of the historian." This has gotten the committee into all kinds of administrative bypaths and led to a virtual obsession with the issue of declassification. Deleting the "other responsibilities" phrase and confining HAC's function to reviewing FRUS volumes could help get the group back to a more useful role.

HAC's charter also charges it with keeping the learned societies informed of its activities. This is another area of conflict because the FACA specifies that advisory committees are established to serve their sponsoring agencies. This part of the charter, as well as PA's contention that the committee's PR function is vital to the FRUS program, appears to us to distort the law's intent. The appearance of such a PR statement in HAC's charter invites criticism and should be dropped. This reference may also be a major source of the members' apparent view that HAC does not exist primarily to serve the Department, but vice versa.

As noted above, HAC is a single interest pressure group at least in part because of the method of selecting committee members. The charter needs to be amended to address effectively the issues of conflicts of interest and unbalanced membership. The members should be chosen directly by senior officers in PA. Nominations from learned societies could be entertained but the responsibility for choosing each member would clearly rest with the Department. Some members should come from non-academic backgrounds, particularly those with military, diplomatic and other professional working experience, to lend balance and promote challenge and debate rather than self-serving unanimity in the HAC meetings.

The charter amendments would be a first step in returning HAC to a useful, constructive role and ending its confrontation with A/CDC.

SECURITY ISSUES AND RELATED PROBLEMS

DS believes that the casual name check clearance presently used for HAC members is inadequate. In fact, this procedure has been abolished and a more comprehensive investigation, applicable to all consultants, advisors and contractors, has been substituted in line with E.O. 12356. DS believes HAC members and others similarly affected should execute the form called "Conditions Governing Access to Official Records for Historical Research Purposes" and, in addition, attend a security briefing and execute a non-disclosure agreement.

While tightened security requirements are obviously needed, this will not get at the HAC members' (as presently chosen) basic conflict of interests. Another option would give members access only to unclassified documents. Academicians have no special expertise to qualify for second guessing bureau desk officers or CDC professionals. This option would also help to counter the demonstrated pattern of increased access leading to increased demands for still greater access.

The critical letter (at Tab 3) sent on May 20 by the Director of the National Coordinating Committee for the Promotion of History to the Senate Governmental Affairs Committee may not be an active issue. At the request of committee staff, several A/CDC officers on July 12 presented an unoffical verbal rebuttal to the letter. There is some reason to believe the matter will end here. As an indication of how far the committee is willing to go in confronting the Department, however, the letter is further evidence of the need for a change in management direction.

Finally, the pending bad news ticker offers so far unsurfaced charges against PA/HO of waste and mismanagement brought formally before the IG (please see Tab 4). The case is not among those currently under review nor do we have any indication of early IG attention. We will press the IG for priority consideration of these charges in order to make sure this complex issue does not undercut efforts to correct the HAC's relationship with the Department.

ATTACHMENTS:

- Tab 1: HAC Charter
- Tab 2: PA/HO list of HAC accomplishments
- Tab 3: Coordinating Committee Letter to Senate
- Tab 4: WFM charges brought against PA/HO

Drafted: M/MO:STait 
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