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## **“No Rhyme or Reason:” Surveying Legislative Records Retention Practices in the U.S. House of Representatives**

Holly R. Croft

### **Introduction**

For decades, repositories have actively collected congressional collections due to their value studying Legislative Branch activities of the federal government. They further reflect the history of specific districts during the time of a member of Congress' service, relaying the interests and concerns of constituents who write to their representatives.<sup>1</sup> Collections often cover a range of topics beyond those of interest to historians and political scientists, documenting legal, economic, social, and scientific data on a wide variety of issues.<sup>2</sup> Yet, the records of members of Congress are not treated with the same importance as the records of the Executive Branch.

Prior to 1974, presidential records were considered private property, much like congressional records today. With the passage of P.L. 93-526, the Presidential Recordings and Materials Preservation Act of 1974, this began to change.<sup>3</sup> Subsequent laws and executive orders have developed a procedure by which presidential records are remitted to the National Archives and Records Administration, including the development of guidelines for handling sensitive, privileged information.

There is no similar law regarding records of members of the House of Representatives or the Senate. In Article VII of the Rules of House of Representatives for the 114<sup>th</sup> Congress, records belonging to the House of Representatives are outlined as committee records and the events that transpire on the House floor.<sup>4</sup> The Senate

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<sup>1</sup> Patricia Aronsson, “Congressional Records as Archival Sources,” *Government Publications Review* 8A, no. 4 (1981): 295.

<sup>2</sup> Cynthia Pease Miller, *Managing Congressional Collections* (Chicago: Society of American Archivists, 2008), 2.

<sup>3</sup> Presidential Recordings and Materials Preservation Act of 1974, 44 U.S.C. § 2111 (1974).

<sup>4</sup> Karen L. Haas, “Rules of the House of Representatives, One Hundred Fourteenth Congress,” January 6, 2015, <http://clerk.house.gov/legislative/house-rules.pdf>.

has even less-defined rules regarding official records.<sup>5</sup> This leaves the records created in members’ personal offices outside of the scope of records belonging to the House or Senate, meaning they are the personal property of the individual members. Even House Concurrent Resolution 307, which expressed the sense that members of both Houses should preserve their records and donate them to public repositories for future use, did not require that Members adhere to its suggestions when it was passed in 2008.<sup>6</sup>

Because the records of individual members of the House and Senate are considered personal property, what happens to those records once a member leaves either chamber is up to him or her. Many donate their records to repositories, usually housed at colleges and universities with political collections. The National Archives and Records Administration maintains a list of these repositories, though it is not exhaustive.<sup>7</sup> Beginning in the 1970s, archivists and government watchdogs began pushing for the personal papers of both the House and Senate to be preserved. In 1983, the first manual for congressional papers was developed by an ad hoc group of archivists. Twelve archivists formed the Congressional Papers Roundtable of the Society of American Archivists in 1986 for the purpose of developing best practices regarding congressional collections.<sup>8</sup>

Since the founding of the Congressional Papers Roundtable, many articles have cited concerns with managing collections and, in particular, how to make collections less bulky and more user friendly. House and Senate archivists developed manuals for records retention—though not mandatory—for members and staff to help

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<sup>5</sup> Committee on Rules and Administration, “Rules of the Senate,” *United States Senate*, last modified June 16, 2015,

<http://www.rules.senate.gov/public/index.cfm?p=RulesOfSenateHome>.

<sup>6</sup> H. Con. Res. 307 of 2008 (110<sup>th</sup> Congress),

<https://www.gpo.gov/fdsys/pkg/BILLS-110hconres307eh/pdf/BILLS-110hconres307eh.pdf>.

<sup>7</sup> The Center for Legislative Archives, “Congressional Collections,” *National Archives and Records Administration*, last modified August 16, 2015, <http://www.archives.gov/legislative/repository-collections/>.

<sup>8</sup> Congressional Papers Roundtable, “Chronology of Advances in Managing Congressional Papers,” 2007,

[http://www2.archivists.org/sites/all/files/Chronology%20of%20CPR%201974-2007\\_0.pdf](http://www2.archivists.org/sites/all/files/Chronology%20of%20CPR%201974-2007_0.pdf).

them determine what types of files have historical value. Archivists who work for both bodies have developed workshops to assist members who are transitioning out of office. There are many resources available to members and their staff, yet without a requirement to save these records, it is hard to gauge how closely the guidelines are followed. Much of the literature to this point has focused on the Senate, whether written by those who are archiving for current senators or archivists who receive the collections of retiring senators. With less information on the House of Representatives, it seemed necessary to investigate records retention for the lower body.

Legislative records, particularly files and reports used to develop policy and draft bills, have historical value and point toward legislative intent. The *House Records Management Manual for Members* suggests that offices permanently maintain these types of files. Are members and staff aware that these guidelines exist? How do they determine which files used for developing legislation will be retained and for how long? What types of files do they believe have the most value for permanent retention? Similarly, do repositories that have obtained collections from retiring House members since the passage of H. Con. Res. 307 receive materials within these collections related to the legislative drafting process? This study reveals to what extent House offices are preserving records that provide future researchers with legislative intent.

As recently as 2010, seven individual senators' offices employed full-time archivists, and no members of House of Representatives' offices employed an archivist. Therefore, staff members with little or no training in archival methods—usually in the form of the staff assistant or executive assistant—become responsible for the records management duties in these offices.<sup>9</sup> To help these staffers, the House of Representatives employs 15 people in Office of the Clerk to assist all 435 member offices with archival questions. Both the Senate and the House have developed policy guides to assist members with questions regarding what materials

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<sup>9</sup> Cornell B. Gallagher, "A Repository Archivist on Capitol Hill," in *An American Political Archives Reader*, ed. Karen Dawley Paul, Glenn R. Gary, and L. Rebecca Johnson Melvin, (Lanham, MD: The Scarecrow Press, 2009), 32-33. I have updated the titles of "administrative assistant" to "staff assistant" and "office manager" to "executive assistant."

should be kept and which have no lasting value. The *House Records Management Manual for Members* provides detailed categories for members and staff with guidelines for each type of file, though there are files that could fit into multiple categories, particularly files that have facilitated the development of legislation.<sup>10</sup>

### Defining Legislative Intent

A legislative body acts on intentions, meaning that every proposed law is formed, considered, and perhaps adopted through a process of reasoned consideration that convinces the majority of the body to vote for it.<sup>11</sup> “When Congress passes a statute, it does so against a background context of rules, procedures and deliberation. That context does not exist in anyone's head: it is public and constitutionally sanctioned.”<sup>12</sup> Since 1904, the Supreme Court has referred to “legislative intent” in rulings as a cornerstone of statutory interpretation.<sup>13</sup>

The legal community uses the term “legislative intent” alongside the term “legislative history.” For lawyers, the preferred sources are case law and court interpretations of legislation. However, in cases where there is no case law, lawyers must research the legislative history, which includes documents, often public, that relate to a law when it was still a bill in the legislature.<sup>14</sup> Most of the research around legislative intent focuses its judicial function or, more recently, “legisprudence,” the making and implementing of the legislation.<sup>15</sup> Legisprudence argues that to draft effective legislation, the authors must approach an issue with a theory: “A drafter designs

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<sup>10</sup> Office of Art and Archives, Office of the Clerk, United States House of Representatives, *Records Management Manual for Members*, (Washington, D.C.: Office of the Clerk, United States House of Representatives, 2014).

<sup>11</sup> Richard Elkins, *The Nature of Legislative Intent* (Oxford: Oxford University Press, 2013), 284.

<sup>12</sup> Victoria F. Nourse, “Elementary Statutory Interpretation: Rethinking Legislative Intent and History,” *Boston College Law School Boston College Law Review* 55, no. 5 (2014): 1615-1616,  
<http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=3407&context=bclr>

<sup>13</sup> *ICC v. Baird*, 194 U.S. 25, 38 (1904).

<sup>14</sup> Bart M. Davis, Kate Kelly, and Kristin Ford, “Use of Legislative History: Willow Witching for Legislative Intent,” *Idaho Law Review* 43, no. 3 (2007): 593.

<sup>15</sup> Pauline Westerman, “Governing by goals: Governance as a legal style,” *Legisprudence* 1, no. 1: 54 (2007), doi: 10.1080/17521467.2007.11424659.

a law by writing prescriptions logically likely to change the relevant social actors' behaviours, thus to ameliorate the social problem identified by the policymakers."<sup>16</sup> How well the author designs a bill and how well he or she predicts the behaviors that come from its implementation depend on the theory and methodology he or she uses to guide the research conducted in preparation for drafting the legislation. In reality, however, bill authors more often use "entropic methods," such as modeling bills on international best practice, adopting substance from relevant interest groups, criminalizing unwanted behaviors, or using vague, general terms, the latter of which leaves much of the details to subsequent legislation or, most commonly, administrative regulation.<sup>17</sup> Sources outside the direct text of a bill are known as "extrinsic aids," yet are considered relevant background information.<sup>18</sup> Extrinsic aids are evaluated for credibility, contemporaneity, proximity, and context.<sup>19</sup> For legal purposes, extrinsic aids are usually formal documents, such as committee reports, official statements, or the *Journal of the House of Representatives*.

Archival literature regarding legislative records often refers to "legislative intent" without a clear explanation as to what it is or what it encompasses, though the implications suggest it is more broadly applied to materials than the term is in the legal world. In the case of the California State Archives, they have included "all public records, registers, maps, books, papers, rolls, documents, and other writings" as part of their political collections, as these items provide

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<sup>16</sup> Ann Seidman and Robert B. Seidman, "Between Policy and Implementation: Legislative Drafting for Development," in *Drafting Legislation: A Modern Approach*, ed. Constantin Stefanou and Helen Xanthaki (Hampshire, England: Ashgate Publishing Group, 2008), 295.

<sup>17</sup> Ann Willcox Seidman, Robert B. Seidman, and Nalin Abeysekere, *Legislative Drafting for Democratic Social Change: A Manual for Drafters* (London: Kluwer Law International, 2001), 78.

<sup>18</sup> Barbara H. Garavaglia, "Using Legislative Histories to Determine Legislative Intent in New Jersey," *Legal Reference Services Quarterly* 30, no. 1-2 (2011): 74, doi: 10.1080/0270319X.2011.585325.

<sup>19</sup> Walter Kendall Hurst, "Use of Extrinsic Aids in Determining Legislative Intent in California: The Need for Standardized Criteria," *The Pacific Law Journal* 12, no. 2 (1980): 193.

context for the state’s legislative history.<sup>20</sup> The Massachusetts Archives holds “legislative drafting records,” though the content of each file varies, as the departing staff decided what to include, not the archivists.<sup>21</sup>

In 1985, Paul Chestnut defined the use of legislative intent as trying to understand the implications of the legislature. He pointed out that the wording of bills may be modified during committee hearings and mark-up sessions, leadership may require further revisions, and amendments may be offered and accepted during the floor vote. Chestnut also indicated important documentation surrounding the drafting of legislation to include copies of draft legislation, printed matter, memoranda, research notes, and information compiled by legislators or their administrative or research assistants, the staff of a committee, a central research agency, the state library, or any other agency or interested party submitting data and analysis related to a specific piece of pending legislation.<sup>22</sup>

## Research Use of Congressional Records

The use of materials that surround drafting legislation in congressional collections is not a widely-studied topic. Though often mentioned offhandedly as important to collections, much of the focus has either been on managing the size of collections gifted to repositories or on finding use in constituent mail and case files.<sup>23</sup>

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<sup>20</sup> John F. Burns and Nancy Lenoil, “The First California Statute: Legal History and the California State Archives,” *California Legal History* 4 (2009): 443. [http://go.galegroup.com/ps/i.do?id=GALE%7CA225794144&v=2.1&u=unc\\_main&it=r&p=&sw=w&asid=e7e4e841250a7f69eace50eed3913045](http://go.galegroup.com/ps/i.do?id=GALE%7CA225794144&v=2.1&u=unc_main&it=r&p=&sw=w&asid=e7e4e841250a7f69eace50eed3913045)

<sup>21</sup> Shannon Tomlinson, “Public access to legislative drafting files,” *Records Management Journal* 21, no. 1 (2011): 32. doi:10.1108/09565691111125080

<sup>22</sup> Paul Chestnut, “Appraising the Papers of State Legislators,” *The American Archivist* 48, no. 2 (1985): 168. doi: 10.17723/aarc.48.2.262367ux2x40q71.

<sup>23</sup> Pease Miller, 2-3; Patricia Aronsson, “Appraising Modern Congressional Collections” in *An American Political Archives Reader*, ed. Karen Dawley Paul, Glenn R. Gary, and L. Rebecca Johnson Melvin (Lanham, MD: The Scarecrow Press, 2009), 145; Michael Strom, “Texas-Sized Progress: Applying Minimum-Standards Processing Guidelines to the Jim Wright Papers,” *Archival Issues* 29, no. 2 (2005): 106; Eleanor McKay, “Random Sampling Techniques: A Method of Reducing Large, Homogeneous Series in Congressional Papers,” *The American Archivist* 41, no. 3 (1978): 281-282; Cary G. Osborne, “Case Files: A Congressional Archivist’s Dilemma,” *Provenance* 30, no. 1 (2012): 57-58; Gary

There are a few instances in which legislative materials are specifically discussed. *Managing Congressional Collections* suggests retaining all legislative materials for all congressional collections, though some of the overarching appraisal and processing guidelines suggest that more files should be retained for prominent members and those who held office longest.<sup>24</sup> The Minnesota Historical Society, on the other hand, has decided that documenting the entire delegation from its state takes precedence over any individual member, though they do retain the files they believe best reflect individual members' accomplishments and personalities.<sup>25</sup> For Senator John Williams's papers, archivists at the University of Delaware chose to retain all legislative reference material during the appraisal process because they recognized it as a key component of the collection, which serves to document the senator's career.<sup>26</sup>

Karen Dawley Paul conducted a study in 1992 on researcher use and interest regarding congressional collections that provided evidence that legislative materials—both the legislation and the background materials—are of particular interest to researchers. This study found the most used components of collections were personal and political records, followed by legislative records and press materials.<sup>27</sup> More often, however, discussions of researcher use and interest are vague. “Policy evolution studies” sound like they would require legislative background materials, but little is put forth as to how these studies develop or what kind of research goes into them.<sup>28</sup> Other sources suggest that talking directly to former legislative staff

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Aguiar, “Who Writes to Their Senators? Preliminary Data from the Daschle and Dole Casework Files,” *Congressional Papers Roundtable Newsletter* Fall (2010): 6-7.

<sup>24</sup> Pease Miller, 108.

<sup>25</sup> Mark A. Greene, “Appraisal of Congressional Records at the Minnesota Historical Society: A Case Study,” *Archival Issues* 19, no. 1 (1994): 35.

<sup>26</sup> L. Rebecca Johnson Melvin, “Appraisal of Senator John Williams' Papers,” *Provenance* 10, no. 1 (1992): 53.

<sup>27</sup> Karen Dawley Paul, “The Research Use of Congressional Collections,” in *The Documentation of Congress: Report of the Congressional Archivists Roundtable Task Force on Congressional Documentation* (Washington, D.C.: Government Printing Office, 1993).

<sup>28</sup> Nancy Beck Young, “Trends in Scholarship on Congress: A Historian's View,” in *An American Political Archives Reader*, ed. Karen Dawley Paul, Glenn R. Gary, and L. Rebecca Johnson Melvin (Lanham, MD: The Scarecrow Press, 2009), 382-383.

is often more effective than researching congressional collections.<sup>29</sup> This recommendation may be the result of some offices relying on staff memory rather than a records management system as a means for recalling important policies or procedures.<sup>30</sup> Whatever the reason, political scientists and political science students have not habitually made use of archives, even congressional collections.<sup>31</sup>

However, some institutions actively try to reach out to political scientists with the hopes of improving the relationship that exists between political science and primary sources.<sup>32</sup> Particularly, archives that have developed oral history projects and educational outreach programs for their congressional collections have been successful in drawing in patrons, but the bedrock of these institutions is still the usability of the collections, or that the materials included in the appraised collections are important and valuable for research purposes.<sup>33</sup>

## Research Design and Methods

As legislative materials have been noted as valuable components of congressional collections in archival repositories and this is not an area that has been the focus of previous research, this

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<sup>29</sup> Paul Milazzo, “Congressional Archives and Policy History,” in *An American Political Archives Reader*, ed. Karen Dawley Paul, Glenn R. Gary, and L. Rebecca Johnson Melvin (Lanham, MD: The Scarecrow Press, 2009), 397.

<sup>30</sup> Susan Goldstein, “Appraising a Retiring Senator’s Papers: A Review from the Staff of Senator Alan Cranston,” *Provenance* 10, no. 1 (1992): 29.

<sup>31</sup> Don C. Skemer, “Drifting Disciplines, Enduring Records: Political Science and the Use of Archives,” *The American Archivist* 54, no. 3 (1991): 358; Scott A. Frisch and Sean Q. Kelly, “Don’t have the data? make them up! Congressional archives as untapped data sources,” *PS, Political Science and Politics* 36, no. 2 (2003): 221. <http://search.proquest.com/docview/224925324>

<sup>32</sup> Scott A. Frisch and Sean Q. Kelly, “Dataheads: What Archivists Need to Know about Political Scientists,” in *An American Political Archives Reader*, ed. Karen Dawley Paul, Glenn R. Gary, and L. Rebecca Johnson Melvin (Lanham, MD: The Scarecrow Press, 2009), 410-414.

<sup>33</sup> Aronsson in *An American Political Archives Reader*, 146-147; James Edward Cross, “Campaign Buttons in a Black Box: Appraisal Standards for Strom Thurmond Memorabilia,” in *An American Political Archives Reader*, ed. Karen Dawley Paul, Glenn R. Gary, and L. Rebecca Johnson Melvin (Lanham, MD: The Scarecrow Press, 2009), 207-208; Sheryl B. Vogt, “Richard B. Russell Library for Political Research and Studies: An Evolutionary Model,” in *An American Political Archives Reader*, ed. Karen Dawley Paul, Glenn R. Gary, and L. Rebecca Johnson Melvin (Lanham, MD: The Scarecrow Press, 2009), 365.

study aims to find what files current staff see as useful for permanent retention regarding legislation drafting and whether or not repositories receive these types of documents as part of congressional collections.

Expecting a low response rate, I decided that contacting all 440 offices of members of the House of Representatives was feasible and could offer the most comprehensive look at records management practices of current offices surrounding legislative files.<sup>34</sup> In House offices, the chief of staff is generally the employee who would oversee records management, though many offices pass that duty along to an executive assistant or a legislative director.<sup>35</sup> I constructed a database of chief of staffs' names, emails, and districts using information gathered from Legistorm, the Sunlight Foundation, and Google searches.<sup>36</sup> Information from the free version of Legistorm lags a quarter behind real time, and the Sunlight Foundation's employment data is three quarters behind, making it necessary to search the chiefs' names on the web to ensure they were still in that position. I then emailed a six-question survey to chiefs with a request that the survey be forwarded to the appropriate staff person if they were not responsible for records management (Appendix A). The survey was preceded by a "Dear Colleague" letter sent to the Chiefs of Staff listserv from Representative Don Young of Alaska and Representative Robert Brady of Pennsylvania, informing members of the purpose of the study and encouraging

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<sup>34</sup> Kim B. Sheehan, "E-mail Survey Response Rates: A Review," *Journal of Computer-Mediated Communication* 6, no. 2 (2001), doi: 10.1111/j.1083-6101.2001.tb00117.x; The typical population would be 441: 435 members of Congress, five delegates, and one resident commissioner. However, the Eighth District of Ohio had a vacancy at the time the survey was conducted. Office of the Clerk, "Member FAQs," *U.S. House of Representatives*, last modified February 23, 2016, [http://clerk.house.gov/member\\_info/memberfaq.aspx](http://clerk.house.gov/member_info/memberfaq.aspx); Carol L. Perryman and Barbara M. Wildemuth, "Studying Special Populations," in *Applications of Social Research Methods to Questions in Information and Library Science*, ed. Barbara M. Wildemuth (Westport, CT: Libraries Unlimited, 2009), 139.

<sup>35</sup> Karen Dawley Paul, *Records Management Handbook for United States Senators and their Archival Repositories* (Washington, DC: United States Senate, 2006).

<sup>36</sup> Legistorm, "Congressional Staff Directory," last modified August 8, 2017, <https://www.legistorm.com/pro/staffers/by/state.html>; Sunlight Foundation, "House Staff Directory," last modified February 5, 2016, <http://staffers.sunlightfoundation.com/>.

participation (Appendix B).<sup>37</sup> “Dear Colleague” letters are internal communications between members of Congress and staff members. While often used to find co-sponsors for legislation, they also are a means for announcing events related to congressional business. These letters almost always position a member on a certain topic.<sup>38</sup> In this case, a Republican and a Democrat distributed the “Dear Colleague” to indicate its bipartisan nature, and I approached these two members because one was a former employer who could vouch for me as someone who understood the workings of the House and the other was the original sponsor of H. Con. Res. 307.

Even in attempting to ensure the contact database for the chiefs of staff was accurate, eight emails returned messages stating the individual was no longer with the office. Five of these automatic responses contained the names of the new chiefs, so I updated the database and sent surveys to the correct individuals. Employees of the House of Representatives have the option to restrict incoming emails with varying security options, and 35 chiefs had security settings that automatically rejected the emails sent for this survey.

I distributed a second survey through the Society of American Archivists’ Congressional Papers Roundtable listserv, which has 328 list members (Appendix C). The purpose of this survey was to ask archivists who work with congressional collections in their repositories whether or not the collections obtained since the passage of H. Con. Res. 307 in 2008, which prompted the current version of the *House Records Management Manual for Members*, contained legislative background materials. I did not intend to have archivists delve into these collections to find specific types of materials available, though this study may prompt a further study of the legislative background materials in these collections. Rather, this part of the study was necessary, even though it was not an exhaustive view of particular collections, in order to gauge whether congressional staff members’ perceptions of the materials saved in this area matches the perceptions of archivists who maintain collections after members have left office. I then analyzed the data to

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<sup>37</sup> Jacob R. Straus, “Dear Colleague” Letters: Current Practices, CRS Report No. RL34636 (Washington, D.C.: Congressional Research Service, 2011).

<sup>38</sup> Jacob R. Straus, “Use of ‘Dear Colleague’ Letters in the US House of Representatives: A Study of Internal Communications,” *The Journal of Legislative Studies* 19, no. 1 (2013): 60-75.

find which types of materials relating to legislation drafting, if any, congressional offices were most likely to retain.

For the purpose of this study, “background/support material” includes previous drafts of legislation, correspondence with constituents influential in the bill’s drafting process, Congressional Research Service reports and correspondence, member and staff discussions or notes, outside agency or organization reports, or any other materials that were instrumental in developing the specific piece of legislation but do not include the final version of the bill. This definition was used for both surveys.

### **Congressional Staff: A Hard-to-Persuade Population**

Hill staffers are irregularly surveyed for several reasons. There are barriers to accessing them. Even though employment data for House and Senate staff exists, the best resources for accessing this information online come from sources outside of Congress. A subscription to a well-updated database can cost several hundred dollars.<sup>39</sup> Though the House began making expenditure reports available online in 2009, the database is hard to search.<sup>40</sup> The information is provided in a large PDF file spanning all House member offices, legislative offices, and committees, and there is no standardization of language. For example, what one office may refer to as “executive assistant,” another may label as “scheduler.”<sup>41</sup> Further, Hill staff are a transient population, with high turnover rates. The average employee stays in a position just over three years, and the average tenure in Congress is five and a half years. Even chiefs of staff have an average tenure of less than five years in their positions, with 11 years being the average length of service on the Hill.<sup>42</sup>

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<sup>39</sup> Legistorm, “Legistorm Subscription Options,” last updated August 8, 2017, <https://www.legistorm.com/pro/pricing.html>.

<sup>40</sup> Daniel Schuman, “Keeping Congress Competent: Staff Pay, Turnover, And What It Means for Democracy.” *Sunlight Foundation* (blog), December 21, 2012 (10:10 a.m.), <https://sunlightfoundation.com/blog/2010/12/21/keeping-congress-competent-staff-pay-turnover-and-what-it-means-for-democracy/>.

<sup>41</sup> Sunlight Foundation, “House Expenditure Reports Database,” last modified April 9, 2016. <http://sunlightfoundation.com/tools/expenditures/>.

<sup>42</sup> Jennifer M. Jensen, “Explaining Congressional Staff Members’ Decisions to Leave the Hill,” *Congress & The Presidency* 38, no. 1 (2011): 40, doi: 10.1080/07343469.2010.501645.

Busyness likely is a contributing factor in making congressional staff a hard-to-survey population. Staffers work an average of 53 hours per week when Congress is in session, with some reporting 12- to 14-hour days as normal. They carry out many of the functions that the general public assumes members of the House and Senate do:

The member who drafts all of her own legislation, or in some cases even reads it before it's introduced with her name on it, is long gone. Members who research policies and come up with all of their own ideas and amendments to legislation are similarly rare. Only occasionally will members read their constituent mail, no longer staying in close contact with the people they represent. Instead, staff are doing these things.<sup>43</sup>

Most important for the scope of this study is that staffers also coordinate legislative strategy; prepare reports, briefs, speeches, testimony, floor statements, and constituent responses; gather background data; draft legislation; and offer opinions and act as a “sounding board” for the members for whom they work.<sup>44</sup> House staff are inundated with materials on a variety of topics daily, and staffers discard as much as 90 percent of all materials they receive.<sup>45</sup> Further complicating matters, they consider themselves beholden not only to the member or senator for whom they work, but also to constituents, coworkers, relevant caucuses, institutional leadership, and lobbyists.<sup>46</sup> Many tasks placed on congressional staff have quick turnaround times, often less than 24 hours.<sup>47</sup> Because of the long

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<sup>43</sup> Sara Lynn Hagedorn, “Taking the Lead: Congressional Staffers and Their Role in the Policy Process” (dissertation, University of Colorado-Boulder, 2015), 10. [http://scholar.colorado.edu/psci\\_gradetds/42/](http://scholar.colorado.edu/psci_gradetds/42/)

<sup>44</sup> Harrison W. Fox, *Congressional staffs: the invisible force in American lawmaking* (New York: The Free Press, 1977).

<sup>45</sup> Don Shipley. “Breaking through on Capitol Hill.” *Association Management* 51, no. 6 (1999): 61-62. <http://search.proquest.com/docview/229268828>

<sup>46</sup> Barbara S. Romzek, “Accountability of Congressional Staff,” *Journal of Public Administration Research and Theory: J-PART* 10, no. 2 (2000): 416–417. <http://www.jstor.org/stable/3525650>

<sup>47</sup> Carter Moore, “What is Daily Life Like for a Member of Congress or Congressional Staffer?” *Slate* (blog), November 7, 2013 (2:40 p.m.),

hours, the fast pace of the legislative environment, and the feelings of loyalty to multiple groups, congressional staffers often feel stressed and occasionally overwhelmed by their immediate duties. Roughly a third of staff interviewed for a 2012 study felt as though they had too many competing demands on them to do any part of their job well.<sup>48</sup>

Finally, hard-to-survey populations are less likely to respond to surveys for topics that do not catch their interest. One of the comments in a previous survey of Senate archivists was, “Staff are generally uninterested in archiving and do not realize or internalize that it is now a part of their job requirement.”<sup>49</sup>

Roger Tourangeau classifies this type of population as “hard-to-persuade.” These populations are less likely to agree to be surveyed than the general population, which itself has seen a decline in participation rates. Indeed, many of the surveys of congressional employees are not actually surveys, but rather in-person interviews with a sample of staffers.<sup>50</sup> There is anecdotal evidence that suggests staffers are helpful and accommodating with their time once one is able to get face time with them.<sup>51</sup> Several aspects of this study fit the suggestions for surveying hard-to-persuade populations, including keeping the survey short, having it tailored to the population, and having the members of Congress provide an alert that the survey was coming beforehand.<sup>52</sup>

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[http://www.slate.com/blogs/quora/2013/11/07/congressional\\_staffers\\_what\\_s\\_it\\_like\\_to\\_work\\_for\\_a\\_member\\_of\\_congress.html](http://www.slate.com/blogs/quora/2013/11/07/congressional_staffers_what_s_it_like_to_work_for_a_member_of_congress.html).

<sup>48</sup> Congressional Management Foundation and Society for Human Resource Management, “Life in Congress: Aligning Work and Life in the U.S. House and Senate,” 2012,

[http://www.congressfoundation.org/storage/documents/CMF\\_Pubs/life\\_in\\_congress\\_aligning\\_work\\_life.pdf](http://www.congressfoundation.org/storage/documents/CMF_Pubs/life_in_congress_aligning_work_life.pdf)

<sup>49</sup> Jan Zastrow and Nan Wood Mosher, “A Survey of Archivists of the U.S. Senate,” *Archival Issues* 32, no. 2 (2010): 116, <http://www.jstor.org/stable/41756682>.

<sup>50</sup> Susan Webb Hammond, “Recent Research on Legislative Staffs,” *Legislative Studies Quarterly* 21, no. 4 (1996): 543-544, <http://www.jstor.org/stable/440461>.

<sup>51</sup> David J. Webber, “Lessons of a Congressional Fellow,” *David Webber, Department of Political Science, University of Missouri-Columbia*, last modified 1993, <http://web.missouri.edu/~webberd/fellow.html>.

<sup>52</sup> Roger Tourangeau, “Defining Hard-to-Survey Populations,” in *Hard-to-Survey Populations*, ed. Roger Tourangeau, Brad Edwards, Timothy P. Johnson, Kirk M.

Finally, the Hill functions as an insular environment, with a “who knows whom” culture.<sup>53</sup> Hill staffers develop a “survival network” of friends and colleagues during their time working for members of Congress that assist them in career advancement on or off the Hill.<sup>54</sup> My survival network should be considered one of the contributing factors to the response rate for the survey of House staffers, as two recipients of the survey forwarded to close colleagues with notes that they knew me and hoped others could assist me with my research.<sup>55</sup>

### **Data Collection and Analysis**

I created the two surveys in Qualtrics. The survey to chiefs of staff was six questions long, and the survey to Congressional Papers Roundtable members was two questions long. The University of North Carolina at Chapel Hill Institutional Review Board reviewed both as part of the research review process. Consent agreements were attached to both surveys with the promise that no identifying information would be attached to responses. Originally, both surveys were to be conducted electronically between February 5, 2016, and February 26, 2016, allowing for a three-week window in which responses could be received. However, the survey to the Congressional Papers Roundtable did not send until February 10, 2016, and was therefore open until March 2, 2016, to provide the full three weeks for participants to respond. I also held the survey to chiefs open until March 2, 2016, due to the additional recruitment provided by my two former colleagues. To ensure anonymity of the participants, I used the “anonymize responses” option in Qualtrics, preventing IP addresses from being recorded. I asked no questions in either survey about names or job titles, all responses to individual questions were optional, and individual responses were only made

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Wolter, and Nancy Bates (Cambridge, UK: Cambridge University Press, 2014), 3-20.

<sup>53</sup> Michael J. Malbin, *Unelected representatives: Congressional staff and the future of representative government* (New York: Basic Books, 1980), 27=28.

<sup>54</sup> Barry A. Kinsey, “Congressional staff: ‘the cultivation and maintenance of personal networks in an insecure work environment,’” *Urban Life* 13, no. 4 (1985): 395. doi: 10.1177/0098303985013004004

<sup>55</sup> Personal communication between the author and two chiefs of staff, February 23, 2016, and February 27, 2016.

available to the principal researcher and faculty advisor. Thirty House staffers and 11 members of the Congressional Papers Roundtable responded to the surveys.

For analysis, I exported responses for both surveys to Excel and Word. The survey to Congressional Papers Roundtable members contained one yes/no question and one yes/no/some question with the option to provide an open-ended response, though none of the respondents chose to provide a comment. In the case of the survey to chiefs of staff, however, questions were yes/no, multiple choice, and open-ended. One question intended to be multiple answer was accidentally created as multiple choice, which led to most participants leaving open-ended answers. Finally, I imported data from the open-ended responses to ATLAS.ti for emergent thematic coding.

## **Findings**

Thirty respondents out of the 440 chiefs of staff contacted participated in the survey sent to chiefs of staff in the House of Representatives, and 11 respondents participated in the survey sent to members of the Congressional Papers Roundtable listserv out of 328 listserv members, though only nine participants answered the second question. The dropout rate for the survey to chiefs was three percent, and the dropout rate for the survey to Congressional Papers Roundtable listserv members was 30 percent.

### *Survey Sent to Chiefs of Staff*

The survey sent to chiefs of staff provides insight into how records management practices are being handled in these particular House offices, though there is a wide variety in the practices reported by respondents. Further, most respondents keep legislative background materials, though it is unclear what they are using for guidance when deciding what materials are important to keep and what can be disposed.

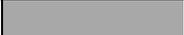
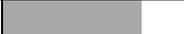
| Answer |   | Response<br>(n=30) | Percentage<br>Total |
|--------|---|--------------------|---------------------|
| Yes    |  | 17                 | 57%                 |
| No     |  | 13                 | 43%                 |
| Total  |   | 30                 | 100%                |

Figure 1: Are you aware of the *House Records Management Manual for Members*?

As the *House Records Management Manual for Members* grew out of the need to assist members and staffers with retaining important records, the first question posed to House staffers in their survey asks about their awareness of the manual. Of the 30 respondents, 57 percent report that they are aware that it exists as a resource.

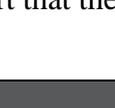
| Answer   |   | Response<br>(n=30) | Percentage<br>Total |
|--|---|--------------------|---------------------|
| I have read it and use it as a source of guidance in my work.        |    | 6                  | 20%                 |
| I have read it but do NOT use it as a source of guidance in my work. |   | 1                  | 3%                  |
| I am familiar with it but have not read it.                          |  | 10                 | 33%                 |
| I am NOT familiar with it.   |  | 13                 | 43%                 |
| Total  |   | 30                 | 100%                |

Figure 2: Please select the statement that best describes your use of the *House Records Management Manual for Members*.

Unsurprisingly, the 13 respondents who are not familiar with the manual also give the same answer to the second question, which aims to assess the respondents’ level of familiarity with the *House Management Manual for Members*. Of the other responses, ten are aware of the manual but have not read it, one responds that he or she

has read it but does not use it as a source of guidance, and six (20 percent) respond that they have both read it and use it as a source of guidance in their work.

| Answer |   | Response<br>(n=30) | Percentage<br>Total |
|--------|---|--------------------|---------------------|
| Yes    |  | 4                  | 13%                 |
| No     |  | 26                 | 87%                 |
| Total  |   | 30                 | 100%                |

Figure 3: Does your office have a written policy regarding records management?

Only four respondents report that their offices have written records management policies. The other 26 respondents report not having written records management policies in their offices. Curiously, when reviewing individual responses, only two of the four respondents who report having written records management plans for their office also report using the *House Records Management Manual for Members* for guidance. One of the remaining two reports not knowing the manual exists and the other reports knowing the manual exists, but having not read it. As this survey does not account for the other options available to House members and staff for records management advice—either through workshops put on by the House Office of Art and Archives or through one-on-one consultation with the House Archivist—it is impossible to know if these two offices have used these options.

| Answer |   | Response<br>(n=30) | Percentage<br>Total |
|--------|---|--------------------|---------------------|
| Yes    |  | 27                 | 90%                 |
| No     |  | 3                  | 10%                 |
| Total  |   | 30                 | 100%                |

Figure 4: Does your staff preserve any background/support material?

Even without written policies, all but three respondents report keeping some legislative background materials as defined for this survey. These three respondents from offices that do not keep background materials also come from offices that do not have written

records management policies, and two of the three report being unaware of the *House Records Management Manual for Members*. The other respondent reports being aware of the manual but not using it as a resource.

| Answer   |   | Response<br>(n=27) | Percentage<br>Total |
|--|---|--------------------|---------------------|
| Previous drafts of bills.  |   | 0                  | 0%                  |
| Correspondence with constituents influential in the bill's drafting process. |   | 0                  | 0%                  |
| Congressional Research Service reports and correspondence.                   |   | 0                  | 0%                  |
| Member and staff discussions or notes.                                       |    | 8                  | 30%                 |
| Outside agency or organization reports.                                      |  | 1                  | 4%                  |
| Other. (Please explain.)   |  | 18                 | 67%                 |
| Total  |   | 27                 | 100%                |

Figure 5: If you answered yes, please select what types of materials you preserve.

Twenty-seven respondents, all of those whose offices keep legislative background materials, answer question five, which was originally intended to be a multiple response answer with an option to provide an open-ended response. However, because it was sent to participants as a multiple-choice question, 67 percent provide a short answer response. Of the other 34 percent, the offices keep either

member and staff discussion notes or outside agency or organization reports.

Several themes emerge from the open-ended responses to this question. Most of the offices keep at least most of the types of legislative background materials outlined by the *House Records Management Manual for Members*, with the exclusion of reports, whether they are from the Congressional Research Service (CRS) or outside sources. While most respondents do not report that they keep CRS reports, two comments note that CRS materials or emails pertaining specifically to the legislation would be retained. Several comments mention space issues with keeping the reports, and other responses note that they are accessible online, making it redundant to keep a printed copy. Two responses note that while the office may have a separate policy, it is up to the legislative staffer handling the issue to properly store background materials.

All 30 respondents answered the last question, which is an open-ended question about how offices handle the removal of inactive files. While some offices report not removing inactive files, most report using storage outside of the congressional office. Eight respondents mention offsite storage provided by the National Archives and Records Administration (NARA), and another eight respondents report using storage space provided by the House of Representatives' House Administration Committee. One respondent refers to the "Cannon cages," which is an area in the Cannon House Office Building. As far as how often staff move old files out of the office, the most common response is that it happens irregularly, or, as one respondent notes, "regularly is a stretch." Some offices do have regular retention schedules, such as at the end of each Congress, annually, or every six months. Space issues are a recurring theme in this set of answers as well, with one respondent noting that moving files into storage is done to prevent the office "from becoming an episode of *Hoarders*." Another respondent comments, "House offices are very small spaces, and there is a lot of paper we legally and ethically have to save. Eventually, it gets overwhelming."

Though not specifically asked about born-digital materials, two respondents offer information regarding server storage space for digital files. Perhaps in these offices—both ones that reported not keeping legislative background materials—the definition of keeping legislative background materials is understood to mean in print form

only. Further investigation would need to be done to say this with certainty. Two respondents also mention email accounts. One reports that old staffers’ email accounts are deleted, making it necessary to hand over printed documents to the next person handling an issue. The other notes the limited email account storage, finding it easier to delete files rather than figuring out a way to store them.

Finally, one significant underlying theme is the haphazard nature by which offices are handling their records management procedures, with one respondent claiming there was “no rhyme or reason” to it and another admitting his or her office waited to remove files until the file cabinets were full. Certainly, staffers are busy, but the cluttered office appears to add to their stress.

*Survey Sent to Congressional Papers Roundtable Members*

The survey sent to members of the Congressional Papers Roundtable finds that most repositories that have received congressional collections since the passage of H. Con. Res. 307 believe these new collections contain at least some forms of legislative background materials. This falls in line with the survey sent to the chiefs of staff and how they report to be keeping many of these types of files. The archivists of the Congressional Papers Roundtable were not asked to survey the collections, though if following prescribed archival practices, some initial appraisal of the collections would have been conducted on ingest, giving the respondents an overview of the types of records in them.

| Answer |  | Response<br>(n=11) | Percentage<br>Total |
|--------|--|--------------------|---------------------|
| Yes    |  | 8                  | 73%                 |
| No     |  | 3                  | 27%                 |
| Total  |  | 11                 | 100%                |

Figure 6: Has your repository received congressional papers from a retiring or deceased member of the House of Representatives since the passage of H. Con. Res. 307 on June 23, 2008?

For the survey to Congressional Papers Roundtable, I intended the two questions asked to gauge specifically whether the materials that House offices report to save are in fact coming to archives as the collections are acquired. Because the *House Records*

*Management Manual for Members* was released in response to the passage of H. Con. Res. 307, the first question posed to the archivists is whether or not they have received a congressional collection since 2008. Of the 11 respondents, eight responded that they have received collections since 2008, and three responded that they have not.

| Answer                 |   | Response<br>(n=9) | Percentage<br>Total |
|------------------------|---|-------------------|---------------------|
| Yes                    |  | 7                 | 78%                 |
| No                     |  | 2                 | 22%                 |
| Some (Please explain.) |   | 0                 | 0%                  |
| Total                  |   | 9                 | 100%                |

Figure 7: If you answered yes to the previous question, do these collections contain legislative background/support material?

The second question asks if legislative background material is present in the congressional collections received by the individual's repository since the passage of H. Con. Res. 307. Nine respondents answered the second question. Two respondents who answered negatively to the first question do not respond to this question. Seven of the nine respondents said legislative background material is present, and two said it is not. One of the respondents who reported not receiving collections since 2008 also answered "no" on the second question, meaning only one archivist who has received a collection since the passage of H. Con. Res. 307 believed the newer collections do not contain legislative background material.

## Discussion

The two surveys provide a mixed review of records management procedures in the House of Representatives, though most of the focus falls on the areas that need improvement. One bright spot is that House staffers are keeping at least some legislative background materials, and the responses from the survey to chiefs of staff indicates that most of the files suggested in the *House Records Management Manual for Members* are being kept with the exception of reports from CRS and outside entities. There is possible confusion

as to whether born-digital materials are included in the definition of legislative background materials, and as such, it is possible that the offices that do not report retaining legislative background materials are keeping them in digital formats.

Returning to the definition of legislative background materials used for this study, I did not state that digital formats of files were included in the definition because, to archivists and records managers, digital formats have long been considered records, with NARA accessioning the first electronic records in 1970.<sup>56</sup> For almost two decades, the accepted standard has been that authentic, trustworthy digital records carried the same warrant as their paper-based versions.<sup>57</sup> However, federal regulations concerning the Executive Branch’s retention of electronic records developed slowly over time, with an evolving understanding that these were also authentic records, sometimes without an analog counterpart.<sup>58</sup> Executive Branch agencies are accustomed to records retention policies in a way that the Legislative Branch is not, even though Congress has oversight of the Executive Branch agencies and the House recently passed legislation on the topic.<sup>59</sup> Therefore, I should have clearly indicated that digital files are part of legislative background materials in the definition.

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<sup>56</sup> Thomas E. Brown, “History of NARA’s Custodial Program for Electronic Records: From the Data Archives Staff to the Center for Electronic Records, 1968-1998,” in *Thirty Years of Electronic Records*, ed. Bruce I. Ambacher (Lanham, MD.: Scarecrow Press, 2003), 14.

<sup>57</sup> Richard Cox and Wendy Duff, “Warrant and the Definition of Electronic Records: Questions Arising from the Pittsburgh Project,” *Archives and Museums Informatics* 11, no. 3-4: 223-231; Luciana Duranti, “Concepts and Principles for the Management of Electronic Records, or Records Management Theory is Archival Diplomats,” *Records Management Journal* 9, no.3 (1999): 149-171; Philip Bantin, “Developing a Strategy for Managing Electronic Records—The Findings of the Indiana University Electronic Records Project,” *The American Archivist* 61, no. 2 (1998): 328-364; David Bearman and Jennifer Trant, “Authenticity of Digital Resources: Towards a Statement of Requirements in the Research Process,” *D-Lib Magazine* 4, no. 6 (1998).

<sup>58</sup> *Federal Electronic Records Management: A Status Report: Hearing before the Subcommittee on Information Policy, Census, and National Archives of the Committee on Oversight and Government Reform, House of Representatives*, 111<sup>th</sup> Cong., 2 (2010) (statement of David S. Ferriero, Archivist of the United States).

<sup>59</sup> IRS Email Transparency Act, H.R. 1152, 114<sup>th</sup> Cong. (2015).

Respondents to the survey sent to chiefs of staff are struggling with records management. With only a fifth of respondents reporting that their offices use the *House Records Management Manual for Members* to guide them in their offices' records management practices, it is unsurprising that there is no cohesion in the policies of the different staffers who report their methods in the survey. House offices each set their own policies and guidelines, which in the case of records management mostly means none exist. This leads to unsystematic processes for storage and removal to the offsite storage. Further, in the *House Records Management Manual for Members*, the section pertaining to storage outside of the House member offices states this is the responsibility of NARA, but half of the respondents who discuss moving their files to offsite storage think the House Administration Committee is handling this process.<sup>60</sup> Troublingly, this suggests that offices are not aware of to whom they are turning over their records when they remove them from their offices.

Another theme noted in the short answer responses in the survey to chiefs of staff is the stress that poor records management procedures causes some of the respondents. Congressional staffers have high levels of stress from their normal duties.<sup>61</sup> The clutter from the amounts of paper files accumulating in the offices lead some respondents to report feeling beleaguered by it. Developing a system that would remove records on a specific schedule would likely alleviate some of these feelings, which may have a positive effect on office productivity.<sup>62</sup>

One area that no respondents report on was the necessity or ability to retrieve items from storage. These records that the offices place in storage are inactive records but might be useful for them in

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<sup>60</sup> Office of and Archives, *Records Management Manual for Members*.

<sup>61</sup> Congressional Management Foundation and Society for Human Resource Management. "Life in Congress: Aligning Work and Life in the U.S. House and Senate," 2012, [http://www.congressmanagementfoundation.org/storage/documents/CMF\\_Pubs/life\\_in\\_congress\\_aligning\\_work\\_life.pdf](http://www.congressmanagementfoundation.org/storage/documents/CMF_Pubs/life_in_congress_aligning_work_life.pdf).

<sup>62</sup> Caela Farren, "Stress and productivity: What tips the scale?" *Strategy & Leadership* 27, no. 1 (1999): 36; Willis Towers Watson, "Global Benefit Attitudes Survey 2015/16" (presentation online, February 2016), <https://www.willistowerswatson.com/en/insights/2016/02/global-benefit-attitudes-survey-2015-16>.

the future. That this topic did not come up might suggest that offices are retaining digital copies of files on the office servers and not placing those records in the boxes that are being stored offsite. While some respondents do comment on the lack of server space for emails, there is not the same kind of discussion surrounding server space for word processing documents, spreadsheets, PDFs, or other types of common office files.

Though most of the respondents indicate that their offices have room for much improvement when it comes to records management, there is little indication that there will be a change in the House in the foreseeable future. Even as Executive offices implement stricter, more robust policies,<sup>63</sup> Congress has not indicated a willingness to subjugate the Legislative Branch to similar scrutiny, even in the aftermath of high profile issues facing the Executive Branch that developed from poor records management practices.<sup>64</sup> The modern Congress is largely a reactionary body, responding to public opinion to develop policies rather than proactively approaching issues.<sup>65</sup> The public is not currently urging Congress to create good records management guidelines for itself, which, given that it took a presidential impeachment to change the public opinion about presidential records, is unsurprising.

### **Limitations and Future Research Potential**

As noted previously, congressional staffers are a hard-to-survey population, so the sample size is small in comparison to the overall number of House staffers in personal offices. Each House member is limited to paying 18 permanent staff members through his or her Members' Representational Allowance (MRA), though that does not account for fellows, who are temporary paid employees;

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<sup>63</sup> Barack Obama, “Presidential Memorandum -- Managing Government Records: Memorandum for the Heads of Executive Departments and Agencies.” Office of the Press Secretary, The White House, November 28, 2011, <https://www.whitehouse.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>.

<sup>64</sup> Erica Werner, “When it comes to saving e-mails, Congress makes its own rules,” *PBS Newshour*, March 15, 2015, <http://www.pbs.org/newshour/rundown/congress-rules-saving-emails/>.

<sup>65</sup> Benjamin G. Bishin, “Constituency Influence in Congress: Does Subconstituency Matter?” *Legislative Studies Quarterly* 25, no. 3 (2000), 405, <http://www.jstor.org/stable/440413>.

interns, who are usually unpaid; shared employees, whose salaries may be split between several members or a member and a committee; and special employees, such as employees from other agencies or fields who receive a salary from another funding source.<sup>66</sup> Through the Sunlight Foundation's databases, I calculated 7,300 paid staffers (full-time, part-time, and temporary) working for the House members, delegates, and resident commissioner in the fourth quarter of 2015, though the goal of this survey was to survey one staff member per office, which totaled 440 due to a vacancy in a House district in Ohio. Past studies of congressional staff indicate that in-person interviews may also provide an improved response rate.

I made no effort to ensure that the respondents were all from separate offices beyond sending the email with the link to the survey directly to the chiefs of staff, asking them to forward to other staff members only if they were not responsible for office records management procedures. Further, the survey does not take into account the other means available to staffers for records management assistance, such as workshops put on by the House Office of Art and Archives or the one-on-one assistance the House Archivist may provide to individual offices.

The sample size for the Congressional Papers Roundtable is also very small, having 328 members on the group's electronic mailing list. However, there is little current data available outside of a report departing members provide to the House Office of Art and Archives that indicates how many members have donated papers to repositories or which repositories are the recipients of House members' papers. Some larger repositories might receive several members' collections. This makes it very difficult to target the population of archives that would have received collections since the *House Records Management Manual for Members* was created. This survey is meant to shed light on the habits of congressional staffers in regard to records retention policies, and as such does not evaluate in depth the records that have moved into the repositories. The questions posed to the archivists did not require them to study the

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<sup>66</sup> Ida A. Brudnick, *Congressional Salaries and Allowances: In Brief*, CRS Report No. RL30064 (Washington, DC: Congressional Research Service, 2014), <https://fas.org/sgp/crs/misc/RL30064.pdf>.

materials in recently accessioned collections or provide a detailed analysis of what types of materials were kept as part of the legislative records they had received. Finally, in not recording location data, I am unable to know if there are multiple respondents from the same repository.

The surveys, in particular the survey sent to chiefs of staff, point to several areas that warrant further study. While most respondents to that survey report saving legislative background materials and most respondents to the study sent to Congressional Papers Roundtable listserv members report receiving legislative background materials with recently acquired congressional collections, this study did not delve into the types of materials actually found in collections that have been accessioned by repositories to see if all of the types of materials suggested for permanent retention by the *House Records Management Manual for Members* are actually ending up in archival collections. Such an investigation would be particularly valuable in light of congressional collections having a reputation for lacking “richness and consistency.”<sup>67</sup>

Given that there is some confusion as to what agency is responsible for storing inactive files for House offices offsite, it would be beneficial to review the process by which NARA accepts and stores these records, and to see how NARA employees who are responsible for oversight of this process interact with congressional staff members. Also, do all offices have access to “Cannon cages,” and are these under the purview of a House committee? If all offices have access to storage in the House office buildings, when does it become necessary for them to pursue offsite storage, and why is the onsite storage not mentioned in the manual?

Finally, because no respondents to the survey sent to chiefs of staff mention the need to retrieve physical inactive files from storage and the possible confusion over electronic files being part of the legislative background materials definition, it would be interesting to investigate how staffers employ the use of their shared files on the office servers. The response to the survey sent to chiefs of staff that mention the respondent’s office’s shared drive was short, but it may

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<sup>67</sup> Paul, “The Research Use of Congressional Collections.”

indicate that this office has decided to keep only digital files and discard paper files. It would be beneficial to know if this is in fact the case and see if this is happening more widely than reported in this study.

## **Conclusion**

This study provides valuable data for archivists, records managers, and government watchdogs interested in how congressional staffers, particularly those in the House of Representatives, are handling their data. Clearly, there is much room for improvement, as survey respondents report knowing their methods are sometimes haphazard and occasionally nonexistent. There is possible confusion as to whether or not electronic records storage is included in the types of records that should be saved according to the *House Records Management Manual for Members*. Also, there is a lack of awareness that there are resources available to help offices retain the records suggested by the concurrent resolution. However, both the literature on the topic of public officials' records management policies and this study confirm that part of the problem with the concurrent resolution is that it is nonbinding, and congressional offices are not doing a good job at self-policing this topic. As long as congressional staff are exempt from laws governing the Executive Branch's handling of presidential records, they are able to maintain their own records schedule, decide what records should be saved (if any), and whether or not the records will be available to the public after the member leaves office.

**Holly Croft** is the Digital Archivist at Georgia College where she manages efforts to acquire, preserve, and provide access to digital special collections material. She is active in the Society of American Archivists, the Society of Georgia Archivists, and the American Library Association's Rare Books and Manuscripts Section and Digital Curation Interest Group. She earned her MSLS from the University of North Carolina at Chapel Hill and her AB from the University of Georgia.

## Appendix A: Congressional Staff Survey

Your participation in this survey is voluntary. You may refuse to take part in the research or exit the survey at any time without penalty. You are free to decline to answer any particular question you do not want to answer for any reason. There are no foreseeable risks involved in participating in this research study other than those encountered in normal Internet usage. You will receive no direct benefits from participating in this study. However, this will help us learn about current House records management practices.

Are you aware of the House *Records Management Manual for Members*?

- Yes
- No

Please select the statement that best describes your use of the *House Records Management Manual for Members*.

- I have read it and use it as a source of guidance in my work.
- I have read it but do NOT use it as a source of guidance in my work.
- I am familiar with it but have not read it.
- I am NOT familiar with it.

Does your office have a written policy regarding records management?

- Yes
- No

For the purpose of this study, background / support material includes previous drafts, correspondence with constituents influential in the bill’s drafting process, Congressional Research Service reports and correspondence, Member and staff discussions or notes, outside agency or organization reports, or any other materials that were instrumental in developing the specific piece of legislation. This does

NOT include the final version of the bill.

Does your staff preserve any background / support material?

- Yes
- No

If you answered yes, please select what types of materials you preserve.

- Previous drafts of bills.
- Correspondence with constituents influential in the bill's drafting process.
- Congressional Research Service reports and correspondence.
- Member and staff discussions or notes.
- Outside agency or organization reports.
- Other. (Please explain.)

Does your office regularly remove inactive files, such as the background / support files for legislation? If so, where are these materials maintained?

## **Appendix B: “Dear Colleague”**

February 4, 2016

Dear Colleague:

In 2008, both Houses of Congress unanimously passed H. Con. Res. 307, which was to encourage Members of this body and the Senate to preserve their records for future research by donating personal office papers to archival repositories. Prior to the concurrent resolution, many members opted to donate papers to libraries or archives in their home states, though some decided to either keep their records or discard them.

Congress is a living body that changes with every election cycle, and preserving records of the individual Members will help researchers better understand the legislative priorities of individuals as well as paint an accurate overview of the political climate of the day. Of particular interest to researchers are legislative materials.

During the first week of February, Nahali Croft, a graduate student from the University of North Carolina at Chapel Hill will contact your office with a survey that should take no more than 15 minutes to complete. This survey will focus on your office’s retention of background materials used to draft legislation, not on the bills as introduced. This student is a former legislative assistant who is familiar with House office practices and legislative development, having worked in the Alaska office from 2008 to 2011.

We ask that you have your staff fill out and submit this survey to help us better understand current records retention practices and open the door for better records management among offices in the future.

Sincerely,

DON YOUNG  
Congressman for All Alaska  
for PA-1

ROBERT BRADY  
Congressman

## Appendix C: Congressional Papers Roundtable Survey

Your participation in this survey is voluntary. You may refuse to take part in the research or exit the survey at any time without penalty. You are free to decline to answer any particular question you do not want to answer for any reason. There are no foreseeable risks involved in participating in this research study other than those encountered in normal Internet usage. You will receive no direct benefits from participating in this study. However, this will help us learn about current House records management practices.

Has your repository received Congressional papers from a retiring or deceased Member of the House of Representatives since the passage of H. Con. Res. 307 on June 23, 2008?

- Yes
- No

For the purpose of this study, legislative background / support material includes previous drafts, correspondence with constituents influential in the bill's drafting process, Congressional Research Service reports and correspondence, Member and staff discussions or notes, outside agency or organization reports, or any other materials that were instrumental in developing the specific piece of legislation. This does NOT include the final version of the bill.

If you answered yes to the previous question, do these collections contain legislative background / support material?

- Yes
- No
- Some (Please explain.)