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12 September 2018

FOIA Request
National Commission on Military, National, and Public Service
2530 Crystal Drive, Suite 1000, Box No. 63
Arlington, VA 22202

(by e-mail to <FOIA@inspire2serve.gov>)

FOIA REQUEST

Expedited processing requested

Fee benefit requested

Fee waiver requested

Dear FOIA Officer:

This is a request pursuant to the Freedom of Information Act, 5 U.S.C. § 552.

I request access to and copies of

(1) Any records of meetings (by whatever name they may be described) or in-person, telephonic, or online gatherings of a quorum of members of the Commission, including any agendas, minutes, “memoranda for the record”, motions or proposals, votes, decisions (whether by vote, consensus, unanimous consent, “without objection”, decision of the Chair, or otherwise), documents or electronic presentations or files distributed or shown to the Commission, transcripts, audio and/or video recordings, records that classified information was to be discussed, or records of any objections made by member(s) of the Commission to allowing members of the public access to any such meeting; and

(2) Any documents, files, or other records incorporated by reference in any decision of the Commission, including but not limited to the entirety of any item approved or disapproved by the Commission, the entirety of any item included in a “consent calendar” or otherwise approved or disapproved *en bloc*, and, recursively, the entirety of any item incorporated by reference in an item incorporated by reference. If, for example, the Commission has determined, by vote or otherwise, to approve or disapprove Plan X, Report Y, or Schedule Z, then the entirety of Plan X, Report Y, or Schedule Z, and any items incorporated by reference in it, is responsive to this request.

I also request (3) the entirety of any document or electronic file containing any responsive records (so that no portion of any document or file containing any responsive portions should be withheld as “unresponsive”).

I request that all responsive records be provided in text-searchable electronic form. With respect to any records held in electronic form, I request that they be provided in the original electronic form in which they are held, as complete bitwise digital copies of the original word processor files, PDF files, or other electronic files, including any file headers, embedded metadata, and all other file content.

I request that any responsive records of e-mail messages be produced as copies of the raw “message source” files, including full addresses and all headers and attachments, as those message source files are held on mail servers or backup or archival digital storage media.

I specifically request that you not create new documents or files in response to this request, not create “documents” such as page-view images or print views from digital records, and not substitute such newly-created “documents”, images, or views for requested records held by you as digital files.

If all or any part of this request or searches for responsive records are referred or delegated to other agencies, contractors, offices, or staff, I request that any referral, delegation, or search tasking instructions specifically include my request with respect to the form in which records are to be produced, so that records are not inadvertently converted to, or produced in, other forms or formats.

If you believe that you could respond to this request more quickly if responsive records are produced in a different form, please call me immediately at +1-415-824-0214 to discuss your proposed form of production and possible modification of this request to expedite your response.

As a representative of the news media I am only required to pay for the direct cost of duplication after the first 100 pages of paper records, or cost equivalent for copies of electronic records. Through this request, I am gathering information on policies, procedures, and practices that is of current interest to the public as part of widespread public interest in the activities of the Commission and the exceptionally controversial subjects of the draft, Selective Service, and compulsory service.

I am an award-winning freelance journalist, and the publisher of an informational Web site at <<https://resisters.info>> which is one of the most comprehensive and widely consulted sources of news, analysis, and background and reference information – including information obtained from the Commission in response to my previous FOIA request 2018-SP-01, and reporting, analysis, and commentary based on this information and other sources – about the Commission and the issues of the draft, draft registration, compulsory “service”, and Selective Service. The information obtained in response to this request will be made available to the public through publication on the Web, along with reported, analysis, and commentary informed by the records released in response to this request.

Substantially more information about the Commission and its activities – including substantially more of the Commission’s own records as well as the single largest body of independent reporting, analysis, and commentary on the activities of the Commission -- is available on my Web site than is available on the Commission’s own Web site at <<http://www.inspire2serve.gov>>.

The majority of the information available to the public about the Commission and its activities, including the only information available to the public about any of the Commission's business meetings or any of the decisions made by the Commission, is available only on my Web site and through articles I have written for my own e-mail newsletters and other Web sites and print publications.

Most of the Commission records available to the public are available only because they have been released by the Commission in response to my FOIA request 2018-SP-01, and have been published by me on my Web site along with reporting, analysis, and commentary informed by these Commission records. Most of these records have not been published by the Commission on its own Web site or anywhere else, and are not available anywhere except on my Web site.

Please waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities.

Please process this request on an expedited basis, because (1) I am a person primarily engaged in disseminating information to the public as a writer, journalist, and self-publisher, and (2) there is an urgency to inform the public about Federal Government activity.

The public interest in access to information concerning the meetings of the Commission has been explicitly recognized by votes of Congress and of the Commission itself.

The statute establishing the Commission provides that, "Each meeting of the Commission shall be held in public unless any member objects or classified information is to be considered." While this provision allows Commission meetings or portions thereof to be closed in some cases, it creates an unambiguous, explicit statutory presumption that all Commission meetings shall be open to the public.

The Commission itself has decided that, "Minutes shall be made available to the public on the Commission's website to the extent such minutes or portions thereof would be releasable under the Freedom of Information Act." ("National Commission on Military, National, and Public Service, First Amended and Restated Business Rules, Adopted by the Commission on April 19, 2018", available at <<https://resisters.info/FOIA/8-AmendedBusinessRules-FINAL.pdf>>. Note that this file has not been published by the Commission on its Web site or elsewhere, has been disclosed only in response to my FOIA request 2018-SP-01, and is available to the public only on my Web site.)

However, almost five months after this decision by the Commission, none of the minutes of the Commission's meetings – not even those minutes that have been determined by the Commission to be releasable under FOIA, and that have been released to me in response to my FOIA request 2018-SP-01 – have been made available to the public on the Commission's Web site. None of these minutes are available to the public anywhere other than on my Web site.

The Commission's decision that minutes of its meetings "shall be made available to the public on the Commission's website" to the extent releasable under FOIA is clear evidence of the Commission's recognition of the public interest in access to this information.

The fact that this explicit directive by the Commission has not yet been acted on is clear evidence that this information is unlikely to be available to the public, as the Commission directed that it be, unless it is released in response to this FOIA request so that I can make it available to the public.

There is an urgency to make this information available, and thus a need for expedited processing of this request, because the Commission has issued a “Request for Information” from members of the public concerning matters within the jurisdiction of the Commission, with a deadline for submission of comments of 30 September 2018. (“Request for Information on Improving the Military Selective Service Process and Increasing Participation in Military, National, and Public Service”, 83 *Federal Register* 7080, 20 February 2018.; “Notice of Extension To Comment Period on the Request for Information on Improving the Military Selective Service Process and Increasing Participation in Military, National, and Public Service”, 83 *Federal Register* 17573, 20 April 2018.)

Time is of the essence, to enable interested members of the public to direct their comments to the issues which the Commission is most interested – as evidenced by the topics discussed by the Commission in its meetings to date, the individuals and organizations with whom the Commission has met and from whom the Commission has solicited and received briefings and other submissions, and the decisions which the Commission has already made – and to respond to the arguments advanced by those interested parties who have presented their positions to the Commission behind closed doors.

My previous FOIA request 2018-SP-01 for records related to the Commission’s meetings and activities was submitted on 3 May 2018. More than four months later, and despite the fact that the Commission had no backlog of FOIA requests when this request was submitted, the Commission has not yet made determinations with respect to many of the responsive records. This week, the Commission’s Chief FOIA Officer informed me for the first time that they estimate that the Commission will not complete its action with respect to this request until 28 September 2018.

Unless this request is processed on an expedited basis or the Commission again extends the deadline for submission of comments in response to its request for information, the records responsive to this request are highly unlikely to be available to the public to inform their comments. Members of the public will have to submit comments to the Commission without being able to know what decisions the Commission has already made, or which interested third parties, perhaps with opposing interests, have been invited to present their arguments to the Commission in closed-door meetings.

I have no commercial interest in this information. My reporting on this issue, while carried out in my capacity as a professional journalist, has been unpaid and not undertaken for profit.

If this request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions. I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information, to deny a waiver of fees, or to deny expedited processing.

Please respond as soon as possible to confirm your receipt of this request and to advise the reference number assigned to this request and the expected date of completion of Commission action with respect to this request. I look forward to your complete reply within 10 calendar days, as the FOIA

statute requires for requests processed on an expedited basis. To avoid unnecessary delays, please contact me immediately by telephone or e-mail should you have any questions regarding this request.

Sincerely,

Edward Hasbrouck