



Refuse to Register
NO REGISTRAR
CONSCRIPCION NO

*poster by Fred Moore for the
National Resistance Committee*

Resisters.info

Edward Hasbrouck
1130 Treat Avenue
San Francisco, CA 94110

+1-415-824-0214
edward@hasbrouck.org

<https://resisters.info>

20 March 2020

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 a copy of the final report of the National Commission on Military, National, and Public Service, or the URL at which it has been published on an Internet website available to the public.

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 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.

Edward Hasbrouck, <<https://resisters.info>>
FOIA Request, 20 March 2020, page 1 of 4

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.

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 requests, 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 reporting, analysis, and commentary informed by the records released in response to this request.

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.

The public interest in access to the final report of the Commission, and the urgent public interest in its availability to the public today, has been explicitly recognized by Congress.

The statute establishing the Commission provides that, “Not later than 30 months after the Commission establishment date, the Commission shall transmit to the President and Congress a report containing the findings and conclusions of the Commission, together with the recommendations of the Commission regarding the matters reviewed by the Commission pursuant to this subtitle.... (3) PUBLIC AVAILABILITY.—The Commission shall publish a copy of the report required by paragraph (1) on an Internet website available to the public on the same date on which it transmits that report to the President and Congress under that paragraph.” (Public Law 114-328, National Defense Authorization Act for Fiscal Year 2017)

For purposes of this section, “The term ‘establishment date’ means September 19, 2017.” (Public Law 115-232, National Defense Authorization Act for Fiscal Year 2019)

That deadline, 30 months after September 19, 2017, is today, March 20, 2020.

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.

Please process this request on an expedited basis. I am a person primarily engaged in disseminating information to the public as a writer and journalist. There is an urgency to inform the public about Federal Government activity.

The statutory criteria for expedited processing are contained in 5 U.S. Code § 552 (a)(6)(E):

“(i) Each agency shall promulgate regulations, pursuant to notice and receipt of public comment, providing for expedited processing of requests for records — (I) in cases in which the person requesting the records demonstrates a compelling need;...

“(v) For purposes of this subparagraph, the term “compelling need” means — ...

“(II) with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.”

The Commission’s Interim Final Rule for FOIA Regulations (85 *Federal Register* 19417, 2 May 2018) provides that:

“In determining whether processing should be expedited, the Chief FOIA Officer may consider whether:...

“(2) With respect to a request made by a person primarily engaged in disseminating information, there is an urgency to inform the public about actual or alleged Federal Government activity.”

(Both the FOIA statute and the Commission’s FOIA regulations provide an alternate basis for expedited processing when there is “an imminent threat to the life or physical safety of an individual”. This alternate basis for expedited processing is not raised in this request.)

The only issues for whether this request satisfies the criteria for expedited processing are whether I am “a person primarily engaged in disseminating information” (which the Chief FOIA Officer has conceded in granting my request for a fee waiver on that basis) and whether there is “urgency to inform the public concerning actual or alleged Federal Government activity.”

The enactment by Congress of an explicit statutory deadline for the release to the public of the Commission’s final report, including the explicit statutory mandate that, “The Commission shall publish a copy of the report required by paragraph (1) on an Internet website available to the public” on that date, is conclusive evidence that, as of that date, there is Congressionally-recognized urgency to make that report, in its entirety, available to the public – today, and not a day later.

This deadline was extended until today by act of Congress in 2018. The Commission has long been aware of this deadline.

All decisions concerning the report have already been made by the Commission. No further action is necessary, other than to send me, or to publish, a copy of the report that already exists.

Release of the report, in its entirety, to the public, not later than today, is expressly mandated by law. There is no lawful basis for withholding or any delay in release of any portion of the report.

The Commission has planned various activities next week, following the release of the report. But the Commission has known for almost two years that, regardless of what activities it planned next week or at any other time after the release of the report, it is required to release the report today.

The Commission may wish to stage-manage the release of its report by holding public events or private briefings on the same day that the report is released. It could have done so by scheduling those events today. The Commission's decision – a decision made, it should be noted, long before the COVID-19 pandemic – to schedule public or private activities next week does not, and could not, authorize the Commission to exempt itself from its statutory duty to release its report today.

It is now of critical importance to inform the public “about actual Federal Government activity” of the Commission, and specifically what the Commission has decided to say in its report, including what legislation it has decided to recommend. Congress set a date as of which that information must be released. Today, that date has come. No further delay is permitted by law.

Expedited processing of this request (or release of this information, today, independent of the FOIA, in fulfillment of the Commission's independent statutory duty) is essential to minimize the violation of the Commission's statutory obligations to publish this information not later than today.

If this request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions, and release all segregable portions of otherwise exempt material.

Please respond today 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, or today to comply with the deadline in the Commission's statutory charter. To avoid unnecessary delays, please contact me immediately by telephone or e-mail should you have any questions regarding this request.

I certify under penalty of perjury that the statements above are true and correct to the best of my knowledge and belief.

Sincerely,

Edward Hasbrouck