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*poster by Fred Moore for the
National Resistance Committee*

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25 August 2020

FOIA Request
National Commission on Military, National, and Public Service (NCMNPS)
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 all records of the National Commission on Military, National, and Public Service (NCMNPS), without limitation or exception, including but not limited to:

(1) All records of the NCMNPS, regardless of whether they are held by the NCMNPS, contractors, other government agencies, software-as-a-service providers, or other third parties;

(2) All records scheduled or planned for deletion, destruction, or transfer pursuant to National Archives and Records Administration (NARA) Records Disposition Authority DAA-0220-2020-0001;

(3) All records of usage by the NCMNPS of Web-based services including but not limited to Facebook, Twitter, YouTube, Instagram, Medium, LinkedIn, Eventbrite, Zoom, and Google Analytics;

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(4) All records of servers used by the NCMNPS or for NCMNPS business, including any change logs, Web server logs, e-mail server logs, and reports or other records of Web analytics;

(5) All records of e-mail accounts used for NCMNPS business, including all e-mail to, from, or between e-mail addresses in the NCMNPS “inspire2serve.gov” domain, “gmail.com” and “.mil” accounts used for NCMNPS business, and any other e-mail accounts used for NCMNPS business

(6) All records of landlines, cellphones, and other mobile devices used for NCMNPS business, including device memory and records of accounts associated with all such devices;

(7) All records of electronic calendars including Microsoft Exchange, Gmail, Apple, and any other calendars used for NCMNPS business;

(8) The entirety of any document or electronic file containing any records responsive to any portion of the request described in clauses 1-7 above (so that no portion of any document or file containing any responsive portions should be withheld as “unresponsive”).

(9) Any and all records of internal metadata contained in files responsive to any portion of the request described in clauses 1-8 above.

(10) Any and all records of filesystem metadata pertaining to files responsive to any portion of the request described in clauses 1-8 above, including but not limited to any records of (a) the filename of each responsive digital record, as it was found on an NCMNPS, contractor, or other third-party workstation, server, storage device, or media; (b) the size of each such file in bytes, KB, MB, or GB; (c) the name or other label or identifier of the workstation, server, storage device, or media on which the file was found; the path to the file in the filesystem on which it was found; and (d) the file date(s) as recorded in the file, in that filesystem, and/or in any label(s) on physical devices or storage media.

I request that all responsive records be provided in text-searchable, unencrypted electronic form. With respect to any records held in electronic form, I request that each such record be provided in the form of a discrete file with the same name and file format as the file is held by or on behalf of the NCMNPS, as a complete bitwise digital copy of the original word processor file, PDF file, e-mail file, or other electronic file, including any file headers, embedded metadata, and all other file content.

For example, if records of responsive e-mail messages are held in the form of “.eml” files, I request that each such file be produced in the form of a “.eml” file with the same filename and format. Similarly, if responsive records of e-mail mailboxes are held in the form of “.mbx” files, I request that each such file be produced in the form of a “.mbx” file with the same filename and format.

I request that any responsive records of e-mail messages be produced in the form and format 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; not substitute such

newly-created “documents”, images, or views for requested records held by you as digital files; and not split one file into multiple files or combine multiple files into one file.

In order to preserve records of filesystem information, I believe that it would probably be simplest and most convenient to provide records as complete filesystem images. But I am open to discussing the most convenient and efficient way for you to provide the responsive 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 NCMNPS 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 NCMNPS in response to my previous FOIA requests, and reporting, analysis, and commentary based on this information and other sources – about the NCMNPS 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 of significant records 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.

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 NCMNPS is a temporary agency, and its statutory mandate is scheduled to expire 20 September 2020. The purpose for the creation of the NCMNPS was to carry out or commission research and make recommendations to Congress, the President, and the public, which it has done.

Congress is currently considering legislative proposals related to those recommendations, including H.R. 6415 (which would, inter alia, expand the authority of the President to order registration with the Selective Service System to women as well as men) and H.R. 5492 (which would repeal the Military Selective Service Act including Presidential authority to order registration).

But those legislative proposals probably won't be considered by Congress until after the NCMNPS has dissolved. The records of the NCMNPS responsive to this FOIA request will thus be essential to understand the basis for the various recommendations of the NCMNPS, and to assess the weight which should be given to any or all of those recommendations, after the NCMNPS is dissolved.

For example, records of research conducted or commissioned by the NCMNPS, including the terms of reference, questions assigned, limitations placed on research, assumptions made as the basis for research, research methodologies, who conducted the research (and what biases or preconceptions they may have had), and the sources consulted will be important to public understanding. None of these NCMNPS research records have been disclosed to date, and it appears that many of these records may be deemed “temporary” and planned for destruction or deletion on the dissolution of the NCMNPS.

To avoid having the public and Congress be forced to rely on purely conclusionary reports and recommendations by the NCMNPS, or a stage-managed subset of records selected by the NCMNPS of the bases for those recommendations and the process through which they were developed, it is essential to be able to scrutinize the *complete* and unedited record of the activities of the NCMNPS.

Given the imminent expiration of the statutory mandate for the existence of the NCMNPS, the imminent destruction or deletion of most of these records, and the NCMNPS backlog of overdue responses to FOIA requests, it is unlikely that, unless this request is processed on an expedited basis, the NCMNPS will complete its response to this request before the the NCMNPS and its FOIA office are disbanded and/or before potentially responsive records are destroyed or deleted. There is thus an urgency to inform the public about the activities of the NCMNPS which these records document and which are relevant to Congressional debate, before these records might be destroyed or deleted.

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.

Pursuant to NCMNPS FOIA regulations and NARA regulations at 36 CFR § 1230.3(b), no potentially responsive records may be destroyed, deleted, or disposed of while this request is pending.

All NCMNPS records existing as of the date of this request are responsive to this request, and no such records may be destroyed or deleted while this request is pending. It is your duty as FOIA officer to immediately notify all NCMNPS staff, contractors, service providers, and other custodians of potentially responsive records that no responsive or potentially responsive records may be destroyed or deleted while this request is pending; to take all necessary affirmative steps to ensure the preservation of all such records until the completion of action with respect to this request, including initial determinations and release of records, any appeals, and any action on remand following appeals; and to notify any other agency to which NCMNPS records are transferred that those records are subject to this pending FOIA request and may not be destroyed or deleted while this request is pending.

(I am sending copies of this request to NARA officials identified from DAA-0220-2020-0001, but I do not know of these e-mail addresses are correct, and this does not relieve you of your duty to take immediate action to ensure the preservation of all records potentially responsive to this request.)

Please respond as soon as possible to confirm your receipt of this request, to advise the reference number assigned to this request and the expected date of completion of NCMNPS action with respect to this request, and to confirm that you have taken action to ensure the preservation of all potentially responsive records, including preservation following the expiration of the NCMNPS.

I look forward to your complete reply within 20 work days, as the FOIA statute and the Commission's FOIA regulations require. Timely processing of this request is especially important because, as you know, the statutory mandate for the NCMNPS expires 20 September 2020.

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.

Executed 25 August 2020 in the City and County of San Francisco, CA

Edward Hasbrouck

cc: Rachel Rikleen, Chief FOIA Officer, NCMNPS, <Rachel.L.Rikleen@inspire2serve.gov>
Peter Morgan, FOIA Public Liaison, NCMNPS, <Peter.M.Morgan@inspire2serve.gov>
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