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*poster by Fred Moore for the  
National Resistance Committee*

***Resisters.info***

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28 February 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 access to and copies of any and all response to my FOIA requests 2018-SP-01, 2018-SP-03, 2019-CP-01, 2019-SP-01, or 2020-SP-08 that have not previously been disclosed to me.

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.

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

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.

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 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>>.)

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.

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.

All of these records have previously been requested from the Commission, in some cases more than a year and a half ago, and in all cases long enough ago that, if the Commission had complied with the FOIA statute, the Commission would already have completed its response to these requests.

However, the Commission has not yet completed its responses or produced the requested records. I have not yet been provided with current estimated dates of completion with respect to the Commission's actions on these requests. But in a status call yesterday, I was told by the Commission's Chief FOIA Officer that they do not expect the Commission to produce all non-exempt responsive records or segregable non-exempt portions of responsive records until some "months" after the Commission plans to release its final report and legislative recommendation on 25 March 2020.

The Commission's failure to comply with the deadlines in the FOIA statute has now created sufficient urgency to call for expedited processing of this request. This request now fits squarely within both the statutory and regulatory criteria for expedited processing.

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.”

In accordance with the deadline in the statute creating the Commission, the Commission has scheduled the release of its final report and legislative recommendations on 25 March 2020. Members of the Commission reportedly plan to begin meetings with members of Congress that same day, thus making clear that the Commission expects and intends that Congress should and will immediately begin consideration of legislation informed by the Commission’s report and recommendations.

It has now become of critical importance to inform the public “about actual .... Federal Government activity” of the Commission – the subject of the requested records – to make possible *informed* public participation in this imminent Congressional debate. Understanding the activities of the Commission – who the Commission talked to, who it didn’t talk to, what questions it did and didn’t ask, what recommendations it received from whom, which of those policy recommendations it did or didn’t accept, etc. – is critical to the ability of Congress and the public to assess the credibility of the Commission and to decide how much weight to give to its recommendations.

Time has now become of the essence, in order to inform the public about the activities of the Commission before Congress begins deliberations informed by the Commission’s final report. Without expedited processing, it is likely that these records – to which the public is entitled by law – will not be available to the public when Congress commences its deliberations on 25 March 2020. Members of the public will be irrevocably harmed in their ability to petition their Representatives and Senators for action if they are still in the dark on 25 March 2020 as to some of the Commission’s activities.

Expedited processing of this request is essential to ensure a complete response by 25 March 2020. The purpose of the Commission is to inform public and Congressional debate. Responding to this FOIA request is as important to that purpose as is the Commission’s own selective reporting of *some* of its activities, *some* of the questions it has asked, and *some* of the input it has received.

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 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,

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Edward Hasbrouck