



February 28, 2020

Edward Hasbrouck
1130 Treat Avenue
San Francisco, CA 94110

Via email to edward@hasbrouck.org

Dear Mr. Hasbrouck:

The National Commission on Military, National, and Public Service (the Commission) received your appeal dated February 4, 2020, related to Freedom of Information Act (FOIA) request 2020-SP-08. For the reasons set forth in this letter, the Commission grants your appeal in part.

Your appeal raised four issues: (1) whether the Commission conducted an adequate search for responsive records; (2) whether the Commission will release records in the proper format; (3) whether the Commission withheld in full responsive records when there are segregable, non-exempt portions; and (4) whether the Commission withheld records under Exemption 5 that previously had been disclosed to a non-Federal entity.

As to issues 1 and 2, the concerns raised do not appear to be ripe. Except as noted below with respect to issue 4, your appeal does not identify any information suggesting that the Commission has not searched for or agreed to release identifiable records in response to your request or that records were released in the wrong format. If, in the future, the released records indicate an inadequacy of the search performed or the format is improper, then the Commission would accept an appeal within 90 days of the release of those records.

As to issue 3, your claim that the Commission withheld records in full that contain segregable information that is not exempt is denied. The response letter noted that some of the records, those marked in yellow, are "exempt from FOIA disclosure in their entirety under FOIA exemption 5." While not explicitly mentioned, these records were reviewed and determined not to contain reasonably segregable, non-exempt information. As noted in my January 30, 2020, letter to you, the Commission has, since inception, created internal and public minutes, with the internal minutes containing privileged information exempt from release under FOIA. Both versions of the minutes have been created by the Commission's general counsel and the public minutes compile reasonably segregable non-information based on a line-by-line review of internal minutes conducted by the Commission's general counsel. As a result, the materials marked as being withheld in their entirety will continue to be withheld in their entirety.

Finally, as to issue 4, I have been informed that, while the entries for hearing panel questions in the index provided in response to your FOIA request were properly designated as exempt from release in their entirety under FOIA exemption 5, as you note, Commission staff also provided some potential questions to panelists for those hearings. Such communications were inadvertently omitted from the index provided to you and I have instructed staff to identify any such communications and confirm that no other records were inadvertently omitted from the index. I expect that search will be completed and additional records provided to you no later than Friday, March 6.

If you have any questions about this response or the FOIA process in general, please contact our FOIA public Liaison, Katie McSheffrey, at katie.c.mcsheffrey@inspire2serve.gov. You have the right to seek judicial review by filing a lawsuit in the district court of the United States in the district in which you reside, your principal place of business, the Eastern District of Virginia, or in the District of Columbia. You may also seek dispute resolution services, which are offered by the Office of Government Information Services (OGIS) at National Archives and Records Administration. You can learn more about these services at <https://www.archives.gov/ogis/mediation-program> or by contacting OGIS at:

Address: 8601 Adelphi Road – OGIS, College Park, MD 20740

Email: ogis@nara.gov

Telephone: (202) 741-5770

Facsimile: (202) 741-5769

Toll free telephone: (877) 684-6448

Thank you for your interest in the Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Heck", written over a light blue horizontal line.

Joseph Heck
Chairman