



September 4, 2020

Edward Hasbrouck
1130 Treat Avenue
San Francisco, CA 94110

Dear Mr. Hasbrouck:

I am writing to inform you that your request for records under the Freedom of Information Act (FOIA), dated August 25, 2020, has been denied. For your reference, it was assigned tracking number 2020-SP-33.

Your request seeks “all records of the National Commission . . . without limitation or exception,” which you clarified included “records scheduled or planned for deletion, destruction, or transfer”. This request purports to covers all temporary and permanent records of the Commission. While divided into ten categories, your request does not meet the requirements set out in the Commission’s FOIA regulations, which require “[a] description of the records sought in enough detail to allow the records to be located with a reasonable amount of effort. To the extent possible, requesters should include specific information, such as the date, title or name, author, recipient, and subject matter of the records sought.” 1 CFR 426.203(c)(2).

Requests such as yours do not meet the responsibility of a requestor “to frame requests with sufficient particularity to ensure that searches are not unreasonably burdensome.” *Assassination Archives & Research Ctr., Inc. v. CIA*, 720 F. Supp. 217, 219 (D.D.C. 1989), *aff’d in pertinent part*, No. 89-5414, 1990 WL 123924 (D.C. Cir. Aug. 13, 1990) (per curiam)). Under FOIA law, it is well established that “[b]road, sweeping requests lacking specificity are not sufficient.” *Sack v. CIA*, 53 F. Supp. 3d 154, 163 (D.D.C. 2014) (quoting *Dale v. IRS*, 238 F. Supp. 2d 99, 104 (D.D.C. 2002)). FOIA is not a mechanism for requesters to conduct a “fishing expedition” through agency files. *Dale*, 238 F. Supp. 2d at 104–05. The D.C. Circuit has repeatedly recognized that “[a]n agency need not honor a request that requires an unreasonably burdensome search.” *Am. Fed’n of Gov’t Emps., Local 2782*, 907 F.2d at 209 (citation omitted); *Judicial Watch, Inc. v. Dep’t of State*, 681 F. App’x 2, 4 (D.C. Cir. 2017). Indeed, courts have routinely found FOIA requests to be invalid when they “would require the agency to locate, review, redact, and arrange for inspection a vast quantity of material.” *Am. Fed’n of Gov’t Emps.*, 907 F.2d at 209. Based on our current estimates, there is approximately a terabyte of information that the Commission would need to retain and review as part of this request, which is generally accepted to be approximately 75 million pages. Additionally, this information is spread across multiple different email accounts, individual cloud drives, and shared server space, so that just organizing

the review process would be extremely time intensive. The Commission currently has only seven staff members, and only three are working full-time. If we assume an individual could review an average of 100 pages an hour, then it would take 750,000 hours to complete the review process, there by monopolizing all of the staff's time for years.

On September 1, 2020, in an effort to clarify your request and assist you in narrowing it to comport with the requirements of the Commission regulations and U.S. law, and to enable our limited staff to identify potentially responsive records, we reached out to you by e-mail. In your response, you made clear that you had no intention to further delineate your request, describing it as "quite narrow and extremely precise." At the same time, you assert that the FOIA request is necessary to ensure the Commission does not destroy records that you have previously requested. Your description of the records you sought through the request includes no record beyond those that the Commission has made publicly available, has produced to you in connection with prior FOIA requests, or is in the process of preparing for release to you in connection with prior FOIA requests. Moreover, all records of the Commission that pertain to, in your words, "assessing the basis, credibility, and weight to give to any or all of [the Commission's] recommendations" are considered to be permanent records of the Commission under Records Schedule No. DAA-0220-2020-0001 – most falling within sequence number 3. The Commission and its staff have already taken extraordinary efforts to preserve records for archiving purposes, carefully distinguishing between those that have historical value because they show the Commission's origins, organization, research, interactions with the public, decisions, recommendations, and bases for those recommendations, and records that need not be retained permanently because they have no historical value, such as records that relate to the internal administration and housekeeping of the Commission as a Federal agency. There is simply no basis for your assertion that the Commission intends to delete or destroy any records that may be relevant to understanding the Commission's recommendations or the basis for those recommendations.

If you would like to appeal this denial of your request, you must send a written request appealing the decision. Normally, you would have 90 days from the date of this notice to appeal; however, given that the Commission will cease to exist on September 18, 2020, we ask that you submit your appeal no later than September 11. The appeal request should be clearly marked with the words "FOIA Appeal" and may be sent to the Commission's email, FOIA@inspire2serve.gov; the Commission's website, www.inspire2serve.gov; or to FOIA Appeals, National Commission on Military, National, and Public Service, 2530, Suite 1000, Box No. 63, Arlington, VA 22202. For more information about the appeals process, please see our FOIA regulations on the Commission's website.

You may also seek dispute resolution services, which are offered by the Office of Government Information Services (OGIS) at the 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,



Rachel Rikleen

Chief FOIA Officer
National Commission on Military, National, and Public Service
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