



Refuse to Register
NO REGISTRAR
CONSCRIPCION NO

*poster by Fred Moore for the
National Resistance Committee*

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9 March 2021

Craig T. Brown
Acting Director and FOIA Appeals Officer
Selective Service System
1515 Wilson Blvd.
Arlington, VA 22209-2425

cc: Deputy Director
Selective Service System
1515 Wilson Blvd.
Arlington, VA 22209-2425¹

(by e-mail to <Information@sss.gov>)

FOIA APPEAL

Dear Mr. Brown:

This is an appeal pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

On 7 December 2020 I requested access to and copies of certain records of the Selective Service System (SSS) concerning (1) each current member of a Selective Service Local Board, District Appeal Board, or National Appeal Board; (2) each current Selective Service registrar; (3) each current Selective Service Reserve Service Member (RSM); and (4) each current Selective Service state or territorial Director.

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1. The response to my FOIA request stated that appeals should be directed to the Deputy Director of the SSS. However, the SSS FOIA regulations at 32 CFR § 1662.2 designate the Director as the point of contact for FOIA appeals.

Edward Hasbrouck, <<https://resisters.info>>
Appeal of Response to FOIA Request 21-7, 9 March 2021, page 1 of 3

With respect to each of these individuals, I requested any records of (a) their name, (b) their office, title, and jurisdiction (e.g. “Member [or Chair, etc.] of Local Board [name or number] with jurisdiction over Cook County, Illinois”, or “Appeal Board Member for District [name or number and jurisdiction]”), and (c) demographic information including age (year of birth only, not date of birth), city or town of residence (not address), and military service (general information such as branch of service and rank, not military ID number or specific unit).

You assigned this request your reference number 21-7. On 14 December 2020 the SSS Chief FOIA Officer informed me that this request was “categorically denied pursuant to FOIA Exemption 6, 5 U.S.C. § 552(b)(6), because the individuals' right to privacy outweighs the general public's interest in seeing personally identifying information.”

I appeal this denial in full, including the withholding of official titles and demographic information (other than names) that does not constitute personally identifiable information, the determination that the right to privacy of these individuals outweighs the public interest in the disclosure of their names, and the failure to release segregable non-exempt portions of records.

Official titles (Members of the State Appeal Board for California, etc.) and demographic information (resident of the City and County of Fresno, born in 1972, etc.) are not personally identifiable information. The only records responsive to this request that constitute personally identifiable information, and that could even potentially be subject to exemption (b)(6), are names.

Records of all of this information are readily segregable from names, such as by redacting names from records of application forms that include the requested demographic information, and/or by separating the list or table of names and official titles from the other requested demographic information, and releasing each of these segregable portions separately.

The FOIA statute requires, and I specifically requested, that you release all segregable non-exempt records. Your failure to do so was plain error, and must be reversed on appeal.

All of the records I requested except names are segregable, non-exempt, and must be released.

With respect to the balance of privacy and public interests in the release of the requested names, the letter denying my request was entirely conclusionary and did not address any of the public interests in the disclosure of the names of these Presidentially-appointed holders of public office.

Names of Selective Service board members have routinely been provided in the past in response to FOIA requests, without the assertion by the SSS of any claim of exemption from FOIA. I know of nothing that has changed that would shift the balance of interests in favor of withholding.

Members of Selective Service local boards, district appeals boards, and the National Appeal Board would be the administrative adjudicators of claims for exemption or deferment, including claims for conscientious objector status, in the event of activation of a military draft conducted by the SSS. As quasi-judicial administrative officers, they hold positions of great public trust and would, in the event of a draft, be making decisions on behalf of the Federal government which could have life or death implications.

The duties of Reserve Service Members (RSMs) include training local board members.² As trainers, each Reserve Service Member has an even greater influence than any local board member on how local board members will interpret SSS regulations and directives, and thus on the outcome of decision-making in the event of a draft.

State and territorial directors supervise and direct the training and operations of local boards, district and state appeal boards, RSMs, and other staff.

It is of the utmost importance to the public to know who these decision-makers and their trainers and supervisors are; whether they fairly represent the demographics of their communities, their states and territories, and the country as a whole; and whether they are likely to be able to fairly and impartially cast judgment on the claims which would come before them. Public trust in the SSS is vital to its operation and creates a compelling public interest in naming these individuals.

SSS registrars are appointed and hold themselves out to the public as representatives of the SSS, and are intended to be relied on for information concerning SSS policies, procedures, and requirements. It is important for individuals seeking information or advice concerning the SSS to be able to determine who has, and who has not, been so appointed and authorized and can be relied on for information or advice concerning those policies, procedures, and requirements.

If the public cannot verify whether individuals holding themselves out to the public as SSS registrars are, in fact, duly appointed to act in that capacity, registrants will be vulnerable to “phishing” and other privacy attacks by scammers using the claim to be collecting SSS registration information as a pretext to collect personal information for registrants for malign purposes. Members of the public have a compelling interest in being able to identify who is, and who is not, a *bona fide* SSS registrar, and the ability of the public to identify these registrars and distinguish them from impostors is essential to the performance by those registrars of the official purpose for which they are appointed.

The balancing of these public interests against the limited privacy interests of these public officials in withholding of their names alone (without any other personally identifying information) was in error and should be reversed on appeal.

I look forward to your decision within 20 working days, as the FOIA statute requires.

Please respond as soon as possible to confirm your receipt of this appeal and to advise the reference number assigned to this appeal and the expected date of completion of action with respect to this request, including action on this appeal.

Edward Hasbrouck

2. Selective Service System, “Reserve Service Members”, <<https://www.sss.gov/about/agency-structure/#s2>>