



January 23, 2020

VIA ELECTRONIC MAIL

Duncan H. Walker
Designated Federal Officer
Policy Planning Staff
U.S. Department of State
Washington, DC 20522-0208
walkerdh3@state.gov

Dear Mr. Walker:

On July 8, 2019, Secretary of State Mike Pompeo announced the formation of the U.S. Department of State Commission on Unalienable Rights.¹ We write to you in your capacity as the Designated Federal Official for the Commission.

In that capacity you are no doubt aware that the Federal Advisory Committee Act (FACA) requires that:

the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the office of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist.²

The D.C. Circuit Court of Appeals reiterated the right of public inspection when it held as follows:

[U]nder section 10(b) of FACA an agency is generally obligated to make available for public inspection and copying all materials that were made available to or prepared for or by an advisory committee. Except with respect to those materials that the agency reasonably claims to be exempt from disclosure pursuant to FOIA, a member of the public need not request disclosure in order for FACA 10(b) materials to be made available. Thus, whenever practicable, all 10(b) materials must be available for public inspection and copying before

¹ U.S. DEP'T. OF STATE, Secretary of State Michael R. Pompeo Remarks to the Press, July 8, 2019, <https://www.state.gov/secretary-of-state-michael-r-pompeo-remarks-to-the-press-3/>.

² 5 U.S.C. App. § 10(b) (emphasis added).



or on the date of the advisory committee meeting to which they apply.³

We would like to inspect all records prepared by or made available to Commission members regarding the Commission's October 23, 2019, November 1, 2019, December 11, 2019, and January 10, 2020 meetings. We have been unable to locate these documents on the Commission's page in the online FACA Database.⁴ Please have an appropriate employee promptly contact Khahilia Shaw at foia@americanoversight.org or 202.539.6507 to coordinate making arrangements for our inspection of the Commission's records as soon as possible in order to ensure that we are able to complete our inspection and any related copying. Thank you for your assistance in this matter.

Sincerely,



Melanie Sloan
Senior Advisor
American Oversight

³ Memorandum for Comm. Mgmt. Officers from James L. Dean, Dir., Comm. Mgmt. Secretariat (March 14, 2000), <https://www.gsa.gov/portal/content/100785> (quoting *Food Chem. News v. Dep't of Health & Human Servs.*, 980 F.2d 1468, 1469 (D.C. Cir. 1992)).

⁴ Federal Advisory Committee Act Database, "Department of State Commission on Unalienable Rights Committee Members, Meetings and Advisory Reports," <https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000003eF4JAAU> (select "Committee Meetings Tab") (displaying the message: "No data available in table"); see also Commission on Unalienable Rights; Notice of Open Meeting, 84 Fed. Reg. 70260 (Dec. 20, 2019) (also available at <https://www.federalregister.gov/documents/2019/12/20/2019-27473/commission-on-unalienable-rights-notice-of-open-meeting>).