

## Year-End Report - 2015

### Steering Committee

**Steven Aftergood**  
Federation of  
American Scientists

**Gary Bass**  
Bauman Foundation

**Tom Blanton**  
National Security  
Archive

**Rick Blum**  
Sunshine in Government  
Initiative

**Danielle Brian\*/  
Sean Moulton**  
Project on Government  
Oversight

**Kevin Goldberg**  
American Society of  
News Editors

**Conrad Martin**  
Fund for Constitutional  
Government  
(Ex-officio member)

**Michael Ostrolenk**  
Liberty Coalition

**David Sobel**  
Electronic Frontier  
Foundation

**Tom Susman**  
National Freedom of  
Information Coalition

**Anne Weismann**  
Campaign for  
Accountability

**John Wonderlich**  
Sunlight Foundation

\* Chair

**Patrice McDermott**  
Executive Director

**Jesse Franzblau**  
Policy Associate

**Emily Manna**  
Policy/Program Associate

**Mary Treacy**  
Outreach Coordinator  
(Volunteer)

In 2015, OpenTheGovernment.org (OTG) worked to defend and strengthen open and accountable government, combat attempts to increase government secrecy, provide information to the public about their right to know and the need for open government reform, and much more.

Among the 2015 highlights, as described below, OTG:

- Championed openness issues in the national security arena, by pushing for [increased transparency](#) and public access to information about national security surveillance programs and the legal interpretations that authorize them.
- [Advocated](#) for the release of more information on the CIA torture program.
- Mobilized the openness community in support of meaningful FOIA reform, and combatted multiple threats to the FOIA.
- Worked to raise the visibility of FOIA and other critically important open government issues through editorials, analysis, and public events.
- Coordinated civil society engagement in the implementation and evaluation of the United States' second National Action Plan as part of the Open Government Partnership, and the creation of the third plan.

### The Difference OTG Makes – setting the openness agenda

In advance of Sunshine Week 2015, OTG coordinated a [letter](#) requesting that the Obama Administration make four disclosures and statements to concretely increase government transparency. These included statements of support for codifying the “presumption of openness” in FOIA legislation and in favor of whistleblower protections for intelligence community contractors. The letter also included requests for the government to increase reporting on national security surveillance programs, and to release drafts of the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (T-TIP) trade agreements. Throughout the year, OTG worked on multiple levels to keep these issues in the national spotlight.

### Protecting and Improving the Freedom of Information Act (FOIA)

In 2015, OTG and our partners met with congressional staff to share our ideas for reform. Last year, FOIA bills were introduced in each of the chambers, and each contained many of the suggested reforms. Both the House bill ([H.R. 653](#))

and the Senate's ([S. 337](#)) passed in their respective committees of jurisdiction. In February, OTG organized a [letter](#) with 47 signatories in support of congressional FOIA reform; it was cited by Representative Elijah Cummings in his remarks on the House floor, in January 2016, when H.R. 653 was introduced and passed on a voice vote.

OTG successfully combatted a threat to the FOIA present in Cybersecurity legislation, which would have created a new and extremely broad FOIA exemption, the first new exemption in more than 50 years. Ten groups joined our March [letter](#) to the Senate Select Committee on Intelligence urging the committee to object to the legislation in its entirety. OTG coordinated with a broad coalition on [media outreach efforts](#) to oppose the other provisions of the bill that would weaken the FOIA and reduce transparency.

In addition to the threats to FOIA in the cybersecurity legislation, OTG successfully pushed back against a proposal from the Department of Defense for language in the NDAA that would have restored the "high 2" FOIA exemption, previously used by agencies to withhold information not legitimately exempt under Exemption 2. We also successfully [worked](#) with partners to remove harmful new exemptions (b3s) to the FOIA in the Highway Funding bill. The proposed exemptions came from a wide range of other Senate Committees, a common tactic of agencies and industries that makes the "exemptions by other statute" difficult to find and counter.

During Sunshine Week, Dr. McDermott discussed FOIA reform's potential at a panel hosted by the House Transparency Caucus. Caucus co-chairs, Representatives Darrell Issa and Mike Quigley, attended and spoke at the event. Dr. McDermott also wrote an [opinion piece](#) in June calling for the Administration to support FOIA reforms that would enshrine the openness policies administered his first day of office by codifying the presumption of openness into law. The piece was placed in many papers across the country.

In May, OTG submitted [comments](#) to the CIA on the agency's decennial operational files review. Over the past decade the CIA has used the FOIA provision that exempts operational files from disclosure as a justification for its failure to search operational files. It has also been used to justify as destruction of evidence held in those files, despite the relevance of such information to investigations by the CIA Inspector General. OTG outlined the categories of documents the CIA should preserve and make available for search and review under the FOIA.

In September, OTG organized a sign-on letter with several of our partners to submit [comments](#) on proposed DHS FOIA regulation changes, expressing concern that the changes could hinder the FOIA process and recommending provisions that do more to ensure greater access to public interest information. The letter recommended the inclusion of a specific provision to conform to the Attorney General's guidance on the presumption of openness, in accord with the model FOIA regulations developed by OTG and coalition partners.

### ***Delivering Results in the Open Government Partnership***

OTG coordinated civil society's engagement on commitments in the US National Action Plan (NAP) and pushed for policy changes that would advance government openness and accountability. In January 2015, OTG published a [year-end progress report](#) on the implementation of the second Plan.

In response to the report, OTG and the White House organized a series of meetings to reconnect civil society groups with the government leads to discuss the trajectories of the commitments.

In September, OTG published a third [Progress Report](#) on the Administration’s implementation of its second OGP plan. The report was the product of interviews carried out with civil society partners engaged in the OGP process from June through August. In the report, civil society teams criticized the government’s lack of progress on many of its commitments, and urged the Administration to adopt substantive, measurable, and transformative commitments, pursue a more collaborative relationship with civil society, actively support transparency-related legislation and policies, and ensure agencies work both to fulfill and exceed commitments. The report was highlighted in a [Government Executive](#) article, and shared widely by our partners on social media.



[Abby Paulson speaks at a White House public meeting on open government in July](#)

In July, OTG’s Abby Paulson delivered [remarks](#) during a White House public meeting on open government. The presentation highlighted a selection of commitments from the Civil Society Model Plan, and urged the Administration to “tackle the tough issues,” such as secrecy surrounding targeted killing, detainee treatment, and surveillance programs – emphasizing that even in the wake of the Snowden disclosures and subsequent releases of information, too much information about how the US conducts electronic surveillance remains classified.

In addition to our work evaluating the government’s performance, OTG organized groups in the openness community to create a blueprint for the government’s third NAP. The [Model Plan](#) pushed the White House to not only advance open government, but also to address areas of civil society concern relating to ongoing government secrecy and a lack of accountability. As a result of this and our ongoing discussions with the Administration, the third National Action Plan included several more ambitious commitments related to our policy priorities.

In October, OTG hosted a [workshop](#) at the OGP summit in Mexico to facilitate civil society knowledge-sharing. Panelists and attendees from participating countries shared their perspectives on engaging with government on the OGP process, as well as lessons for making the process more meaningful.



[Patrice McDermott & Jesse Franzblau with civil society leaders from around the world in Mexico for the OGP 2015 Global Summit](#)

### ***Reducing Secrecy***

OTG has positioned the coalition to use the revelations about the National Security Agency’s surveillance programs, which were far more invasive and extensive than what was thought to be allowed under the law, to push back against national security secrecy. This has involved pushing for an end to secret legal interpretations, like those underpinning warrantless surveillance programs, and collaborating with a wide range of groups to push for policies that increase public disclosure about these programs. In response to public pressure and OTG-led civil society openness campaigns, the

Office of the Director of National Intelligence (ODNI) has declassified several Foreign Intelligence Surveillance Court (FISC) opinions, orders, and other documents on [Contherecord.tumblr.com](http://Contherecord.tumblr.com).

In June 2015, the USA Freedom Act of 2015, the first significant reform to intelligence practices since 9/11, [was signed into law](#). OTG played a key role in advocating for the inclusion of transparency provisions in the surveillance reform bill. Although the bill is imperfect, it includes some requirements that will increase public access to significant FISA Court opinions and increase government reporting on the program.

OpenTheGovernment.org crafted several new model commitments for the 3<sup>rd</sup> US OGP National Action Plan that target secrecy in national security programs. OTG is urging the US government to live up to its open government commitment by declassifying information about the [CIA's torture and rendition programs](#), current detainee treatment policies, [lethal drone strikes](#) overseas, and the legal authorities governing those actions. OTG also helped craft a model commitment which would lead to more meaningful disclosure about surveillance under section 702 of the FISA and Executive Order 12333.

OTG continued to push the Administration to release more information regarding the CIA torture program, which remains deeply secret despite publication of Executive Summary of the Senate Select Committee on Intelligence's torture report. In January 2015, eight groups joined OTG to ask President Obama to [stop ignoring](#) the torture report. National Security Fellow Katherine Hawkins [argued](#) for disclosure of important details about the torture program in a [complaint](#) filed with the Information Security Oversight Office (ISOO) in September. OTG argued that, even after the release of the Senate torture report's [executive summary](#) last December, the Executive Branch is wrongfully classifying information about the CIA's rendition, detention and interrogation program. Specifically, OpenTheGovernment.org argues that at least five categories of information about the torture program are being kept secret in violation of the [Executive Order that governs national security classification](#).

In June, OpenTheGovernment.org submitted [comments](#) to NARA on the Capstone approach to managing records, highlighting issues relating to the retention of classified emails and designation of Capstone officials, and recommending that NARA publish agencies' draft verification forms before approving them. This approach would help the public spot problematic records schedules, like the one [proposed by the CIA](#), which OTG brought to the attention of our partners and of congressional staff in November 2014.<sup>1</sup> NARA recently accepted some, though not all, of OTG's suggestions for strengthening the language of its Capstone records schedule.

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<sup>1</sup> After OTG organized a [letter](#) to NARA, and members of the Senate Select Committee on Intelligence [raised strong concerns](#), NARA agreed to reevaluate the CIA's proposed schedule and the participation of the Intelligence Community in NARA's Capstone program.

## ***Raising the Visibility of Open Government & Accountability Issues***

In March, OTG partnered with the Newseum Institute, Sunshine in Government Initiative, Reporters Committee for Freedom of the Press, and the American Library Association to host the annual Freedom of Information Day, and highlight the ten years of Sunshine Week..



Sean Moulton speaks on a panel at the Newseum during the 2015 FOI Day Celebration hosted by OTG and our partners

OTG's [panels](#) examined the successes, challenges and prospects for open government in 2015, focusing on arguments claiming transparency causes government dysfunction, and provided examples countering these claims.

In April, Dr. McDermott participated in a Newsmakers Event at the National Press Club on a panel with Tom Blanton, Executive Director of the National Security Archive, Jason Baron (formerly NARA's litigation director), and Liz Icenogle from ARMA. The panel, [Hillary & History: Lessons to Improve Open Government Under the Records Laws from Clinton's Email Records Episode](#), addressed the government-wide issues with the retention and appropriate preservation for access of government e-mail records.



Dr. McDermott speaking on a panel in April 2015 at the National Press Club

OTG continued its series of Open Government Town Halls. In September 2015, OTG co-hosted a [Town Hall on Foreign Aid and Security Assistance Transparency](#), with an energetic discussion on advocacy efforts to make aid information available to the public, and why openness is crucial for government accountability.

At the OGP summit in October, Dr. McDermott participated in a [panel](#) called, "Holding Governments Accountable in OGP," where she discussed the

Independent Reporting Mechanism report on the United States. During the OGP summit, Jesse Franzblau also participated in a panel organized by the Open Society Justice Initiative on police transparency and accountability initiative

In her role as OTG's National Security Fellow, Katherine Hawkins closely tracked and informed the public, press and policymakers about examples of unjustified secrecy in intelligence activities – such as the secret CIA terrorist prisons – and of the abuses and harms, such as torture – that resulted from it. Throughout the year, OTG raised questions about excessive secrecy in letters to policymakers and Congressional oversight committees, and in both public and private meetings with Executive Branch officials. We have actively advocated with the President for the maximal declassification and release of the Senate report on torture.

Hawkins spoke at an April event hosted by the National Archives and Records Administration (NARA), presenting recommendations for prioritization at the National Declassification Center.

Hawkins also addressed the tensions between secrecy, openness, and national security at a Johns Hopkins conference that month.

Dr. McDermott contributed to two webinars in 2015: in March, she participated in a webinar entitled “Secrecy and Openness in Government Information—A Dynamic Tension,” and in June, she discussed OTG’s work with the Open Government Partnership in a webinar for [InterAction](#).

OTG opened up its partnership with American Forum to partners to amplify voices for open government in the media. American Forum is a non-profit organization that helps OTG place opinion pieces and also provides media training and consultation.

#### **New OTG staff:**

In June, Jesse Franzblau joined the coalition’s staff as a Policy Associate. Prior to joining OTG he worked with the Open Government Partnership Independent Reporting Mechanism (IRM), as an investigator for the Center for Justice and Accountability, and a researcher for the National Security Archive – on issues of access to information and open government in the U.S. and abroad. He has written for a number of publications on U.S. foreign policy, government transparency, and the intersection between freedom of information and human rights truth and justice efforts. Franzblau plays a central role in civil society’s evaluation of the implementation of the U.S. 2<sup>nd</sup> National Action Plan and OTG’s other engagement with the Open Government Partnership.

In August, Emily Manna joined OTG’s staff as a Policy/Program Associate. Manna has a background in civil liberties and human rights issues in U.S. national security and foreign policy, including advocacy at the Arab American Institute and research for the American University Ibn Khaldun Chair of Islamic Studies, as well as thesis research at Georgetown University focused on the U.S. drone program. She manages OTG’s communications, coordinates with coalition members, assists with programmatic work, and engages on policy work. She plays a central role in OTG’s policy reporting and in the 2<sup>nd</sup> NAP evaluation.

### **Examples of our Work in our Focus Areas**

#### **Letters and Comments**

Sunshine Week Actions

<http://www.openthegovernment.org/node/4823>

Groups to President Obama: Stop Ignoring the Torture Report

<http://www.openthegovernment.org/node/4783>

47 Groups Support 114th Congress' Steps to Reform FOIA

<http://www.openthegovernment.org/47-groups-support-FOIA-reform>

Groups to SSCI: CISA Undermines Transparency

<http://www.openthegovernment.org/node/4821>

34 Groups Oppose "Protecting Cyber Networks Act"

<http://www.openthegovernment.org/node/4861>

Groups Urge Senate to Oppose the Cybersecurity Information Sharing Act (CISA)

<http://www.openthegovernment.org/node/4901>

Call for Archivist and State Department to Review Clinton Email Server, Ensure Preservation of Federal Records

<http://www.openthegovernment.org/node/4829>

Groups provide comments on proposed regulation on Controlled Unclassified Information (CUI)

<http://www.openthegovernment.org/node/4940>

Openness groups call for DHS FOIA provisions to enshrine the “presumption of openness”

<http://www.openthegovernment.org/node/5005>

Open government groups call for new USTR “transparency officer”

<http://www.openthegovernment.org/node/5008>

Openness advocates and criminal justice groups join call for comprehensive data on police shootings

<http://www.openthegovernment.org/node/5022>

Openness groups submit comments on OMB’s “Circular A-130” guidance

<http://www.openthegovernment.org/node/5055>

Open government groups call for immediate action on OMB Open Government Plan

<http://www.openthegovernment.org/node/5079>

### **Improving Access**

USAspending.gov’s Upgrades Falter

<http://www.openthegovernment.org/node/4869>

Agency IGs Find No FOIA Interference from Political Appointees

<http://www.openthegovernment.org/node/4976>

New OGIS Report Highlights Need for FOIA Reform; Observes “lack of knowledge” about FOIA Guidelines

<http://www.openthegovernment.org/node/4997>

International Right to Know Day 2015: OpenTheGovernment.org calls for legislative reforms and Executive actions to improve FOIA

<http://www.openthegovernment.org/node/5004>

### **Opening Government**

CISA is Back, and It’s Still Terrible on Transparency

<http://www.openthegovernment.org/node/4811>

Supreme Court Has a Responsibility to Open Up

<http://www.openthegovernment.org/supreme-court-has-a-responsibility-to-open-up>

Sunshine Week Transparency Legislation

<http://www.openthegovernment.org/node/4855>

Pushing for Results Using the Open Government Partnership

<http://www.openthegovernment.org/node/4856>

OpenTheGovernment.org Statement on the Passage of The USA Freedom Act  
<http://www.openthegovernment.org/node/4900>

OpenTheGovernment.org Joins the Day of Action Opposing Cybersecurity Bill  
<http://www.openthegovernment.org/node/4947>

Administration Falling Short on Required Consultations with Civil Society  
<http://www.openthegovernment.org/node/5053>

### **Reducing Secrecy**

Overclassification: The First Step is Admitting You Have a Problem  
<http://www.openthegovernment.org/node/4772>

SSCI Chairman to CIA: We'll Hide Your Documents if You Hide Ours  
<http://www.openthegovernment.org/node/4778>

The GTMO Military Commissions are Starting to Move Away from Censorship  
<http://www.openthegovernment.org/node/4797>

Time to End the NDAA's Secrecy  
<http://www.openthegovernment.org/node/4864>

ACLU v. Clapper Shows Secret Courts are No Substitute for Real Judicial Review  
<http://www.openthegovernment.org/node/4881>

OpenTheGovernment.org's Statement on the McCain-Feinstein Anti-Torture Amendment  
<http://www.openthegovernment.org/node/4906>

The Classified Classification Guidance on Torture, and President Obama's Legacy  
<http://www.openthegovernment.org/node/4957>

New Cybersecurity Information Sharing Act being drafted in secret  
<http://www.openthegovernment.org/node/5069>

### **Preserving Records**

FAQs: Federal Email Records Management  
<http://www.openthegovernment.org/node/4819>

Upholding the Right-to-Know in the Digital Age  
<http://www.openthegovernment.org/node/5057>

### **Op-Ed Placement**

[If America Wants to Make Sure it Never Tortures Again, It Must Choose Law Over Secrecy](#)  
[The Guardian, Katherine Hawkins, January 8, 2015]

[The Lies Hidden Inside the Torture Report](#)  
[Politico Magazine, Katherine Hawkins, January 28, 2015]

[Torture and the CIA's Unaccountability Boards](#)  
[Just Security, Katherine Hawkins, February 5, 2015]

[America Needs a New Church Committee](#)

[Detroit News and others, Mary Treacy, February 23, 2015]

[Whistleblowers and the Prosecution Loophole](#)

[The Hill, Shanna Devine and Liz Hempowicz, March 12, 2015]

[Congress Can Honor Servicemembers Through Military Whistleblower Bill](#)

[Roll Call, Tom Devine and Shanna Devine, June 5, 2015]

[The White House should adhere to its openness policies by supporting legislative reform](#)

[Madison and others, Patrice McDermott, July 2015]

[The demand for transparency on trade negotiation: What the public needs to know about the TPP](#)

[Augusta Free Press, Argus-Press, Patrice McDermott and Jesse Franzblau, August 2015]

[Making 'Sunshine Week' every week](#)

[Palm Beach Post and others, Kevin Goldberg, September 2015]

[Protect military whistleblowers](#)

[The Hill, Lt. Col. Daniel L. Davis (Ret.), November 11, 2015]

[Death toll from violent cops is a guessing game: Column](#)

[USA Today, Patrice McDermott, December 2015]

**OpenTheGovernment.org in the News**

[Anti-Torture Campaigners Press for Closure of Guantanamo Bay Facility](#)

[Free Speech Radio, January 9, 2015]

[Open Gov Leaders: President Obama, Use Your Bully Pulpit to Promote Democracy Reforms in the State of the Union Address](#)

[Huffington Post, Chris Gates, January 20, 2015]

[Meet the CIA's Secret Protector: Why Sen. Richard Burr is its Favorite "Overseer"](#)

[Salon, January 27, 2015]

[Media Fighting Uphill Battle to Broadcast Same-Sex Marriage Cases](#)

[Politicker, February 4, 2015]

[FOIA Reform Bills Revived in Both Chambers of Congress](#)

[Gov Exec, Charles S. Clark, February 4, 2015]

[The CIA Lawyer Who Led a Secret Effort to Spy on the Senate](#)

[The Atlantic, Connor Friedersdorf, February 9, 2015]

[Hillary's Emails 'Not Technically Illegal'](#)

[The Hill, Julian Hatter, March 3, 2015]

[Everything We Know About Hillary Clinton's Email](#)

[Time and Fortune Magazines, Jack Linshy, March 5, 2015]

[Clinton Wants You to See Her E-Mails, Except the Ones She Didn't Hand Over](#)

[Bloomberg, Mark Drajem and Indira Lakshmanan, March 5, 2015]

[Clinton's Tweet Doesn't Answer Security and Transparency Concerns. And There's a Chance Nothing Will.](#)

[National Journal, Dustin Volz, March 5, 2015]

[Emails Hillary Clinton Said Were Kept Could Be Lost](#)

[New York Times, Boston Globe, Michael S. Schmidt and Julie Hirschfeld Davis, March 13, 2015]

[Anti-Secrecy Groups Demand Feds Review Clinton Emails](#)

[The Hill, Julian Hatter, March 17, 2015]

[Groups Want Digital Copies of Hillary Clinton Emails](#)

[Politico, Josh Gerstein, March 17, 2015]

[State Department Agrees to Probe Missing Clinton Emails](#)

[GovExec, Charles S. Clark, April 10, 2015]

[Dust-Up Over FOIA Exemption in Cyber Bill](#)

[Politico, Josh Gerstein, April 20, 2015]

[Report: Congress Divided Over Cyber Bill's FOIA Exemption](#)

[Executive Gov, Mary-Louise Hoffman, April 21, 2015]

[Former Bush Official With Ties to CIA Torture Now Advises Obama Interrogators](#)

[Huffington Post, Ali Watkins, May 7, 2015]

[Defense Bills Cause Transparency Jitters](#)

[Politico, Josh Gerstein, May 17, 2015]

[The Watchdog, the Whistleblower, and the Secret CIA Torture Report](#)

[Vice News, Jason Leopold, May 19, 2015]

[Seven Agencies Experimenting with Publishing FOIA Releases](#)

[GovExec, Charles Clark, July 14, 2015]

[For American Psychological Association, National Security Trumped Torture Concerns](#)

[The Intercept, Jenna McLaughlin, July 14, 2015]

[The Government is Now Giving Away Your FOIA Scoops](#)

[Poynter, Benjamin Mullin, July 10, 2015]

[White House to Make Public Records More Public](#)

[Washington Post, Lisa Rein, July 10, 2015]

[Why the Laura Poitras Case is Bigger Than You Think](#)

[CJR, Jack Murtha, July 17, 2015]

[Watchdogs' stance on Hillary Clinton email review irks transparency advocates](#)

[Politico, Josh Gerstein, July 27, 2015]

[Amtrak has high FOIA denial rate — IG](#)

[Greenwire, Sean Reilly, Monday, August 24, 2015]

[Judge Tells IRS to Rethink Privacy Limits on Document Disclosure](#)

[Government Executive, Charles S. Clark, August 31, 2015]

[Groups want OMB to reconsider info policy revisions](#)

[FCW, Adam Mazmanian, November 23, 2015]

[The White House is Violating Its Own Transparency Policy](#)

[Government Executive, Charles S. Clark, December 21, 2015]