

Dear Friends:



We live in extraordinary times, where long held assumptions about America's institutions are being challenged, and previously unthinkable questions about our democracy's future are being asked. As we face the truth of the fragility of our democracy — that it relies as much on norms and tradition and restraint as on the Constitution and history and law—we recognize that we no longer have the luxury of remaining complacent about the durability of our system of government.

That awakening, while perhaps overdue, means we now know we must double-down on our efforts to defend and restore the core components of our democracy that ensure our institutions work and our leaders and decision-makers are accountable to the people. Our Constitution created a system of checks and balances and provided for a free press to help prevent the consolidation of power in one individual or one branch of government. That system has never been perfect, but the cracks in the foundation are deepening to the point that complacency is no longer an option.

One key component to mending the fissures and restoring accountability and responsiveness in government is transparency. Recognizing that knowledge is power and what we can't see can hurt us, it is critical that the American people have access to information so we know how and why key decisions are made that have profound effects on our lives.

The Open the Government coalition is dedicated to ensuring that the people's right to know remains intact and serves as the underpinning for creating a government that works for the welfare of the many, not the narrow interests of the few. An informed democracy is the antidote to claims of fiction as fact and facts as fake news. As we look back to the successes we had in 2017, we are inspired to continue our fight for a transparent and accountable government, creating a more informed electorate that can demand respect for and adherence to democratic fundamentals.

Sincerely,

Lisa Rosenberg

*Lisa Rosenberg*

Executive Director

Open the Government

## Year End Report 2017

In 2017, Open the Government continued to empower the public and strengthen democracy by advancing policies that lead to a more open, accountable, and responsive government. As a force multiplier for the openness community, OTG aligned and amplified diverse voices in civil society in order to make our democratic institutions more accountable, increase access to information, protect national security, and address threats to access and openness.



### **OTG staff work daily with coalition partners to:**

- Create Accountability by Informing the Public by Securing, Preserving and Increasing Access to Records;
- Protect National Security by Decreasing Secrecy;
- Empower Communities by Increasing Access to Information; and
- Secure Checks and Balances by Addressing Threats to Norms of Access and Openness.

OTG mobilizes our coalition partners to address systemic challenges that inhibit the government from being more open and accountable, alerting our community when the government attempts to weaken transparency, and building a strong line of defense for crucial mechanisms for public access. Among other highlights, OTG worked to protect and reform the FOIA in Congress and the Administration, seized opportunities to push back against excessive national security secrecy, worked with the social justice community toward more open and accountable law enforcement, informed the public about the need for open government reform, and adapted to the threats to openness and accountability by a new administration.

### **Creating Accountability by Informing the Public by Securing, Preserving and Increasing Access to Records**

- OTG [called on](#) the Department of Homeland Security to release the long-awaited report from a Congressionally-requested Inspector General investigation into the Department's handling of President Trump's Muslim Ban. OTG and the Project On Government Oversight also filed a FOIA request for

the full report, which DHS denied. DHS made a redacted version of the report public only after OTG and POGO appealed the denial.

- OTG led a coalition of more than 20 organizations opposing a bill that would severely undermine oversight of the Department of Homeland Security by allowing the DHS Secretary to waive any legal requirement deemed necessary to facilitate border security programs. The bill also includes provisions that would drastically reduce public access to information about implementation of immigration and border security policies.
- OTG supported and helped shape Rep. Mike Quigley's Transparency in Government Act, which encompasses a wide range of reforms aimed at enhancing transparency and accountability across government.

### **Making FOIA Work as Intended – as a Tool for Openness and Accountability**

- OTG and several partners lent support to Senator Ben Cardin's Private Prison Information Act of 2017, which seeks to close the FOIA loophole for private prisons that contract with the federal government. In June, Lisa Rosenberg penned a USA Today op-ed calling attention to the harmful secrecy in the private prison industry.



- OTG and partners submitted comments to the Office of Government Information Services (OGIS) on its proposed rule on the implementing guidance and procedures for OGIS's FOIA dispute resolution services. The recommendations provided in the comments are intended to ensure the OGIS regulations do not place restrictive confidentiality requirements on requesters who chose to use OGIS's mediation and dispute resolution services.
- OTG and our partners successfully fought efforts to weaken FOIA in the FY2018 National Defense Authorization Act (NDAA). We pushed back against an exemption that would have severely undermined the FOIA by creating an unnecessary secrecy provision at odds with FOIA's goal of transparency and a carve-out to the FOIA for the

Pentagon, and met with Congressional offices and DoD officials. The provision was ultimately removed from the NDAA.

### **Ensuring the Preservation of Government Records**

- In February, OTG and 69 other public interest organizations [called on](#) federal agencies to fulfill their legal requirement to provide the public with adequate notice before removing public information from government websites. In March, an OMB official responded to inform us that the agency had [complied](#) with our request to send a memo to agencies reminding them of this requirement.
- OTG and some of our partners submitted [comments](#) to the National Archives opposing the CIA's request for discretion to destroy records it deems historically "insignificant," noting the CIA's history of destroying important records.
- Amid growing concern that important and sensitive government data on climate, labor, and other issues may disappear from the web under the Trump Administration, OTG began coordinating with the [End of Term Harvest](#) to engage the coalition and others in efforts to preserve access to online government information. With representatives of the EOT Harvest, we organized an informational [meeting](#) on how groups could support preservation efforts.

### **Protecting National Security by Decreasing Secrecy**

#### **Working to End Secret Law**

- In May, OTG submitted [suggested questions](#) regarding secret law and access to information for the confirmation hearing of Steven Engel, the Trump administration nominee to head the Justice Department's Office of Legal Counsel. After receiving our questions, members of the Senate Judiciary Committee [questioned](#) Engel on issues related to transparency and access to information.

### **Bringing the Senate Torture Report to Light**

- OTG called on federal officials to [read and publicly release](#) the Senate Torture Report following reports that the CIA, FBI, and the Office of the

Director of National Intelligence had returned their copies of the Report to Congress.

- In January, OTG joined a coalition of human rights and government accountability organizations in [supporting](#) a Congressional letter calling on President Obama to direct federal agencies to open and internally promulgate their copies of the Torture Report.

### **Charting a New Course on Secrecy/Secrecy Rules**

- OTG hosted a [Town Hall](#) to talk about efforts to combat secrecy and enhance oversight on warrantless government surveillance programs, including the FBI's use of the new "Black Identity Extremist" (BIE) label, which has raised a number of accountability issues regarding the disproportionate impact it has on communities of color, religious minorities, and activists.
- Co-wrote an op-ed, "How to Balance Civil Liberties with Safety", with Jesse Blumenthal of the Koch Institute, that appeared in Real Clear Politics.
- As Congress weighed reauthorization of Section 702 of the FISA Amendments Act, OTG [called on](#) the Director of National Intelligence to uphold his commitment to release a public estimate of the number of Americans whose communications are collected as part of the surveillance programs carried out under Section 702. OTG worked closely with a coalition of government accountability, privacy, civil rights and civil liberties organizations to push for stronger reforms in various 702 reauthorization bills in the [House](#) and [Senate](#).
- OTG pushed for two important transparency and accountability provisions to be included in the National Defense Authorization Act (NDAA) of 2017, which would require DoD reporting on civilian casualties and disclosure of the legal and policy frameworks for U.S. military and national security operations. As previously noted, OTG and our partners also fought back against efforts to weaken FOIA in the NDAA. The

coalition [pushed back](#) against a carve-out to the FOIA for the Pentagon, and met with Congressional offices and DoD officials.

- OTG brought open government, accountability, human rights, and civil liberties advocates together for a [Town Hall on Advancing Accountability for the Use of Military Force](#). Experts from the Federation of American Scientists, the Open Society Policy Center, and Columbia Law School's Human Rights Clinic led a discussion on ways the openness community can engage to reduce secrecy and improve oversight of military and national security operations.
- OTG Executive Director Lisa Rosenberg [called on](#) new FBI Director Christopher Wray to commit to improving Bureau transparency and accountability, particularly regarding law enforcement surveillance and use of force. OTG [submitted](#) questions for Wray's nomination hearing.

### **Empowering Communities by Increasing Access to Information**

- Our [recommendations](#) urging the United States Trade Representative (USTR) to commit to making trade negotiations more transparent and to appoint a new transparency officer were incorporated into the [Promoting Transparency in Trade Act](#), which was introduced in the House in July by Representative Debbie Dingell and 16 co-sponsors.



- OTG called on the Pentagon to [release](#) a report by the Special Inspector General for Afghanistan Reconstruction (SIGAR) that details the extent of abuse against minors in Afghanistan, carried out by U.S.-allied Afghan soldiers and police.
- OTG led a coalition of groups in [calling on](#) Immigration and Customs Enforcement (ICE) to comply with the legal obligations under the Freedom of Information Act (FOIA), and fully disclose information on immigration enforcement cooperation between federal and non-federal law

enforcement agencies. The letter was followed by a [lawsuit](#) filed by the Transactional Records Access Clearinghouse (TRAC) charging Immigration and Customs Enforcement (ICE) with unlawfully withholding information.

- OTG supported efforts to [push back](#) against the administration's move to reduce restrictions and transparency requirements for a federal program that floods police departments with military equipment, and supported bipartisan [legislation](#) introduced to increase accountability for the program. Lisa Rosenberg [raised awareness](#) of the dangers of reducing oversight for the already secretive program in an editorial for USA Today.
- OTG and a coalition of organizations dedicated to government openness and accountability, privacy, human rights, civil rights, and immigrant rights [wrote](#) to the Attorney General and Secretary of Homeland Security to urge them to address concerns stemming from recent executive actions on immigration and refugees, and demand that the government protect privacy rights and release public data in a complete, consistent, unbiased, and open manner.
- OTG led a coalition of organizations in [criticizing](#) the Justice Department's demand for information from a website used to organize protests, citing privacy and civil liberties concerns. After significant public pressure, the DOJ limited its initial demand for data, but continued to argue that the initial broad request was legal. Lisa Rosenberg wrote in the Washington Post that [concerns remain](#) for dissent and political organizing.
- OTG [supported](#) Rep. Jackie Speier's calls for accountability and transparency of sexual harassment settlements in Congress, after it was revealed that over the past 10-15 years, taxpayers have had to shell out \$15 million to settle with victims, who are made to sign non-disclosure forms.
- OTG and the Electronic Frontier Foundation (EFF) organized a [Trade Transparency Roundtable](#), bringing together civil society and government officials to discuss the U.S. trade negotiation process. Civil society participants developed recommendations to make trade negotiations more open and inclusive, and presented the recommendations to government representatives for feedback and ideas.

## Securing Checks and Balances by Addressing Threats to Norms of Access and Openness

- Following reports that some government officials were considering purging records of President Trump's Oval Office conversation with Russian diplomats, OTG called on the White House to [preserve and immediately release](#) a transcript of the conversation to congressional Intelligence Committees.
- In response to the dismissal of former FBI Director James Comey, OTG Executive Director Lisa Rosenberg wrote to the [DOJ Inspector General](#), asking that he take immediate action to ensure the preservation of and public access to records relating to the incident.

## Raising the Visibility of Open Government Issues

- Lisa Rosenberg [appeared](#) on the Bill Press Show, discussing current challenges and opportunities for open government and accountability, including secrecy around warrantless government surveillance.
- OTG took part in the Open Government Partnership's [regional summit](#) in Buenos Aires, Argentina, sharing lessons learned from OTG's experience engaging in the OGP process since its inception, and [learning from civil society leaders from across the region and beyond](#) on how other open government advocates have responded to political transitions and threats to democracy. OTG's Jesse Franzblau presented on a panel to discuss U.S. declassification policy, the role that U.S. archives have played in human rights justice efforts throughout Latin America, and the challenges in the U.S. stemming from entrenched secrecy relating to government torture practices, extraordinary rendition, and surveillance programs.
- OTG's Lisa Rosenberg participated in a panel [discussion](#) of a new Transparency International report on U.S. attitudes about government corruption. The 2017 U.S. Corruption Barometer found that Americans are losing faith in government, particularly in the Executive and Legislative branches.





## New Partners

- Since January 2017, [In the Public Interest](#), the [FracTracker Alliance](#), [MuckRock](#), the [Association of Alternative News Media](#), [FreedomWorks](#), [Issue One](#), [R Street Institute](#), the [First Amendment Coalition](#), [Demand Progress](#), [American Oversight](#), the [FACT Coalition](#), [Global Witness](#), the [National Immigration Project of the National Lawyers Guild](#), the [National LGBTQ Task Force](#), and [Keeping Government Beholden](#) have joined the coalition.

## New Leadership and Staff

In March 2017, Lisa Rosenberg joined OTG as Executive Director. She is an experienced nonprofit advocate and expert in transparency in government issues. Her career in public service includes eight years at the Sunlight Foundation, where she launched many of the organization's advocacy initiatives.

She also spent many years working on campaign finance reform for then-Senator John Kerry and served as counsel for the Senate Governmental Affairs Committee Special Investigation into Federal Election Activities. Rosenberg was also Director of the FEC Watch Project at the Center for Responsive Politics.



In October 2017, Wayne Besen (pictured) joined OTG as Communications Director. Prior to serving as Communications Director for Open the Government, Besen was the Founding Executive Director of Truth Wins Out. He is the author of "Anything But Straight: Unmasking the Scandals and Lies Behind the Ex-Gay Myth" (Routledge, 2003) and "Bashing Back: Wayne Besen on People, Politics, and Culture." (Routledge, 2006). He was the host of "The Wayne Besen Show," on WCPT 820 AM, Chicago's Progressive Talk, and a weekly columnist at the Falls Church News Press.

## Examples of our Work in our Focus Areas

### **Inform the Public by Securing, Preserving and Increasing Access to Records**

OTG praises the Transparency in Government Act  
<https://www.openthegovernment.org/node/5642>

OTG Calls on The Department of Homeland Security to Release Report that Criticizes Trump Administration's Handling of Travel Ban

<https://www.openthegovernment.org/node/5639>

Updated: Government accountability groups condemn secrecy provisions in House and Senate border security bills

<https://www.openthegovernment.org/node/5591>

Congress should demand greater transparency and oversight for law enforcement, not more militarization

<https://www.openthegovernment.org/node/5567>

OTG supports Quigley bill to codify preservation of presidential tweets

<https://www.openthegovernment.org/node/5533>

Senators call for FOIA compliance, full implementation of the 2016 FOIA reforms

<http://www.openthegovernment.org/node/5459>

Senators Urge White House to Comply with Presidential Records Act

<http://www.openthegovernment.org/node/5453>

Reports of Information Removed from Government Websites

<http://www.openthegovernment.org/node/5435>

DataRefuge groups across the country race to save government climate data

<http://www.openthegovernment.org/node/5429>

Senator Sessions' responses for the record on openness and accountability

<http://www.openthegovernment.org/node/5415>

Volunteers work to preserve access to vulnerable government information, and you can help

<http://www.openthegovernment.org/node/5407>

### **Protect National Security by Decreasing Secrecy**

House Surveillance Authorization Bill is Fake Reform that Threatens the Privacy of All Americans

<https://www.openthegovernment.org/node/5653>

Advocates look to deepen FOIA collaboration to combat surveillance secrecy

<https://www.openthegovernment.org/node/5649>

Open the Government Applauds Requirement in Defense Bill Stipulating Better Reporting on Civilian Casualties Caused by U.S. Military Forces  
<https://www.openthegovernment.org/node/5636>

Be wary of selective disclosures  
<https://www.openthegovernment.org/node/5631>

To ensure accountability for use of lethal force, advocates look to Congress  
<https://www.openthegovernment.org/node/5575>

FBI's limited restrictions on biometrics data sharing raises secrecy and privacy concerns  
<https://www.openthegovernment.org/node/5573>

FBI Director nominee falls short on police transparency and accountability commitments  
<https://www.openthegovernment.org/node/5559>

OTG Statement on Removal of AUMF Repeal Amendment from NDAA  
<https://www.openthegovernment.org/node/5558>

The next FBI Director should commit to transparency and accountability  
<https://www.openthegovernment.org/node/5552>

OTG: Torture Report Must Be Released, Not Buried  
<http://www.openthegovernment.org/node/5521>

Senators push Justice Department nominee for answers on secret law  
<http://www.openthegovernment.org/node/5519>

As civilian casualties climb, U.S. moves to reduce transparency in anti-ISIS fight  
<http://www.openthegovernment.org/node/5517>

Senate misses opportunity to demand greater transparency from Justice Department nominee on "secret law"  
<http://www.openthegovernment.org/node/5505>

Government surveillance report omits important data on FBI searches  
<http://www.openthegovernment.org/node/5501>

The Torture Report can be made public despite Supreme Court decision that would keep it under wraps  
<http://www.openthegovernment.org/node/5492>

Protect Americans by reforming detention practices, not hiding them  
<http://www.openthegovernment.org/node/5475>

House Committee holds oversight hearing on FBI's use of facial recognition technology

<http://www.openthegovernment.org/node/5465>

OTG joins rights groups in support of Congressional call for dissemination of Senate "Torture Report"

<http://www.openthegovernment.org/node/5402>

### **Empower Communities by Increasing Access to Information**

OTG calls on Congress to protect anti-corruption transparency law

<https://www.openthegovernment.org/node/5644>

Open the Government Urges Pentagon to Release SIGAR Report Detailing Sex Abuse Crimes by Afghan Soldiers and Police

<https://www.openthegovernment.org/node/5637>

Open the Government Praises Congress for Removing Harmful Amendment that Would Further Militarize Police Departments

<https://www.openthegovernment.org/node/5635>

Open The Government Supports Congresswoman Jackie Speier's Calls for Accountability and Transparency of Sexual Harassment Settlements in Congress

<https://www.openthegovernment.org/node/5634>

House bill threatens to expand reliance on secret databases in immigration enforcement

<https://www.openthegovernment.org/node/5600>

Updated - Senators introduce legislation to increase transparency and oversight for law enforcement

<https://www.openthegovernment.org/node/5597>

New report reveals growing government secrecy in immigration enforcement

<https://www.openthegovernment.org/node/5587>

OTG Supports the Promoting Transparency in Trade Act

<https://www.openthegovernment.org/node/5560>

ICE secrecy on immigration enforcement stokes fear, prevents accountability

<https://www.openthegovernment.org/node/5548>

OTG, coalition express concern over data provisions in immigration Orders

<http://www.openthegovernment.org/node/5463>

2017 Trade Transparency Roundtable: Advancing an openness agenda on trade negotiations

<http://www.openthegovernment.org/node/5410>

## **Address Threats to Norms of Access and Openness**

It Takes a Global Village to Fight Efforts to Subvert Open Government Policies

<https://www.openthegovernment.org/node/5652>

New Report Reveals That Americans Think White House Is Most Corrupt Institution, with Congress Not Far Behind

<https://www.openthegovernment.org/node/5648>

Delay in U.S. Government's Open Government Partnership Plan: A Harbinger of Things to Come?

<https://www.openthegovernment.org/node/5627>

OTG: The White House must not purge President Trump's conversations with foreign officials

<http://www.openthegovernment.org/node/5510>

Updated: Openness groups, members of Congress speak out against government gag orders

<http://www.openthegovernment.org/node/5414>

## **Letters and Comments**

Coalition Expresses Opposition to Bill that would Drastically Expand Authority of Department of Homeland Security

<https://www.openthegovernment.org/node/5651>

Coalition: Justice Department's demand for protest website data raises privacy and civil liberty concerns

<https://www.openthegovernment.org/node/5581>

Coalition calls on Congress to enhance transparency and accountability for private prisons

<https://www.openthegovernment.org/node/5570>

CIA must not be given broad discretion to destroy its historical records

<https://www.openthegovernment.org/node/5556>

Coalition calls on Congress to oppose DOD's proposed secrecy exemption

<https://www.openthegovernment.org/node/5539>

OTG: Intelligence director must adhere to transparency commitment on warrantless surveillance

<https://www.openthegovernment.org/node/5529>

OTG calls on IG to ensure preservation and access to records on Comey firing

<http://www.openthegovernment.org/node/5508>

Updated: OTG and more than 50 organizations call on ICE to comply with FOIA, release data on immigration enforcement cooperation

<http://www.openthegovernment.org/node/5489>

OTG, openness groups, urge FOIA Ombudsman to revise strict confidentiality requirements

<http://www.openthegovernment.org/node/5438>

Updated: OMB responds to coalition letter on stripping online government data

<http://www.openthegovernment.org/node/5427>

### **Opinion Pieces Placed**

[Militarizing police under a cloak of secrecy](#)

[Richmond Times-Dispatch & others, Lisa Rosenberg, September 9, 2017]

[The government's illegal push for information about a protest website](#)

[Washington Post, Lisa Rosenberg, September 1, 2017]

[Private prisons lock out public's right to know](#)

[USA Today, Lisa Rosenberg, June 15, 2017]

[Trump administration using campaign of disinformation, secrecy to target immigrants](#)

[Augusta Free Press, Lisa Rosenberg, May 25, 2017]

[A new House rule is a gift to lawmakers trying to hide criminal acts](#)

[Washington Post, Patrice McDermott and Anne Weismann, January 25, 2017]

### **OpenTheGovernment in the News**

[The Bill Press Show](#)

[Syndicated Radio Show and Free Speech TV]

[Trump White House confounds, confuses transparency advocates](#)

[Minneapolis Star Tribune, James Eli Shiffer, October 22, 2017]

[Judge approves limited search warrant for data on anti-Trump protesters](#)

[LA Times, Lauren Rosenblatt, August 24, 2017]

What Is Scott Pruitt Hiding?

[New Republic, Emily Atkin, May 30, 2017]

If Trump's White House Has Secret Recordings, Destroying Them May Be a Crime

[Mother Jones, Russ Choma, May 12, 2017]

Gov Data Is Being Deleted: Shouldn't There Be Laws for That?

[California Magazine, Krissy Eliot, April 5, 2017]

Activists Rush to Save Government Science Data — If They Can Find It

[New York Times, Amy Harmon, March 6, 2017]

Senate Panels Pressed to Open Up Nominees' Files Before Confirmation Hearings

[Government Executive, Charles S. Clark, January 5, 2017]