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May 17, 2016

The Honorable David S. Ferriero  
Archivist of the United States  
National Archives and Records Administration  
700 Pennsylvania Avenue, NW  
Washington, DC 20408

Re: Senate Torture Report Preservation

Dear Archivist Ferriero:

Since OpenTheGovernment.org joined 30 other organizations in writing on April 28th to NARA regarding preservation of the Senate torture report, a few recent developments have made our request more urgent.

First, I'm sure you're aware that the Court of Appeals ruled in the FOIA case. We want to point out the following language in the court's decision, underscoring that whether the full report is publicly released under FOIA is a separate question from whether it was received and is appropriate for preservation by the Executive Branch:

"In this case, there is no dispute that Appellees lawfully obtained copies of the Full Report." (p.10)

"Before turning to an application of the law to the facts of this case, we must make it clear that we can give no weight to the letter sent by now-Senate Committee Chairman Richard Burr to the President in January 2015." (p.15)

"The December 2014 Letter undoubtedly gives the Executive Branch some discretion to use the Full Report for internal purposes" (p.20)

Second, we were concerned to read yesterday that the CIA Inspector General had already destroyed two copies of the full report and has been unsuccessful in obtaining a replacement copy from the agency; and that SSCI Chairman Richard Burr has reiterated his call for the return of all copies of the report following the Court of Appeals' decision in the FOIA case. (Source: <https://www.yahoo.com/news/senate-report-on-cia-torture-1429636113023030.html>)

These developments seem to make it clear that there is a serious risk to the report's preservation, and we want to reiterate our request that, before the deadline for appeal of the D.C. Circuit's decision in the FOIA case passes (45 days from last Friday), it is of high importance that:

- NARA write to agencies to ensure the preservation of the full report pending a determination of its record status; and
- NARA meet with civil society groups to discuss these issues.

[www.OpenTheGovernment.org](http://www.OpenTheGovernment.org)

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Thank you very much for your attention to this matter, which we know is of as great concern to NARA as it is to civil society.

Best,

A handwritten signature in cursive script that reads "Patrice McDermott".

Patrice McDermott, Executive Director  
OpenTheGovernment.org

Cc: Gary M. Stern, General Counsel of the National Archives and Records Administration