



April 19, 2007

The Honorable Thomas F. Hogan
Chief Judge, U.S. District Court for the District of Columbia
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, NW
Washington, DC 20001

Dear Judge Hogan:

On behalf of the Society of American Archivists, which represents more than 4,800 professional archivists nationwide, I am writing to ask for clarification of a U.S. District Court for the District of Columbia protective order, issued in 2004 by Joyce Hens Green, that has come to our attention. The protective order is enclosed for your reference.

We are specifically concerned about paragraphs 24, 45, and 46. Paragraphs 24 and 45 appear to run contrary to federal record schedules for District Court felony cases, by mandating destruction of classified and protected documents that are part of the case files. Paragraph 45 does allow that the prosecutors from the Department of Justice “may” retain a complete set of classified and protected documents. It is unclear whether paragraph 46 mandates that a complete set of classified and protected documents be filed with the Court or whether this filing is subject to the “may” in the previous paragraph.

Could you clarify whether the protective order will, with certainty, result in the complete case file (including classified and protected documents) being retained permanently – as mandated by the relevant records schedule – and ultimately transferred to the National Archives?

Although we acknowledge the privilege of the government to classify and protect certain documents, such restriction should not be an excuse for destroying such documents under the guise of national security. Rather, classified and protected documents should ultimately be administered by the National Archives, which has extensive experience in managing the most sensitive documents produced by government agencies. It seems particularly important that the case files of the proceedings regarding detainees at Guantanamo Bay be preserved for eventual access by citizens and scholars, given the fundamental constitutional, legal, and policy issues in question.

Thank you for your attention to this matter. We look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, reading 'Elizabeth W. Adkins', is written over a horizontal line.

Elizabeth W. Adkins, CA, President