



April 19, 2007

Allen Weinstein
Archivist of the United States
National Archives and Records Administration
8601 Adelphi Road
College Park, Maryland 20740-6001

Dear Allen:

On behalf of the Society of American Archivists, I am writing to ask NARA for clarification of a U.S. District Court for the District of Columbia protective order that recently came to our attention. The protective order is attached for your reference.

We are specifically concerned about paragraphs 24, 45, and 46. Paragraphs 24 and 45 appear to run contrary to NARA record schedules for District Court felony cases by mandating destruction of classified and protected documents. 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” of 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 ultimately should be administered by the National Archives, which has extensive and unquestioned experience 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 and legal issues in question.

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

Sincerely,

A handwritten signature in cursive script that reads 'Elizabeth W. Adkins'.

Elizabeth W. Adkins, CA
President, 2006-2007