

By Lorraine Bailey

From [Courthouse News Service](#) | Original Article

Civil libertarians cannot force a full disclosure of the nearly 7,000-page Senate report on the CIA's use of torture in interrogations, a federal judge ruled Thursday. The 6,963-page "Final Full Report" by the Senate Select Committee on Intelligence (SSCI) has been in a quasi-limbo since Republicans took control of Congress at the beginning of this year.

When the Democrats still controlled the Senate in December 2014, committee chairwoman Diane Feinstein sent a copy of the full report to President Barack Obama, with a letter encouraging the president to use the full report in future development of CIA programs.

Feinstein chose not to seek declassification of the full committee study at that time, however, and the committee's new chairman, Sen. Richard Burr, R-N.C., has since [demanded](#) that Obama to return all copies of the Final Full Report immediately.

Burr claimed in his letter that he was unaware copies of the report had been sent to the executive branch. He also allegedly requested that the full report "not be entered into any Executive Branch system of records," which would make it a public record.

With only a 480-page executive summary and 20 conclusions on the report [released](#) publicly, the American Civil Liberties Union went to federal court to get the report [fully released](#), along with an internal CIA study commissioned by former Director Leon Panetta, under the Freedom of Information Act.

U.S. District Judge James Boasberg in Washington sided with the government Thursday, though he warned that the case was "no slam dunk."

Feinstein's letter accompanying the copy sent to the White House "does not evince congressional intent to surrender substantial control over the Full SSCI Report," Boasberg said. "While it does bestow a certain amount of discretion upon the agencies to determine how broadly to circulate the report, such discretion is not boundless. Most significantly, the dissemination authorized by the letter is limited to the Executive Branch alone. It plainly does not purport to authorize the agencies to dispose of the Report as they wish - e.g., to the public at large."

Congress frequently transmits documents to the Executive Branch so that relevant agencies can make internal use of them, but that transmittal cannot be interpreted as a broad abdication of control, the judgment says.

"At the end of the day, the ACLU asks the Court to interject itself into a high-profile conversation that has been carried out in a thoughtful and careful way by the other two branches of government," Boasberg wrote. "As this is no trivial invitation, it should not be blithely accepted. Absent more convincing evidence that the SSCI report has 'passed from the control of Congress and become property subject to the free disposition of the agenc[ies] with which the document resides,' the court must hold that it remains exempt from disclosure under FOIA. To be sure, plaintiff - and the public - may well ultimately gain access to the document it seeks. But it is not for the court to expedite that process."

The ruling also concludes that the CIA's internal review of the Senate's report is exempt under the deliberative-process privilege, as it was clearly written and organized to assist the formation of the agency's final position on the issue.

"The court sees no reason to disturb its prior conclusion: the Panetta Review is properly characterized as both predecisional and deliberative," Boasberg wrote.