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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE EASTERN DISTRICT OF CALIFORNIA

13 LARRY BERMAN,
14
15 Plaintiff,
16 v.
17 CENTRAL INTELLIGENCE AGENCY,
18 Defendant.

) No. S-04-2699 DFL DAD
)
) **DECLARATION OF THOMAS**
) **BLANTON IN SUPPORT OF LARRY**
) **BERMAN'S CROSS-MOTION FOR**
) **SUMMARY JUDGMENT AND IN**
) **OPPOSITION TO THE CENTRAL**
) **INTELLIGENCE AGENCY'S MOTION**
) **FOR SUMMARY JUDGMENT**
)
) Time: 10:00 a.m.
) Date: June 1, 2005
) Courtroom: 7 (Hon. David F. Levi)

21
22 I, Thomas Blanton, declare:

23 1. I am the Director of National Security Archive at George Washington University in
24 Washington D.C. The *Los Angeles Times* (16 January 2001) described the Archive as "the world's
25 largest nongovernmental library of declassified documents." I served as the Archive's first
26 Director of Planning & Research beginning in 1986, became Deputy Director in 1989, and
27 Executive Director in 1992. I filed my first Freedom of Information Act ("FOIA") request in 1976
28 as a weekly newspaper reporter in Minnesota and have filed hundreds of FOIA requests over the

1 years. I serve as series editor of the National Security Archive's reference collections of
2 declassified documents including the newly published collection *U.S. Policy in the Vietnam War,*
3 *Part 1, 1954-1968.* I am a founding editorial board member of freedominfo.org, the virtual
4 network of international freedom of information advocates; and serve on the editorial board of H-
5 DIPLO, the diplomatic history electronic bulletin board, and on the board of directors of the
6 *Bulletin of the Atomic Scientists.* I make this declaration in support of Plaintiff Larry Berman's
7 Cross-Motion for Summary Judgment and In Opposition to the Central Intelligence Agency's
8 Motion for Summary Judgment. I have personal knowledge of the matters stated herein, and
9 would and could competently testify to them if called as a witness.

10 2. Attached hereto as Exhibit 1 are true and correct copies of relevant portions of a
11 March 2000 National Archives and Records Administration ("NARA") report titled, "Records
12 Management In The Central Intelligence Agency." The full report is available on the Internet at
13 <http://www.fas.org/sgp/othergov/naracia.html>. This report reflects that the Central Intelligence
14 Agency ("CIA") maintains a copy of both the President's Daily Briefs ("PDBs") sent to the
15 President of the United States and the copy reviewed by the President, whether annotated or not.
16 See Exhibit 1 at 5.

17 3. Attached hereto as Exhibit 2 is a true and correct copy of "CIA Today," which is a
18 document available from the CIA website at
19 http://www.cia.gov/cia/publications/cia_today/ciatoday_03.shtml. According to this CIA
20 document, in reference to PDBs, the CIA states, "It is important to know that CIA's analysts only
21 report information and DO NOT make policy recommendations – making policy is left to the
22 executive branch of the government, such as the State Department or the Defense Department.
23 These policymakers use the information that CIA provides to help them make US policy toward
24 other countries." See Exhibit 2 at 1.

25 4. Attached hereto as Exhibit 3 are true and correct copies of relevant portions of a
26 study published by the CIA's Center for the Study of Intelligence and written by John L.
27 Helgerson titled "*Getting to Know the President: CIA Briefings of Presidential Candidates, 1952-*
28 *1992*" (1996), p. 163. Helgerson served as the CIA's Deputy Director for Intelligence during the

1 Bush administration and, according to the foreword, he was head of the team that briefed President
2 Bill Clinton in Little Rock after the 1992 election. According to the foreword, in addition to
3 having access to classified files, Mr. Helgerson interviewed previous CIA briefers and all
4 surviving former Presidents. This publication and the relevant pages attached hereto as Exhibit 3
5 are available on the CIA's website at <http://www.cia.gov/cis/books/briefings/cia-10.htm>.

6 Helgerson notes that the specific type of intelligence document called the PDB was first created
7 for President Lyndon B. Johnson and implemented around December of 1964. *Id.* at 6. Before
8 this time, Helgerson notes that President Johnson received other intelligence reports, including the
9 President's Intelligence Checklist ("PICL") and the twice weekly Intelligence Review. *Id.* at 5.

10 5. Helgerson also states, "On a continuing basis, roughly 60 percent of the items
11 covered in the PDB are not addressed in the newspapers. This body of information, in particular,
12 is likely to be unfamiliar to a prospective president." *Id.* at 16.

13 6. Helgerson writes that while the practice varied from President to President, during
14 the Johnson administration a briefer from the CIA was not present when the President read the
15 PDB. *Id.* at 6 and 8. He states that the CIA did not receive from Johnson the steady presidential
16 feedback that it received from President John F. Kennedy. *Id.* at 6.

17 7. Through independent research conducted at my direction by analysts of the
18 National Security Archive, and in conjunction with Plaintiff Larry Berman, we have discovered
19 that fifteen PDBs have been released in "sanitized" form by the CIA under the mandatory
20 declassification review process pursuant to the applicable Presidential Executive Order in force at
21 the time. Our copies of these PDBs are available from and were obtained through the official
22 archives of the President Lyndon B. Johnson Library at University of Texas in Austin, Texas, and
23 the NARA. The official declassification of these records is indicated by a stamp on each
24 document that identifies the declassification authority and the date of declassification.

25 8. Ten of these PDBs, from the Johnson administration, are dated April 1, 1968 (Ex.
26 4), August 7, 1965 (Ex. 5), June 8, 1967 (Ex. 6), June 9, 1967 (Ex. 7), June 7, 1967 (Ex. 8), June
27 6, 1967 (Ex. 9), June 5, 1967 (Ex. 10), May 27, 1967 (Ex. 11), May 16, 1967 (Ex. 12), May 13,
28

1 1976 (Ex. 13), and where attached to the Complaint. For the Court's convenience, true and correct
2 copies of these PDBs are also attached hereto as Exhibits 4-13, respectively.

3 9. The released PDBs include ones from August 7, 1965 and April 1, 1968, the day
4 immediately after and before the PDBs at issue in this lawsuit. *See* Exhibits 5 and 4.

5 10. The PDB dated April 1, 1968 reads: "Hanoi report the Vietnamese Communists are
6 organizing a broad offensive to take place in South Vietnam this summer. [Redacted] Hanoi
7 expects the offensive to set the stage for a settlement on Communist terms and that the US will
8 accept an "armistice" by early next year. [Redacted] report that a special mobilization of
9 manpower is under way in North Vietnam to provide large numbers of new forces for the South."
10 See Exhibit 4 at 2.

11 11. The PDB dated April 1, 1968 contains this item on Egypt: "Nasir, in a speech to the
12 nation on Saturday, outlined a 'program of action' to bring about political reform. We doubt that
13 it will amount to much." See Exhibit 4 at 4.

14 12. The PDB dated August 7, 1965 contains the following item on the head of state in
15 Indonesia: "Despite Sukarno's long-standing kidney ailment, for which he delays proper
16 treatment, he has seemed quite chipper lately." See Exhibit 5 at 4.

17 13. Portions of five of these ten Johnson-era PDBs are published in the U.S. State
18 Department's series on Foreign Relations of the United States ("FRUS") 1964-1968, Volume
19 XIX, Arab-Israeli Crisis and War, 1967. Additionally, the content of these five PDBs as published
20 in FRUS is available on the U.S. State Department's official website at
21 <http://www.state.gov/r/pa/ho/frus/johnsonlb/xix/>. Attached as Exhibit 14 are true and correct
22 copies of the content of these five PDBs as obtained from the State Department's website.

23 14. Through our research we have discovered that in addition to the ten PDBs
24 mentioned above at least 6 others have been publicly released in sanitized form and are available
25 through the Johnson Library. The official declassification of these records is indicated by a stamp
26 on each document that identifies the declassification authority and the date of declassification.

27 15. One of these PDBs, dated May 29, 1967, indicates that during the very month
28 Plaintiff Larry Berman filed the instant lawsuit, the CIA, on December 2, 2004, approved this

1 PDB for release in "sanitized" form pursuant to the mandatory declassification review procedures
2 of Executive Order 13292. Attached hereto as Exhibit 15 is a true and correct copy of this May
3 29, 1967 PDB obtained from the Johnson Library.

4 16. This PDB, which appears in cable form, addressed to the President and marked
5 "DAILY BRIEF," contains entries regarding South Vietnam and North Vietnam with redactions.
6 The South Vietnam entry reads: "ENEMY GROUND ACTIVITY OVER THE WEEKEND WAS
7 LIMITED LARGELY TO SPORADIC MORTAR ATTACKS, TERRORIST RAIDS, AND
8 SMALL-SCALE UNIT ACTIONS IN THE NORTHERN PROVINCES AND WESTERN
9 HIGHLANDS. THERE ARE CONTINUING SIGNS, HOWEVER, THAT A GENERAL
10 OFFENSIVE BY VIET CONG AND NORTH VIETNAMESE ARMY FORCES IS IMMINENT.
11 [REDACTED] ALL POINT TO THE EARLY INITIATION OF A COUNTRY-WIDE
12 SUMMER CAMPAIGN – PERHAPS BETWEEN NOW AND THE END OF THE MONTH."
13 *Id.*

14 17. Another of these PDBs, dated April 25, 1967, likewise indicates that during the
15 very month Plaintiff Larry Berman filed the instant lawsuit, the CIA, on December 10, 2004,
16 approved this PDB for released in sanitized form pursuant to the mandatory declassification
17 review procedures of Executive Order 13292. Attached hereto as Exhibit 16 is true and correct
18 copy of this April 25, 1967 PDB obtained from the Johnson Library.

19 18. This PDB, addressed to the President and marked "DAILY BRIEF," contains an
20 entry regarding South Vietnam which states: "VOTERS HAVE NOW GONE TO THE POLLS IN
21 900 OF THE APPROXIMATELY 1,000 VILLAGES SCHEDULED TO ELECT THEIR
22 OFFICIALS THIS SPRING. TOTAL TURNOUT SO FAR HAS BEEN 77 PERCENT OF
23 THOSE REGISTERED. VIET CONG HARASSMENT WAS LIGHT DURING THE LATEST
24 POLLING LAST SUNDAY." *Id.* at 1.

25 19. Another document, dated September 7, 1968, includes the notation, "Special Daily
26 Report on North Vietnam for the President's Eyes Only," and indicates that in October of 1993 it
27 was approved for released in sanitized form pursuant to the mandatory declassification review
28 procedures. While this document is not a PDB it does appear to have been sent to President

1 Johnson by the CIA. Attached hereto as Exhibit 17 is a true and correct copy of this September 7,
2 1968 document obtained from the Johnson Library.

3 20. This document reveals information about Ho Chi Minh's health as well as North
4 Vietnamese reflections of U.S. political attitudes on the war. Id. at 2.

5 21. Another document that appears to be an excerpt from a PDB, dated January 16,
6 1967, indicates that on January 15, 1993, it was approved for released in sanitized form pursuant
7 to the mandatory declassification review procedures. Attached hereto as Exhibit 18 is a true and
8 correct copy of this January 16, 1967 PDB obtained from the Johnson Library.

9 22. It consists of a one paragraph excerpt titled: "Possible Augmentation of Hanoi's
10 MIG Fighter Force." The text states "The North Vietnamese May have received as many as 70 jet
11 fighters recently. [redaction] 50 MIG-21 and 20-MIG-17 aircraft have been received by the North
12 Vietnaese Air Force. The MIG-21s were described as having come from the USSR and being
13 hidden near a mountain -- possibly the range north of Phuc Yen Airfield. The location of the MIG-
14 17s, which purportedly came from the Kwangsi Province, China, was not indicated."

15 23. Another PDB excerpt dated November 5, 1966, indicates that on August 1993, it
16 was approved for released in sanitized form pursuant to the mandatory declassification review
17 procedures. Attached hereto as Exhibit 19 is a true and correct copy of this November 5, 1966
18 PDB obtained from the Johnson Library.

19 24. This PDB includes a section on South Vietnam, which states:
20 "REVOLUTIONARY DEVELOPMENT MINISTER THANG IS COMPLAINING THAT
21 CRITICISM OF HIS PROGRAM HAS RECENTLY BECOME FASHIONABLE AMONG
22 SAIGON LEADERS. SOME OF THIS CRITICISM COMES FROM XY AND THIEU. IT
23 PROBABLY STEMS FROM RESENTMENT OVER THE PUBLICITY ACCORDED THANG
24 AND HIS PROGRAMS. THANG'S RESIGNATIONWOULD BE A REAL IMPEDIMENT TO
25 REVOLUTIONARY DEVELOPMENT SINCE NO EQUALLY QUALIFIED SUCCESSOR IS
26 IN SIGHT. Id.

27 25. Another dated December 20, 1967, and including the notation "HEREWITH
28 YOUR DAILY BRIEF AND SPECIAL REPORT AS OF 1100 EST 20 DEC;," indicates that on

1 May 16, 1990, it was approved for release in sanitized form pursuant to the mandatory
2 declassification review procedures. Attached hereto as Exhibit 20 is a true and correct copy of this
3 December 20, 1967 PDB obtained from the Johnson Library.

4 26. This PDB includes a six page section on South Vietnam and a "SPECIAL DAILY
5 REPORT ON NORTH VIETNAM FOR THE PRESIDENT'S EYES ONLY." Id.

6 27. In addition to the 16 PDBs mentioned above, President George W. Bush
7 declassified and released to the National Commission on Terrorist Attacks Upon the United States
8 (the "9/11 Commission"), excerpts of two PDBs dated December 4, 1998, and August 6, 2001.
9 Attached hereto as Exhibit 21 are true and correct copies of these excerpts, which were attached to
10 the Complaint.

11 28. The former Director of Central Intelligence Robert M. Gates also quotes verbatim
12 from two PDBs in his 1996 memoir "*From the Shadows: The Ultimate Insider's Story of Five*
13 *Presidents and How They Won the Cold War,*," including the September 2, 1983 PDB on the
14 Soviet shoot-down of KAL-007 (at page 267) and a passage from the August 17, 1991 PDB on the
15 impending break up of the USSR (at page 521). The book indicates that it cleared prepublication
16 review procedures at the CIA and accordingly I am informed and believe that these excerpts were
17 approved for release by the CIA. See Answer, ¶ 4. Attached hereto as Exhibit 22 are true and
18 correct excerpts of *From the Shadows*, which contain quotes from the PDBs.

19 29. Bob Woodward's book titled "*Bush at War*" on pages 39-40 references and quotes
20 from a PDB dated September 12, 2001. In reference to the terrorist attacks on September 11,
21 2001, and the PDB of September 12, Woodward writes, "One report out of Kandahar,
22 Afghanistan, the spiritual home of the Taliban, showed the attacks were 'the results of two years'
23 planning.' . . . One said a bin Laden associate – incorrectly – 'gave thanks for the explosion in the
24 Congress building.'" Attached hereto as Exhibit 23 are true and correct excerpts from *Bush at*
25 *War*, which contain reference to and quotes from the September 12, 2001 PDB.

26 30. In addition to the PDBs disclosed as referenced above, a number of PICLs, the
27 predecessor document to the PDB, have been released in sanitized form pursuant to the mandatory
28 declassification review process and are available through The John F. Kennedy Library. These

1 include "sanitized" PICLS from February 15, 1962, October 15, 1962, October 16, 1962, October
2 17, 1962, and October 18, 1962. Attached hereto as Exhibit 24 are true and correct copies of these
3 PICLS obtained from the Kennedy Presidential Library. The official declassification of these
4 records is indicated by a stamp on each document that identifies the declassification authority and
5 the date of declassification. These records are stamped with the mandatory review declassification
6 stamp, which I am informed would be different than the stamp if these PICLS were released under
7 the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. 2107.

8 31. Attached hereto as Exhibit 25 is a true and correct copy of an article written by
9 John Diamond, titled, *Few PDBs Declassified for Public*, published in USA Today, April 11,
10 2004. I obtained this document from USA Today's website and it is available at
11 http://www.usatoday.com/news/washington/executive/2004-04-11-public-pbds_x.htm. This article
12 reports that CIA Director George Tenet told a House-Senate investigative committee in 2002 that
13 it is not the content of the PDBs that make them sensitive but the fact that they are being briefed to
14 the President. *Id.* at 1

15 32. This blanket policy is reflected in a December 20, 1991 report from the Task Force
16 on Greater CIA Openness to the Director of Central Intelligence. In this report, the task force
17 states that one of the goals to keep in mind in implementing any program to improve openness is
18 "to preserve the mystique." Attached hereto as Exhibit 26 at 2 is a true and correct copy of this
19 December 20, 1991 Task Force report obtained pursuant to a FOIA request to the CIA.

20 33. Attached hereto as Exhibit 27 is a true and correct copy of a report of the U.S. State
21 Department Historical Advisory Committee on Diplomatic Documentation for January 1-
22 December 31, 2002, available on the Internet at <http://www.fas.org/sgp/advisory/state/hac02.html>.

23 34. Attached hereto as Exhibit 28 is a true and correct copy of a report of the U.S. State
24 Department Historical Advisory Committee on Diplomatic Documentation for January 1-
25 December 31, 2001, available on the Internet at <http://www.fas.org/sgp/advisory/state/hac01.html>.

26 35. In both of these reports, the committee criticizes the CIA's blanket policy of non-
27 disclosure of PDBs. For example, in the 2002 report, the committee writes, "[T]he Committee
28 must continue to deplore the CIA's blanket denial of declassification of the PDBs especially those

1 that are thirty or more years old. The PDBs for the Nixon period should be included in [the
2 Foreign Relations of the United States (FRUS) series], because they provide historians with an
3 invaluable and irreplaceable source for documenting high-level policymaking. The Advisory
4 Committee has never received a satisfactory formal explanation for the CIA's exemption of the
5 PDBs from declassification." See Exhibit 27 at 3.

6 36. I am informed and believe that several thousand Central Intelligence Bulletins have
7 been officially released in "sanitized" form by the CIA.

8 37. After reviewing the CIBs and comparing the same date PDBs it is evident that the
9 CIBs often contain similar and sometimes identical entries as those contained in the publicly
10 available PDB for the same day.

11 38. Attached hereto as Exhibit 29 is a true and correct copy of a CIB, dated May 16,
12 1967, which indicates that on April 27, 2004, it was approved for release in sanitized form by the
13 CIA. This CIB was obtained from NARA.

14 39. Attached hereto as Exhibit 30 is a true and correct copy of a CIB, dated April 1,
15 1968, which indicates that on January 29, 2003, it was approved for release in sanitized form by
16 the CIA. This CIB was obtained from NARA.

17 40. Attached hereto as Exhibit 31 is a true and correct copy of a CIB, dated August 7,
18 1968, which indicates that on January 29, 2003, it was approved for release in sanitized form by
19 the CIA. This CIB was obtained from NARA.

20 41. Attached hereto as Exhibit 32 is a true and correct copy of a CIB, dated August 6,
21 1965, the same date as one of the PDBs at issue here, which indicates that on January 29, 2003, it
22 was approved for release in sanitized form by the CIA. This CIB was obtained from NARA.

23 42. Attached hereto as Exhibit 33 is a true and correct copy of a CIB, dated April 2,
24 1968, the same date as one of the PDBs at issue here, which indicates that on January 29, 2003, it
25 was approved for release in sanitized form by the CIA. This CIB was obtained from NARA.

26 43. Attached hereto as Exhibit 34 and 35 are true and correct copies of Afternoon
27 Summaries for August 6, 1965 and April 2, 1968, respectively, the same date as the PDBs at issue
28 here. The Afternoon Summaries were prepared by the Department of State for the Secretary of

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1 State and the undersecretaries, and generally include much of the same type of information
2 reported in the contemporaneous PDBs. These were obtained from NARA.

3 44. Attached hereto as Exhibit 36 are true and correct copies of daily morning briefings
4 by Secretary of State Henry Kissinger to President Richard Nixon, dated February 13, 1969,
5 indicating that they were approved for release by CIA on April 4, 2003. This document was
6 obtained from NARA.

7 45. Attached hereto as Exhibit 37 are true and correct copies of relevant excerpts of the
8 joint Bush-Scowcroft memoir, *A World Transformed* (1998), containing verbatim quotes from
9 briefings by CIA director William Webster and National Security Advisor Brent Scowcroft to
10 President George H. W. Bush.

11 46. Attached hereto as Exhibit 38 is a true and correct copy of a May 6, 2002 CIA
12 internal memorandum to Acting Information and Privacy Coordinator Alan W. Tate from Kurt A.
13 Perlman released by the CIA and available from the website of the Federation of American
14 Scientists at <http://www.fas.org/sgp/advisory/iscap/cia050602.pdf>. This memo shows that in
15 response to a specific request made by a Peter Pesavento for certain PDBs and CIBs the week
16 before and after the 1969 moon landing, the CIA recommended that the request for PDBs be
17 denied "in accordance with our current policy," but that it make a "reasonable accommodation on
18 the CIBs" so as to "be in a stronger posture to defend the PDBs. . . ." *Id.*

19 47. Attached hereto as Exhibit 39 is a true and correct copy of a May 24, 2002
20 Washington Post article by Walter Pincus, available on the Internet at
21 [http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A2130-
22 2002May23¬Found=true](http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A2130-2002May23¬Found=true).

23 I declare under penalty of perjury that the foregoing is true and correct.

24
25 Dated: 4.29.05


26 Thomas Blanton

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