

EXHIBIT E



Washington, D.C. 20505

15 April 2004

Professor Larry Berman
44565 South El Macero Drive
El Macero, CA 95618

Reference: F-2004-00962

Dear Professor Berman:

This is further to our letter of 17 March 2004 concerning your 3 March 2004 Freedom of Information Act (FOIA) request for a copy of **The President's Daily Brief (PDB) from August 6, 1965, August 8, 1965, March 31, 1968, and April 2, 1968.**

In response to your request, the President's Daily Brief (PDB) contains inherently privileged, predecisional and deliberative material for the President and also requires withholding on this basis. Please note that such predecisional material may be protected regardless of whether it is accepted, rejected, or otherwise incorporated by senior leadership. Therefore, your request is denied under FOIA exemptions (b)(1), (b)(3) and (b)(5). An explanation of exemptions is enclosed.

The CIA official responsible for this determination is Alan W. Tate, Acting Information and Privacy Coordinator. By this action we are neither confirming nor denying the existence or nonexistence of such records. You may appeal this decision by addressing your appeal to the Agency Release Panel, in my care, within 45 days from the date of this letter. Should you choose to do this, please explain the basis of your appeal.

Sincerely,

A handwritten signature in cursive script that reads "Alan W. Tate".

Alan W. Tate

Acting Information and Privacy Coordinator

Enclosures

EXHIBIT E-1

Explanation of Exemptions

Freedom of Information Act:

- (b)(1) applies to material which is properly classified pursuant to an Executive order in the interest of national defense or foreign policy;
- (b)(2) applies to information which pertains solely to the internal personnel rules and practices of the Agency;
- (b)(3) applies to information pertaining to the CIA Director's statutory obligations to protect from disclosure intelligence sources and methods, as well as the organization, functions, names, official titles, salaries or numbers of personnel employed by the Agency, in accordance with the National Security Act of 1947 and/or the CIA Act of 1949;
- (b)(4) applies to information such as trade secrets and commercial or financial information obtained from a person on a privileged or confidential basis;
- (b)(5) applies to inter- and intra-agency memoranda or letters which are predecisional and deliberative in nature, or consist of attorney work-product or attorney-client information;
- (b)(6) applies to information, the release of which would constitute an unwarranted invasion of the personal privacy of other individuals; and
- (b)(7) applies to investigatory records, the release of which could: (A) interfere with enforcement proceedings, (C) constitute an unwarranted invasion of the personal privacy of others, (D) disclose the identity of a confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of an individual.

Privacy Act:

- (d)(5) applies to information compiled in reasonable anticipation of a civil action or proceeding;
- (j)(1) applies to polygraph records; documents or segregable portions of documents, the release of which would disclose intelligence sources and methods, including names of certain Agency employees and organizational components; and documents or information provided by foreign governments;
- (k)(1) applies to material properly classified pursuant to an Executive order in the interest of national defense or foreign policy;
- (k)(2) applies to investigatory material compiled for law enforcement purposes;
- (k)(5) applies to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, or access to classified information, the release of which would disclose a confidential source; and
- (k)(6) applies to testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service, the release of which would compromise the testing or examination process.

EXHIBIT E-2

January 2001