

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS**

IN RE PETITION OF

ELLIOT CARLSON;

**REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS;**

**AMERICAN HISTORICAL
ASSOCIATION;**

NATIONAL SECURITY ARCHIVE;

NAVAL HISTORICAL FOUNDATION;

NAVAL INSTITUTE PRESS;

**ORGANIZATION OF AMERICAN
HISTORIANS;**

AND

**SOCIETY FOR MILITARY
HISTORY**

Miscellaneous Action No. _____

DECLARATION OF DR. JOHN PRADOS

I, John Prados, hereby declare as follows:

1. I am a senior fellow at the National Security Archive at George Washington University, in Washington, D.C., where I am the project director of documentation projects for Vietnam and the CIA.

2. I am the author of more than 20 books on national security, foreign affairs, and military subjects, including *Combined Fleet Decoded: The Secret History of American Intelligence and the Japanese Navy in World War II* (1995), which won a book award from the

New York Military Affairs Symposium; *Safe for Democracy: The Secret Wars of the CIA* (2009); *The Family Jewels: The CIA, Secrecy and Presidential Power* (2013); and *Keepers of the Keys: A History of the National Security Council from Truman to Bush* (1991). I have edited other collections, including *Inside the Pentagon Papers* (2004), and my writing has appeared in *The New York Times*, *Washington Post*, *The Journal of National Security Law & Policy*; the *Journal of American History*; *The Quarterly Journal of Military History*; and *Naval History*, among many other publications.

3. I hold a Ph.D. in political science from Columbia University.

4. I have written about the *Chicago Tribune* grand jury investigation in 1942 in my book, *Combined Fleet Decoded*, and consider the investigation to be of historical significance.

5. The grand jury in this case examined issues surrounding one of the central intelligence developments of the time, the breaking of Japanese Navy codes in a way that enabled the United States to anticipate enemy military moves. Because this activity was highly classified at the time, the publication, on June 7, 1942 (immediately following the battle of Midway) of details that had appeared in the intelligence reporting, appeared suspect.

6. Subsequent declassification of documents and other historical research has established that the actual source of the leak as reported in the *Tribune* was not the codebreaking material but rather a U.S. Navy internal memorandum issued from Pearl Harbor by Pacific fleet commander Admiral Chester Nimitz and shown to the responsible reporter by a friend who was a naval officer. There are several questions regarding this record which the public has an interest in resolving. One is the question of what the grand jury was told about U.S. codebreaking, since the Navy sought to keep this secret and, absent a showing of that sort, it would seem difficult to prove a violation of the Espionage Act.

7. A second question is whether the prosecutors aimed at the reporter, the naval officer, the newspaper, or all three. The direction prosecutors took is directly relevant to issues of freedom of the press which are still contested today. The grand jury's reasoning in balancing considerations involved in this solicitation for an indictment can shed light on similar legal actions attempted against reporters and news outlets more recently. Only release of the testimony can show whether the action against the *Chicago Tribune* which Attorney General Francis Biddle sought amounted to a persecution on punitive grounds. That could be the case if the Navy had established prior to August 7, 1942, when Biddle moved action, that the reporter's source was other than a leak of codebreaking material.

8. A third question that may be resolved by release of these grand jury proceedings is whether the prosecutors were attempting by this effort at indictment to punish the *Tribune* for articles it had run on U.S. defense policy even before the war began. These are questions of continuing historical importance on which light can reasonably be expected to be shown by the release of these grand jury records.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 2014, in Silver Spring, Maryland.

Dr. John Prados



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