

every possible effort to assure that the Strait and the Gulf will remain open to free and innocent passage?" I assured him he would not be wrong.

At the end of our talk I believed we had a clear understanding: In the days ahead both governments would concentrate on finding a way to open the Gulf of Aqaba; he could report back to Prime Minister Eshkol that I would, within the limits of my constitutional position, be making a maximum effort to that end. Eban returned to Israel. On May 28 the Israeli Cabinet decided to postpone military action.

On May 30 Prime Minister Eshkol sent me a message confirming that there had been a meeting of the minds on May 26. Eshkol's cable assured me that Eban's conversation with me had had "an important influence on our decision to await developments for a further limited period." He went on to say: "It is crucial that the international naval escort should move through the Strait within a week or two."

As my advisers and I interpreted it, the phrase "within a week or two" meant that we had about two weeks to make diplomacy succeed before Israel took independent military action. This judgment was strengthened by information from other diplomatic sources.

Early in June we sensed that the Israelis might be moving toward a decision to reopen Aqaba on their own, but we still believed that we had time to reach a settlement through diplomacy. On the morning of June 2 a high-ranking Israeli diplomat called on Walt Postow. He sent me a report immediately afterward containing the following information:

I then asked . . . how much time did they think they had? He replied that they had made a commitment to hold steady for about two weeks. He would measure that from the Cabinet meeting last Sunday. Therefore, he was talking about things that might happen in the week after next; that is, the week beginning Sunday, June 11—although he indicated that there was nothing ironclad about the time period being exactly two weeks.

On the same day, before leaving for Israel, Ambassador Avraham Harman told Rusk that the test in the Gulf of Aqaba should be made in the course of "the next week." In the meantime, Robert Anderson\* was in Egypt on business. He met with Nasser on May 31. Their conversation produced an arrangement for UAR Vice President Zakaria Mohieddin to confer with us in Washington on Wednesday, June 7. His visit would have provided another opportunity for personal diplomacy, but it never took place. His trip was canceled by the outbreak of war. We would never know what purpose, if any, that meeting might have served.

During those trying days I used all the energy and experience I could muster to prevent war. But I was not too hopeful. I sensed that Nasser believed he had achieved an easy reversal of the humiliation of 1956-1957 at the expense of Israel and the United Nations. He was again in the role

\* Secretary of the Treasury under President Eisenhower.

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the most cherished, hero of the Arab world. I knew that persuading him to reverse himself and reopen Aqaba would not be easy. As I read the reports from Israel, I felt the tensions growing there. If it came to a crunch, I believed the American flag would have to sail the waters of Aqaba alongside Israel's and, we hoped, many other flags as well. We had to prepare for that possibility, and prepare urgently.

Before U.S. military forces could be involved in any way, I was determined to ask Congress for a resolution supporting such a move. I was convinced that Congress would approve the resolution if there seemed to be no alternative, but such a vote of confidence would not be easy to obtain. There were those on Capitol Hill who would willingly exploit the situation for political advantage. In a joint memorandum to me, Rusk and McNamara observed: "While it is true that many Congressional Vietnam doves may be in the process of conversion to [Israeli] hawks . . . an effort to get a meaningful resolution from the Congress runs the risk of becoming bogged down in acrimonious dispute."

At the very least, I knew that the Congress would not move until we had exhausted all other diplomatic remedies, through the United Nations and outside it. This was also true of the White House. I was opposed to using force until I was persuaded that every other avenue was blocked. And we were moving rapidly to explore every possibility. The week of June 5, 1967, would have been one of intensive diplomacy and congressional consultation, if we had had our way.

Besides Great Britain and the United States, two other nations had agreed to take part in a naval task force—known informally as the Red Sea regatta—if events proved this necessary. The Dutch had expressed their intention to us in writing. Harold Holt, Prime Minister of Australia, assured me personally in a visit to Washington on June 1 that his country would assign two of its fastest cruisers to the joint task force. We will never know how successful that "regatta" might have been. But I am convinced that Congress as well as the President would have honored President Eisenhower's 1957 commitment on Aqaba when it was clear that every alternative had been exhausted, and that other nations, even a few others, would have gone with us. The reopening of Aqaba was important for several reasons—because hostilities were certain to erupt if it were not reopened, because of President Eisenhower's solemn promise; and because Israel had a right to that access to the sea.

With the deadline nearing, we pressed the search for a peaceful solution with all our energy. We asked the UN Security Council to endorse the appeal U Thant had made, after his return from Cairo, calling on all countries involved to avoid violence and provide time for further diplomatic and UN efforts. Because France abstained, we were unable to get nine votes in the Security Council to force the issue—a dismal comment

on the ineffectiveness of that body. With the British, we sought widespread support for a declaration affirming the right of innocent passage through the Gulf of Aqaba. This was slow work. By June 4 only eight countries had agreed, and they included the United States, Great Britain, and Israel. The others were the Netherlands, Australia, Iceland, Belgium, and New Zealand. Five other nations—West Germany, Argentina, Portugal, Canada, and Panama—were still studying the proposition, but we felt they were nearing agreement.

During that final weekend of uneasy quiet Rusk sent cables to all our Ambassadors in Arab capitals urging them to "put our minds to possible solutions which can prevent war." He informed the Ambassadors that we had thus far been able to convince the Israelis to hold back, but that they might be nearing a decision to use force. "It will do no good," his message said, "to ask Israel simply to accept the present status quo in the Strait, because Israel will fight and we could not restrain her. We cannot throw up our hands and say, in that event, let them fight while we try to remain neutral." The central point involving the United States, the message said, was this: "We cannot abandon the principle, the right of Israeli flagships to transit the Strait."

That same weekend, Saturday, June 3, I went to New York to speak at a dinner given by the New York State Democratic party. I spoke briefly of the subject that was on everybody's mind:

I know that you share my deep concern tonight about the situation in the Middle East. We have been working on this problem day and night.

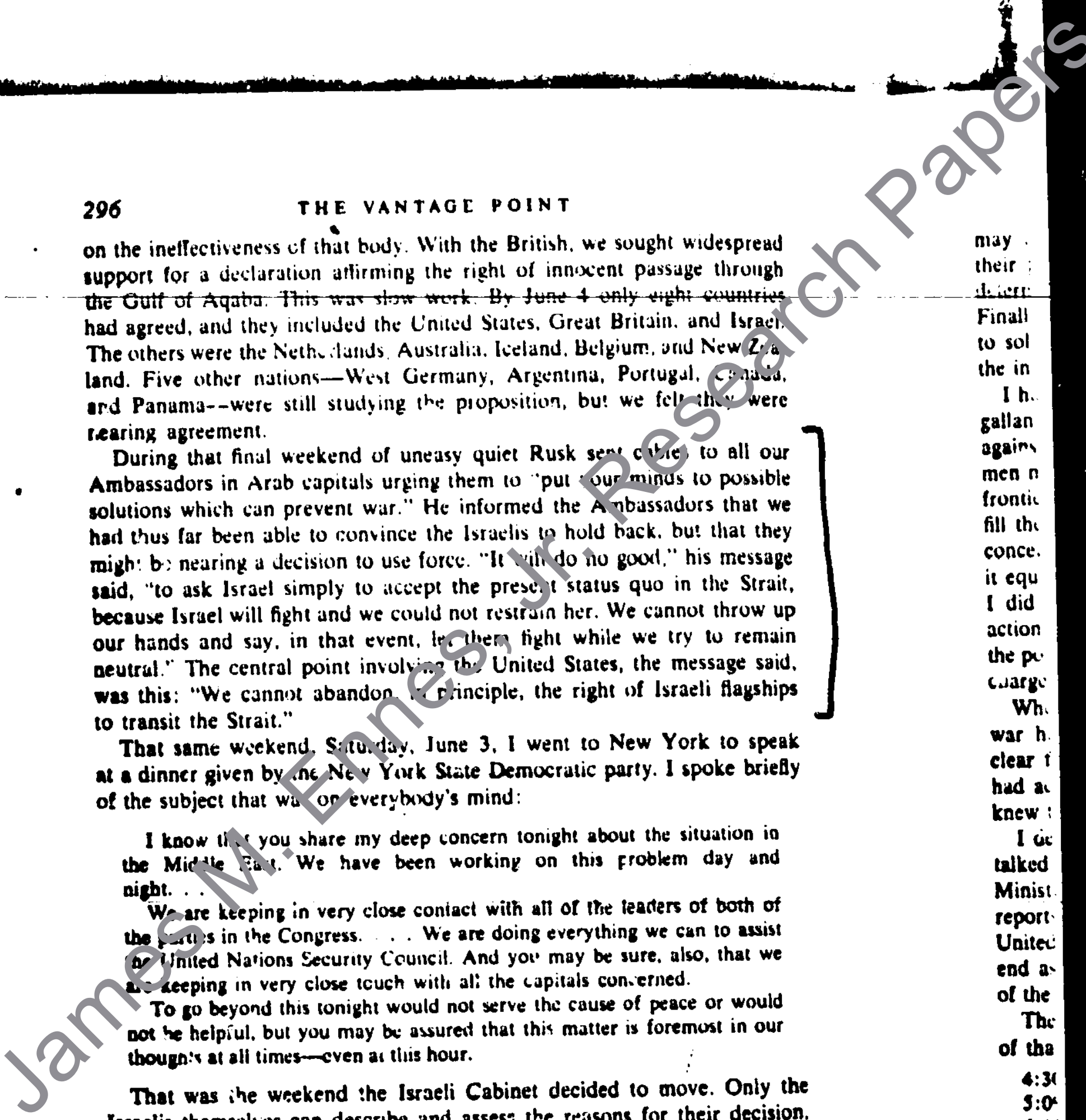
We are keeping in very close contact with all of the leaders of both of the parties in the Congress. . . . We are doing everything we can to assist the United Nations Security Council. And you may be sure, also, that we are keeping in very close touch with all the capitals concerned.

To go beyond this tonight would not serve the cause of peace or would not be helpful, but you may be assured that this matter is foremost in our thoughts at all times—even at this hour.

That was the weekend the Israeli Cabinet decided to move. Only the Israelis themselves can describe and assess the reasons for their decision. Perhaps even they cannot sort out all the factors that motivated them. They may have feared that the week ahead would bring about a significant relative weakening in their military position, since Iraqi forces were moving into Jordan, a UAR commander took over the combined Arab forces, and Arab commandos threatened Israeli airfields. Our military men did not share this fear, and their judgment of relative Israeli-Arab strength proved amazingly accurate as the battle turned out.

The economic strains of Israeli mobilization were, we knew, severe; but I did not believe it was wise to seek relief from them in war. The Israelis

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may also have been afraid that further diplomatic moves would erode their position on Aqaba. I did not share that judgment, because I was determined to honor President Eisenhower's 1957 pledge on Aqaba. Finally, the Israelis may have concluded that it was necessary for Israel to solve the crisis on its own rather than rely on the United States and the international community.

I have always had a deep feeling of sympathy for Israel and its people gallantly building and defending a modern nation against great odds and against the tragic background of Jewish experience. I can understand that men might decide to act on their own when hostile forces gather on their frontiers and cut off a major port, and when antagonistic political leaders fill the air with threats to destroy their nation. Nonetheless, I have never concealed my regret that Israel decided to move when it did. I always made it equally clear, however, to the Russians and to every other nation, that I did not accept the oversimplified charge of Israeli aggression. Arab action in the weeks before the war started—forcing UN troops out, closing the port of Aqaba, and assembling forces on the Israeli border—made that charge ridiculous.

When I was first called early on the morning of June 5 with news that war had broken out, the available information was sketchy. The only clear fact was that Israeli and Egyptian forces were fighting. Each side had accused the other of aggression. Whatever the truth proved to be, I knew that tragic consequences could follow.

I decided first to get in touch with the leaders of the Soviet Union. I talked to Rusk at 5:09 A.M. and approved a message to Soviet Foreign Minister Andrei Gromyko. It expressed our dismay and surprise at the reports of conflict and concluded: "We feel it is very important that the United Nations Security Council succeed in bringing this fighting to an end as quickly as possible and are ready to cooperate with all members of the Council to that end."

The activity log for those early morning hours reflects the character of that day:

- 4:30 A.M. telephone call from Rostow
- 5:09 A.M. telephone call from Rusk
- 6:15 A.M. telephone call from Rostow
- 6:35 A.M. telephone call from Christian
- 6:40 A.M. breakfast in bedroom (George Christian in and out)
- 6:49 A.M. telephone call to Rostow
- 6:55 A.M. telephone call to Rostow

By 7 A.M. the facts were beginning to come into focus. The Israelis had attacked Egypt's major airfields, and with measurable effect:

- 7:50 A.M. telephone call to Ambassador Goldberg in New York
- 7:57 A.M. telephone call from McNamara

McNamara's call brought the news that the hot line was activated. I later learned that when McNamara heard Moscow was calling on the hot line, he instructed his communications people to pipe it into the White House. To his amazement, they advised him that it could not be done — that the hot line ended at the Pentagon. McNamara said sharply that with all the money we had invested in military communications there must be some way to send Moscow's message directly to the White House Situation Room, and they had better figure it out. They quickly found a way.

I was informed that Chairman Kosygin was at the Kremlin end. He had agreed to wait until I was on hand before sending his message. I went quickly to the Situation Room, joining Rusk, McNamara, and Rostow. Kosygin's message began to arrive in a matter of minutes.

It expressed Soviet concern over the fighting. Kosygin said that the Russians intended to work for a ceasefire and that they hoped we would exert influence on Israel. I replied, in part, that we would use all our influence to bring hostilities to an end, and that we were pleased the Soviets planned to do the same.

We set about immediately to find a way to resolve the explosive issue in the United Nations. The details of diplomacy were complex, as they always are. But the heart of the matter was simple: We were prepared to support an immediate ceasefire, and we made certain that all UN delegates understood that. We were also prepared to support Moscow's proposition that Israeli troops withdraw to the 1956 armistice lines, but we insisted that such a withdrawal be accompanied by a commitment of all parties to refrain from "acts of force regardless of their nature." Ambassador Goldberg made clear that our resolution had two objectives: lifting the blockade of the Gulf of Aqaba by the UAR and compelling the withdrawal of all military forces, both Egyptian and Israeli, from the Sinai.

At the suggestion of Soviet UN Ambassador Nikolai Fedorenko, Goldberg met with the UAR representative, El Kony. He urged the Egyptians to move quickly. He stressed that this might be the last chance for a quick settlement and mutual withdrawal from the Sinai. But Cairo was not prepared to make commitments on June 5. The Arabs hoped to obtain a ceasefire and withdrawal of Israeli forces only. They pushed Moscow hard to work for that, and that alone. So there was no action in the United Nations on the first day of war. But there was plenty of action in the war zone. Israeli forces pushed forward hour by hour.

Our problems that day were complicated by an error made by a briefing officer in the State Department. Pressed for a statement of American policy, he began well: "I am in no position to speak specifically beyond the President's statement of May 23." But as he continued, speaking in the

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can citizens there, he said: "Our position is neutral in thought, word, and deed." Perhaps the remark was designed to reassure the Arabs that we were not engaged in the hostilities, but within minutes those words were carried in radio news bulletins to an unbelieving nation. The statement was an oversimplified approach to a complicated situation. We were certainly not belligerents, but our successive guarantees since 1950 to the independence and territorial integrity of all the states in the area made "neutral" the wrong word. This remark stirred unnecessary resentment among many Americans. Later in the day, in the White House Fish Room, Secretary Rusk put the matter straight by recounting the history of our Middle East commitments and our active role in searching for peace through the United Nations at that very moment.

The next day, June 6, also began with activation of the hot line. I went to the Situation Room at 6:40 A.M. Already assembled there were the Vice President, Secretaries Rusk and McNamara, Nicholas Katzenbach, Walt Rostow, McGeorge Bundy,† Clark Clifford (then Chairman of the President's Foreign Intelligence Advisory Board), and Ambassador Llewellyn Thompson, who had come from Moscow for consultation.

I spent many hours in the Situation Room throughout the Middle East crisis. During some very trying days the room served as headquarters for the U.S. government. On this particular occasion, as we sat around the conference table at dawn, Lady Bird brought breakfast to us. She had followed me from the Executive Mansion, helped prepare the food for us in the White House staff mess, and aided the stewards in serving it. Over scrambled eggs, in the crisis center of America, we reviewed the message from Moscow. The Soviets felt the Security Council should press for a ceasefire.

Meanwhile, Cairo had falsely charged that U.S. carrier-based planes had taken part in attacks on Egypt. On the basis of this accusation, Egypt, Algeria, Syria, Iraq, the Sudan, and Yemen broke diplomatic relations with the United States. Rusk left the Situation Room and went to the West Lobby of the White House, where the reporters were assembled, to label the charge a lie. I mentioned the false Arab allegation in my answer to Kossygin over the hot line. I told him that since his intelligence knew where our carriers and planes were, I hoped he would emphasize the facts to Cairo.

As Israeli forces moved forward steadily into Jordan and the Sinai desert, the Russian delegation in the United Nations decided to accept a simple ceasefire resolution. As the "first step" toward peace the Security Council adopted that resolution, and an appeal to stop the fighting went to Israel and the Arab states. In a brief television statement, I welcomed the

\* So called because Franklin Roosevelt kept an aquarium there.

† I had called Bundy back from his post at the Ford Foundation to sit in with us.

resolution. I said that it "opens a hopeful path away from danger in the Middle East. . . . We hope the parties directly concerned will promptly act upon it."

June 7, the third day of the war, began with the Israelis announcing that they were willing to accept a ceasefire, provided the Arabs agreed. But the Arab states did not respond. They apparently could not accept the reality of their situation in the field. The Arabs were unwilling to reverse the two steps that had done so much to cause the fighting—the closing of Aqaba and the moving of Egyptian forces into the Sinai. They still believed they could achieve more through diplomacy than a simple ceasefire.

In the absence of an Arab response, the Israelis kept moving forward. They slashed their way across the Sinai. They opened the Gulf of Aqaba. To suppress Jordanian artillery fire into the Israeli sector of Jerusalem, they captured the Old City of Jerusalem from Jordan. Israeli soldiers in battle dress prayed at the Wailing Wall, the first Jews to do so in nineteen years.

At a National Security Council meeting that day, it was generally felt that Nasser had suffered a "stunning loss," both militarily and psychologically. There was a belief that the Russians too had suffered a loss in prestige, for they had badly miscalculated Arab ability and strength. I warned the NSC that I was not at all sure we were out of the woods. I was convinced that the problems of that region would plague us for a long time. "One thing we should do now," I said, "is to develop as few heroes and as few heels as we can."

I told the NSC that our goal should be to find an acceptable long-range solution to the Middle East's problems. I asked McGeorge Bundy to serve as executive secretary of a special group that would not only deal with the current crisis but work at building a lasting settlement. In this effort, his group at the White House would complement the work Eugene Rostow had been doing for months, and continued to do, as chairman of an inter-departmental control group we had organized to prepare policy proposals and direct their execution.

Before the day ended, the good news arrived that a ceasefire was in effect between the armies of Jordan and Israel.

Thursday, June 8, began on a note of tragedy. A morning news bulletin reported that a U.S. Navy communications ship, the *Liberty*, had been torpedoed in international waters off the Sinai coast. For seventy tense minutes we had no idea who was responsible, but at eleven o'clock we learned that the ship had been attacked in error by Israeli gunboats and planes. Ten men of the *Liberty* crew were killed and a hundred were

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wounded. This heartbreaking episode grieved the Israelis deeply, as it did us. There was a possibility that the incident might lead to even greater misfortune, and it was precisely to avoid further confusion and tragedy that I sent a message to Chairman Kosygin on the hot line. I told him exactly what had happened and advised him that carrier aircraft were on their way to the scene to investigate. I wanted him to know, I said, that investigation was the sole purpose of these flights, and I hoped he would inform the proper parties. Kosygin replied that our message had been received and the information had been relayed immediately to the Egyptians.

Ambassador Llewellyn Thompson reported, after his return to Moscow, that this particular exchange had made a deep impression on the Russians. Use of the hot line for this purpose, to prevent misunderstanding, was exactly what both parties had envisioned.

On the afternoon of June 8, the UN Secretary General announced, at last, that the UAR had accepted the ceasefire. But the Soviet Union then muddied the waters by introducing a new resolution condemning Israel's "aggressive activities" and its "violations" of the ceasefire resolutions of June 6 and 7. This was the beginning of a long campaign, still not ended as these words are written, to force Israel to withdraw from the positions it occupies without a peaceful settlement. As far as the ceasefire was concerned, only the question of Syria remained, but that proved difficult and even dangerous. The Soviet Union was obviously extremely sensitive about Syria, which it appeared to regard as a rather special protégé. We suspected that in addition to large shipments of Soviet military equipment being sent to Syria, substantial numbers of Soviet advisers were present in the country. We did know Israel's military intentions toward Syria, and the situation remained tense on June 9. A ceasefire had been announced, but each side accused the other of violations. Fighting erupted in Syria, where Israeli forces proceeded to clear the Golan Heights. There were rumors of Israeli raids on Damascus.

We used every diplomatic resource to convince Israel to work out an effective ceasefire with Syria. Finally, at 3 A.M. on June 10, we received assurance that the Israelis would implement the ceasefire resolution. They informed the UN Security Council that arrangements were being made in the field. We received more reports throughout the morning. Some information was premature, and there was confusion about timing, but we were reasonably confident that a ceasefire was being arranged.

On the morning of June 10 we thought we could see the end of the road. But new word from Moscow brought a sudden chill to the situation. I was told that the hot line was active again, and that "Mr. Kosygin wants the President to come to the equipment as soon as possible." I hurried to the Situation Room. Already there were McNamara, Rostow, Clifford,

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Bundy, Katzenbach, Thompson, and CIA Director Helms. At 9:05 A.M. I received the first rough translation of the Kosygin message.

The Soviets accused Israel of ignoring all Security Council resolutions for a ceasefire. Kosygin said a "very crucial moment" had now arrived. He spoke of the possibility of "independent decision" by Moscow. He foresaw the risk of a "grave catastrophe" and stated that unless Israel unconditionally halted operations within the next few hours, the Soviet Union would take "necessary actions, including military." Thompson, at Rusk's request, read the original Russian text to make certain that the word "military" was indeed the correct translation. Thompson said it was. In an exchange between heads of government, these were serious words: "very crucial moment," "catastrophe," "independent decision," "military actions."

The room was deathly still as we carefully studied this grave communication. I turned to McNamara. "Where is the Sixth Fleet now?" I asked him. I knew our ships were circling somewhere in the Mediterranean but I wanted to know the exact location.

McNamara picked up the phone and spoke into it. Then, cradling the phone, he said to me: "It is approximately three hundred miles west of the Syrian coast."

"How fast do these carriers normally travel?" I asked.

"About twenty-five knots. Traveling normally, they are some ten to twelve hours away from the Syrian coast," McNamara said.

We knew that Soviet intelligence ships were electronically monitoring the fleet's every movement. Any change in course or speed would be signaled instantly to Moscow. There are times when the wisdom and rightness of a President's judgment are critically important. We were at such a moment. The Soviets had made a decision. I had to respond.

The fleet was under orders to stay at least one hundred miles from the Syrian coast in its cruising pattern. I told McNamara to issue orders at once to change the course and cut the restriction to fifty miles. The Secretary of Defense gave the orders over the phone. No one else said a word.

Some of the men in the Situation Room later recorded their memories of that morning. Thompson recalled it as a "time of great concern and utmost gravity." Helms remembered that "the atmosphere was tense" and that conversation was conducted "in the lowest voices I had ever heard in a meeting of that kind."

We all knew the Russians would get the message as soon as their monitors observed the change in the fleet's pattern. That message, which no translator would need to interpret to the Kremlin leadership, was that the United States was prepared to resist Soviet intrusion in the Middle East. But I had to reply directly to Chairman Kosygin. I knew my message must be temperate and factual. As we understood the situation, the Nor-

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wegian UN negotiator, General Odd Bull, was very close to completing a ceasefire agreement between Syria and Israel. I told Kosygin this was where we thought things stood and that we had been pressing Israel to make the ceasefire completely effective and had received assurances that this would be done.

Throughout the morning I had additional exchanges with the Chairman over the hot line. Kosygin's messages later in the morning became more temperate. Israel and Syria moved to a ceasefire. The tension in the Situation Room subsided. My last message to Chairman Kosygin went over the hot line just before noon. I pointed out that military action in the Middle East was apparently ending. I expressed my hope that the efforts of both our countries in the time ahead would be devoted to achieving lasting peace throughout the world.

The hot line proved a powerful tool not merely, or even mainly, because communications were so rapid. The overriding importance of the hot line was that it engaged immediately the heads of government and their top advisers, forcing prompt attention and decisions. There was unusual value in this, but also danger. We had to weigh carefully every word and phrase. I took special pains not only to handle this crisis deliberately but to set a quiet, unhurried tone for all our discussions.

As for the substance of what happened during the Six Day War, I regretted that the Israelis had chosen to strike at the Arab forces assembled on their frontier, just as I regretted Nasser's refusal to accept promptly our proposal for a ceasefire accompanied by the reopening of Aqaba and mutual withdrawal from the Sinai. It is much easier to start a war than to make a peace. If Nasser had accepted our proposal, the complex factors that led to the Israeli attack could have been quickly unraveled. The Sinai would have been cleared, and we could have moved promptly toward developing a settlement in the Middle East, with some hope of early success. Great delay resulted in the war, ending with Israeli forces occupying parts of Syria, Jordan, and the UAR.

We achieved a ceasefire, but it was clear that the road to peace would be long and hard. Nevertheless, a true peace in the Middle East was the only appropriate objective for us to pursue. Twenty years of fragile truce, hatred and anxiety, had yielded three dangerous armed conflicts. This time, I was convinced, we could not afford to repeat the temporary and nasty arrangements of 1957. As we worked for a ceasefire, we began to frame principles of a settlement on which the United States could stand. Framing those principles meant facing some hard, basic truths about the Middle East.

I was aware of the deep resentment Arab leaders felt over Israel's emergence as a nation-state. I knew that many Arab refugees in the area still had not been absorbed into community life. But I also knew that various

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Arab leaders had used the issue of Israel and the tragic plight of the refugees to advance personal ambitions and to achieve the dominance of Arab radicals over Arab moderates. I knew that resentment and bitter memories, handed down from generation to generation, could only endanger all those who lived in the Middle East. I was convinced that there could be no satisfactory future for the Middle East until the leaders and the peoples of the area turned away from the past, accepted Israel as a reality, and began working together to build modern societies, unhampered by old quarrels, bitterness, and enmity.

While I understood the special problems of the people of Israel, living in a harassed and beleaguered fortress, I believed the Israelis would have to reach out and help provide a basis of dignity for their neighbors. The Arab nations were humiliated by their defeat in the war of June 1967, and that is a poor psychological foundation for building a solid peace. An Israel overconfident in victory would only weaken that basis further. These were the stubborn facts from which we determined principles that we thought could shape a peaceful Middle East. I stated those principles—the Five Great Principles of Peace in the Middle East—to the National Foreign Policy Conference for Educators on June 19, 1967. They were:

- First, the recognized right of national life;
- Second, justice for the refugees;
- Third, innocent maritime passage;
- Fourth, limits on the wasteful and destructive arms race; and
- Fifth, political independence and territorial integrity for all.

I asked a question: "Who will make this peace where all others have failed in twenty years or more?"

The answer, I said, was this:

Clearly the parties to the conflict must be the parties to the peace. Sooner or later it is they who must make a settlement in the area. It is hard to see how it is possible for nations to live together in peace if they cannot learn to reason together.

Aside from the tragic accident involving the *Liberty*, no American died in the Middle East war in 1967. But the peace of the world walked a tightrope between June 5 and June 10, 1967, as it does today. Through all the months from June 1967 to January 1969 we never diminished our efforts to bring stability to the region where our civilization began. We did not succeed completely, but I hope that history will assess our efforts as a long step toward that goal. I am confident that the lessons we drew from the crisis of June 1967, and the principles we set forth when the shooting stopped, will stand the test of time.

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James M. Ennes, Jr. Research Papers

IMPORTANT  
CIA REPORT  
ON THE LIBERTY

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STANFIELD TURNER'S  
~~DIS~~ DISAVOWAL

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NORMAN DACEY'S  
REBUTTAL

---

FOLDER 22

CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

21 OCT 1977

Mr. James M. Ennes, Jr.  
[REDACTED]

Dear Mr. Ennes:

This is in response to your request, dated 20 September 1977, requesting copies of documents recently released under provisions of the Freedom of Information Act.

Enclosed are copies of the six items listed below, concerning the attack on the USS Liberty:

1. Data Sheet, dated 1966, for modified "Victory" ships, Belmont and Liberty.
2. FBIS article, dated 14 June 1967.
3. 00-B-321/33404.
4. 00-P-321/20396.
5. TD SIB-313/02297/67.
6. CIA Intelligence Memorandum; The Israeli Attack on the USS Liberty, dated 13 June 1967.

Please note that the first two items were released in their entirety. Deletions in the others were made under the exemption provisions of subsections (b)(1) and (b)(3) of the Freedom of Information Act. Additional deletions in items 3 and 4 were made under provisions of subsection (b)(6).

We would like to explain that items 3, 4 and 5 are those reports which the Director of Central Intelligence characterized as raw intelligence data during a recent appearance on the "Good Morning America" television program. On the other hand, item 6 is the release to which he referred as an evaluated overall document, and pages 4 and 5

thereof reflect the grounds on which he based his further comment that it was this Agency's considered opinion that the Israeli Government had no knowledge at the time of the attack that the vessel was in fact the USS Liberty.

The applicability of the Freedom of Information Act subsections cited earlier is explained as follows:

(b)(1) applies to material which is properly classified pursuant to Section 1 of Executive Order 11652, and is exempt under Section 5(B) of the same Order;

(b)(3) applies to the Director's statutory obligations to protect from disclosure intelligence sources and methods as well as the organization, functions, names, official titles, salaries or number of personnel employed by the Agency, in accord with the National Security Act of 1947 and the CIA Act of 1949, respectively; and,

(b)(6) applies to information release of which would constitute an unwarranted invasion of the personal privacy of other individuals.

Sincerely,

  
Gene F. Wilson  
Information and Privacy Coordinator

Enclosure

## Letters to the editor

# 'Calculated murder'

## 'I was aboard the USS Liberty'

Regarding recent stories and letters on the USS Liberty. I was aboard the Liberty on June 8, 1967, and I feel the public has the right and the need to be reminded of the treachery then involved.

The Liberty was steaming in international waters about 15 miles off the Sinai Peninsula when the Israelis attacked her. In less than 39 minutes, a fine ship was reduced to a bullet-riddled, napalm-scorched and helpless floating graveyard. In those 39 minutes, boys brought up in the peaceful aftermath of a horrendous world war experienced their first, and for some their last, trial by fire.

Each man knew his responsibility. For years, they had practiced the game, and now that fantasy was a reality. The lives of the crew, the very life of the ship, depended upon their correct and positive reaction.

The tragedy was beyond recall. What solace there may be, however small, lies in the magnificent performance of the officers and men of the Liberty in an action of historic stature in the face of an unprovoked attack. Under the most difficult and trying circumstances, not only did the ship defend itself valiantly, but through superb seamanship on the part of all hands, she was brought safely into port.

The Liberty was in international waters, properly marked as to her identity. A 5'x5' U.S. flag flew at the masthead and must surely have been seen by Israeli planes which surveyed the ship during that morning. Her name was lettered on the stern in English, which could not have been confused with the Arabic script on Egyptian ships.

Moshe Dayan claims complete innocence. He and other Israeli officials credited the attack to war-weary field commanders attacking a ship they mistook for an Egyptian tanker. They further claim that no flag was flying and that there were no discernible markings. All of these claims are proven false by ship's logs and eyewitness accounts.

Liberty logs record both surface craft and aircraft leaving the same Israeli port and heading directly for the Liberty. At 1358 hours, these aircraft were sighted, and moments later there began what was to be a half hour of studied destruction.

On the first passes, the unmarked jets shot rockets through each of the Liberty's four machine-gun mounts. The next run saw a jet hit on each of 20 or more antennas. After eliminating return fire and silencing communications, the jets con-



An Israeli torpedo boat sweeps by the Liberty.

centrated fire on the ship's control center and on all means of escape for the crew. When the stricken ship later reached Malta, an inspection disclosed that all lifeboats and rafts had been destroyed, and that most watertight hatches topside had received at least one rocket penetration.

After the "softening up," torpedo boats flying the Star of David launched three torpedoes, scoring a hit with one. It was just after this torpedo hit that the Israeli purport to have realized their error. The jets retired to the safety of shore and the PT boats retreated to a safe distance, in easy reach of land.

Israel claims one of its boats had retrieved a lifeboat labeled "U.S. Navy" and this convinced them of their mistake. It is interesting to note that this sudden withdrawal in the face of victory occurred only seconds after armed aircraft had left the United States carrier America in response to the only distress call received from the Liberty.

Planes and boats coming from the same Israeli-held port to launch a murderous attack, fire directed so accurately that it is obvious that all pilots had been well briefed on precise location of targets, a day admittedly clear with visibility unlimited, a well-marked ship and a proud flag flying overhead all represent but a small part of the evidence. A close examination of the now-realized Israeli objectives in the Mideast, and the timetable associating them with Liberty show, then and now, that the infamous attack was calculated, premeditated murder.

J. W. Fulbright, then chairman of the Senate Foreign Relations Committee, called the incident an embarrassing subject for the government. To this day, CIA and U.S. government involvement in pre-boo-

tingly agreement goes unnoticed in the successful effort to "stonewall" against responsibility. Israeli rape of an American military vessel has gone unchallenged. I believe it is time for the decision-makers to accept the responsibility and to enlighten our citizenry.

Joseph C. Lentini  
Oxon Hill, Md.

Hostilities commenced between Israel and the United Arab Republic on June 5, 1967. On that same date, at 2015 hours, the commander of our 6th Fleet ordered all his surface craft and air units to stand off at least 100 miles from the coasts of the belligerent nations. At the time of the order, the Liberty was not assigned to the 6th Fleet, but under the operational control of CINC Europe.

On June 7, at 0001 hours, the Liberty was transferred to the operational control of the Commander, 6th Fleet. Her operational orders directed that the closest permissible approach to the coast of the U.A.R. would be 12.5 nautical miles, while she could approach no closer than 6.5 nautical miles to the coast of Israel.

The Joint Chiefs of Staff sent a total of five messages to the Liberty to reposition her in conformance with the Commander, 6th fleet, order. None was received by the Liberty in time for her to escape.

As a result of the Israeli attacks, 34 officers and men were killed, and 75 others wounded. The ship never was restored to duty.

Considering the time of the attack and the methods used, it is extremely difficult to believe that the Israel government didn't know what it was doing. Mr. Dayan may have only one eye, but he sees quite well.

The only controlling element that prevented the Liberty from returning fire was that she did not have authority to do so under her rules of engagement. A very sorry case, to



NY TIMES  
19 SEP 77

THE NEW YORK

# Are We Welcoming The Murderer Of Our Sons?



On June 8, 1967, an American naval vessel, the USS LIBERTY, was attacked by Israeli planes and torpedo boats in international waters off the Sinai coast of Egypt. Thirty-four Americans died, 129 were wounded and \$1,644,146 damage was done to the ship.

Although the attack followed six hours of Israeli air surveillance in bright sunshine, during which time the ship's markings and the American flag it flew were clearly visible, the Israelis have always claimed that the attack was an honest mistake on their part.

**BUT . . .**

As a result of action taken by this Committee under the Freedom of Information Act, we have just obtained from the CIA copies of three intelligence information documents in its files from which the following excerpts are presented for the information of the American people:

- No. 1, dated 23 June, 1967 Title: "Turkish General Staff Opinion Regarding The Israeli Attack On the USS LIBERTY"

*"The Turkish Military Attache in Tel Aviv recently returned to Turkey and briefed the Turkish General Staff concerning the Arab-Israeli War. The Turkish General Staff is convinced that the Israeli attack on the LIBERTY was deliberate. It was done because the LIBERTY's commo (communications) activity was having the effect of jamming Israeli military communications . . ."*

- No. 2, dated 27 July, 1967 Title: "Comment On Known Identity of USS LIBERTY"

*"(Deletion) attack on USS LIBERTY by Israeli airplanes and torpedo boats. He said that 'You've got to remember that in this campaign there is neither time nor room for mistakes,' which was intended as an obtuse reference that Israel's forces knew what flag the LIBERTY was flying and exactly what the vessel was doing off the coast. (Deletion) implied that the ship's identity was known six hours before the attack but that Israeli headquarters was not sure as to how many people might have access to the information the LIBERTY was intercepting. He also implied that (deletion) was no certainty of controls as to where the intercepted information was going and again reiterated that Israeli forces did not make mistakes in their campaign. He was emphatic in stating to me that they knew what kind of ship the USS LIBERTY was and what it was doing offshore."*

- No. 3, dated 9 November 1967 Title: "Attack on USS LIBERTY Ordered by Dayan"

*(Deleted) commented on the sinking of the U.S. communications ship LIBERTY. They said that Dayan personally ordered the attack on the ship, and that one of his generals adamantly opposed the action and said: 'This is pure murder!' One of the admirals who was present also disapproved the action and it was he who ordered it stopped. (Deletion) believe that the attack against the U.S. vessel is (deletion) detrimental to any political ambitions Dayan may have."*

Under the Constitution, Americans have the right to petition their government. Accordingly, we now petition our government—and we ask our fellow Americans to join us in petitioning that government—to provide publicly the answers to the following questions:

1. If for ten years you have had information indicating that the bombing and torpedoing of the USS LIBERTY—in which 84 Americans lost their lives and 164 others were wounded—was a deliberate attack by Israel on an American naval vessel, why have you kept it secret?
2. If for ten years you have had information indicating that the attack was deliberate, why have you rewarded the attacker with billions of our tax dollars in the form of economic and military aid?
3. If for ten years you have had information indicating that the attack was deliberate, why have you permitted the Israelis to promise to pay \$7,044,146 in reparations for the damage done to the ship . . . and never actually pay a cent of it?
4. If for ten years you have had information disclosing the identity of the individual who deliberately ordered the attack which killed or maimed so many of our sons, why have you never demanded that he be brought to justice? While you have been deporting persons suspected of war crimes against Europeans 35 years ago, why have you done nothing about the perpetrator of this heinous war crime against American servicemen ten years ago?"

*It is time for the U.S. Government to end its silence on the LIBERTY tragedy. It is time the American people were given the truth!*

Published in the public interest by

**THE AMERICAN PALESTINE COMMITTEE**

Norman S. Dacey, *National Chairman*

P.O. Box 1001 Bridgeport, Conn. 06601

# ISRAELI PLANES AND TORPEDO BOATS STRAFED AMERICAN SHIP

The attack by Israeli planes and torpedo boats on the passenger vessel Liberty killed 34 Americans.

However, it was learned that the C.I.A. also has a staff summary of the Liberty intelligence data that concludes the ship was an American ship until after the attack.

The American Palestine Committee, described as "a nationwide committee of Americans trying to help the Palestinians to get back into their homeland," said it would publish parts of the three documents in an advertisement in today's editions of The New York Times. [The advertisement appears on Page 26.]

Called 'Unevaluated Information'  
The publication coincided with Mr. Dayan's arrival in the United States for talks with President Carter and Secretary of State Cyrus R. Vance.

A C.I.A. spokesman, Dennis Be and, said the three documents, obtained by the Palestinian group through the Freedom of Information Act, contained "unevaluated information."

He said the agency could not judge "the possible merits and demerits of the material" but said it "receives and handles intelligence material of varying degrees of veracity, some of it unsubstantiated."

Avi Lerner, a spokesman for the Israeli Embassy in Washington, said the Palestinian group was trying to smear Israel over a "regrettable accident." He denied that Mr. Dayan, then Israel's military commander, had deliberately ordered an attack on an American ship.

The Liberty, strafed by jet aircraft and hit by torpedo boats, was heavily damaged. Israel apologized, called the attack accidental and offered to pay compensation to the families of the victims.

According to one of the documents, based on information supplied by an unidentified source, Mr. Dayan ordered the attack over the opposition of an Israeli general and an admiral.

A second document suggested Israel knew the ship's identity at least six hours before the attack. The third, says the Turkish General Staff concluded the Israeli attack was carried out deliberately because the ship was jamming Israeli military communications.

James M. ... Research Papers

## Senator raps CIA findings in Israeli attack on Liberty

By Daniel Southerland  
Staff correspondent of  
The Christian Science Monitor

Washington

The U.S. Central Intelligence Agency (CIA) has been called on to give a "complete clarification" of its findings in the controversial "Liberty" affair of 1967 in which Israeli planes attacked an American communications ship.

In a tough letter to CIA Director Stansfield Turner, U.S. Sen. James Abourezk (D) of South Dakota questioned a CIA analysis — produced only five days after the June 8, 1967, incident — which called the attack accidental. The CIA analysis was written before a court of inquiry could be conducted and before extensive interviews of witnesses and survivors could be carried out.

The controversy over the attack on the USS Liberty once again made headlines recently when the American Palestine Committee — a privately funded group based in Bridgeport, Connecticut, which holds that Palestinians have been treated unjustly — published three intelligence reports received by the CIA after its initial analysis of the attack was made. Those reports, obtained by the committee through freedom-of-information actions, indicated that the attack on the Liberty was deliberate.

Senator Abourezk, who is of Lebanese origin and one of the few members of Congress who consistently espouses Arab interests, said in his letter that the CIA had given the American Palestine Committee and its Washington attorney assurances that CIA files contained nothing which would discredit the reports suggesting that the Israeli attack was deliberate. Yet, he pointed out, within hours of the publication of the three documents in the New York Times on Sept. 19, Admiral Turner said in a television interview that the attack had been an honest mistake.

Senator Abourezk's office said that a CIA official had informed an aide to the Senator that an answer to the Senator's letter might be forthcoming by the end of this week.

One of the three CIA documents published by the American Palestine Committee quoted unnamed sources as saying in late 1967 that Moshe Dayan, now Israeli Foreign Minister and then Defense Minister, personally ordered the attack on the Liberty.

Foreign Minister Dayan, visiting Washington in September when the CIA reports were published, reiterated his earlier denial that the attack had been deliberate.

According to some sources, the only plausible explanation for the attack came in two Penthouse magazine reports written last year by British journalist Anthony Pearson. Mr. Pearson, who is soon to publish a book on the subject, contends that the combined air and sea assault on the Liberty, in which 34 men were killed and 164 wounded, was intended to prevent the Liberty from reporting that Israeli forces had advanced beyond the limits of a secret agreement reached between the United States and Israel before the six-day Arab-Israeli war of 1967.

According to Mr. Pearson's reports, the Americans had learned that Jordan's King Hussein was encouraged to fight beyond the containment plan by a deliberate "cooking" of his communications by the Israelis, who had succeeded in breaking Arab codes and were altering messages between the Arab forces. Mr. Pearson said that on June 8, only three days away from their final objectives, the Israeli leaders feared that the continued presence of the Liberty, monitoring their activities, might wreck their plans.

Survivors of the attack on the Liberty have pointed out that the ship was in international waters and properly marked by a large flag on its masthead and English letters on its stern. Yet the Israelis claimed that despite six hours of surveillance of the communications ship in bright sunshine by their reconnaissance planes prior to the attack, they had mistaken it for an Egyptian tanker, a tanker which at that time was in port at Alexandria, Egypt.

# The American Palestine Committee

P.O. BOX 1001 · BRIDGEPORT, CONNECTICUT 06601 · (203) 374-5226

Norman F. Dacey  
Chairman

January 26, 1978

The President  
The White House  
Washington, D.C.

Dear Mr. President:

This letter is addressed to you as the only individual to whom the Central Intelligence Agency appears to be accountable. Because our correspondence with that Agency indicates careless and even misleading activities in the handling of our Freedom of Information requests, I ask that this letter be dealt with at the White House level and not be referred to the Agency for routine handling.

Our Committee's five-year effort to get to the bottom of the 1967 Israeli attack on the USS LIBERTY culminated last July with the release to us by the CIA of three intelligence reports dated June 23, July 27 and November 9, 1967, which disclosed that the attack had been deliberate and had been ordered by Moshe Dayan personally. When our Washington counsel, Carl Marcy, questioned the Agency as to whether it had anything else in its files which might be considered as contradicting the documents released to us, he received assurances that it did not.

On the strength of such assurances, on September 19, 1977, we published the text of the three documents in The New York Times. Later that day, Admiral Stansfield Turner, on national television, questioned the validity of the documents, asserting his belief that the Israeli attack had been an honest mistake. His press aide, Denis Aband, told reporters that our Committee had deliberately withheld the text of another CIA document which effectively refuted the June 23, July 27 and November 9 documents we had published -- without disclosing that the document to which he referred was dated June 13, 1967 and obviously could not have reflected the intelligence information contained in those bearing the later dates.

Enclosed are examples of the newspaper headlines generated by the public statements of Admiral Turner and his press aide. Also enclosed is a copy of a telegram which we sent to Admiral Turner on September 20 in which we requested that he clear up the misunderstanding engendered by his agency's public relations activities, with their serious reflection upon our Committee's integrity. Receiving no response, ten days later we addressed a letter to Admiral Turner, citing the text of the telegram and again asking him to clear

DEDICATED TO THE RETURN OF THE PALESTINIAN PEOPLE TO THEIR HOMELAND

The President

-2-

January 26, 1978

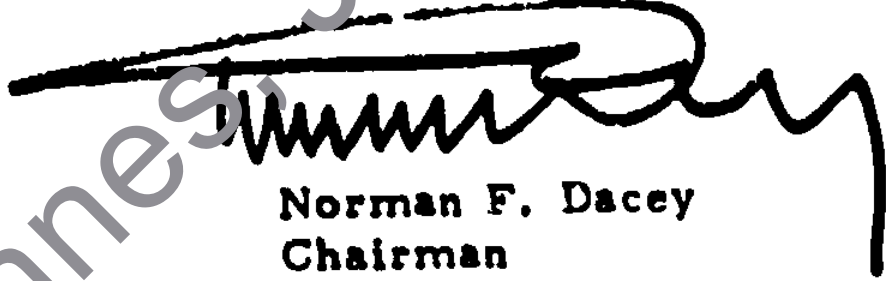
our name. Subsequently, the writer telephoned the Director twice only to be told that he was "unavailable."

More than four months have now passed and this "public servant" has not even deigned to acknowledge our letter or telegram. Senator James Abourezk has interested himself in the affair and has written Admiral Turner a stiff letter demanding that he explain the Agency's mishandling of the matter. To this the CIA has responded that the questions raised "were so complicated" that it would take some time for the Agency to reply to his letters.

We suggest, Mr. President, that your old friend, Admiral Turner, would benefit from some counseling. Incidentally, as a former Navy man you will be interested to know that our publication of the documents has brought an outpouring of support from active and retired Navy men who have long felt bitter about the cover-up of the affair which cost the Navy 34 killed and 100 wounded.

\* A revealing book on the subject is to be published in Britain in the Spring -- but should the American people have to look abroad for the truth about the LIBERTY?

Very respectfully,



Norman F. Dacey  
Chairman

NFD/dko  
encls.

James M. Ennes Jr. Research Papers



DIRECTORATE OF  
INTELLIGENCE

# Intelligence Memorandum

*The Israeli Attack on the USS Liberty*

27

13 June 1967  
SC No. 01415/67

Content UNCLASSIFIED

per #052375

date 31 Aug 1977

SANITIZED COPY



SC No. 01415/67

CENTRAL INTELLIGENCE AGENCY  
Directorate of Intelligence  
13 June 1967

INTELLIGENCE MEMORANDUM

The Israeli Attack on the USS Liberty

The US Naval technical research ship Liberty

was attacked by Israeli aircraft and torpedo boats off the Sinai Peninsula on 8 June. The following account of the circumstances of the attack has been compiled from all available sources.

1. The Liberty reported at 9:50<sup>3:50</sup> a.m. (2:50 a.m. Washington time) on 8 June that it had been orbited by two delta-wing jet fighters, presumably Israeli Mirages. At 3:05<sup>2:05</sup> p.m. (8:05 a.m.) the Liberty was strafed by unidentified jet aircraft. The Liberty apparently was not able to establish communications with other units of the US Sixth Fleet during the air attack, and the first information available to the US commanders was after the subsequent attack by unidentified torpedo boats, which occurred at 3:25 p.m.

ALL TIMES ARE OFF BY ONE HOUR - CIA MUST HAVE FORGOTTEN TO CORRECT FOR DAYLIGHT SAVING TIME.

USS LIBERTY  
D 407428 JUN 87

James M. Eames, Jr. Research Papers



the starboard side of the ship |

One of the boats was later identified as Israeli and the hull number of one unit was noted as 206-T. Some 50 minutes later two Israeli helicopters arrived on the scene.

Israeli Identification of the Ship

4. None of the communications of the attacking aircraft and torpedo boats is available, |

EXCISED IS A REPORT OF COMMUNICATIONS BETWEEN BOATS, HELICOPTERS AND HATSOR STATION FROM JUST AFTER TO 81312Z. UNKNOWN TO CIA, LIBERTY WAS BEING FIRED UPON THROUGHOUT THIS PERIOD

James M. Ennes, Jr. Research Papers

5. |

Although the Liberty is some 200 feet longer than the Egyptian transport El Quesir, it could easily be mistaken for the latter vessel by an overzealous pilot. Both ships have similar hulls and arrangements of masts and stack.

6. The weather was clear in the area of attack, the Liberty's hull number (GTR 5) was prominently displayed, and an American flag was flying. /

(in ...)

3:12  
7. Thus it was not until 4:12 p.m. (9:12 a.m.) that the Israelis became convinced that the Liberty

UNCORRECTED  
CONCLUSION  
FL 1757  
EVIDENCE

was American. This was about 44 minutes after the last attack on the ship and the attack had apparently been called off, not because the ship had been identified, but because it seemed to be sinking. (The US Defense Attaché in Tel Aviv reports that Israeli helicopters and the three torpedo boats searched the area until 6:04 p.m. (11:04 a.m.). The Israeli offer of assistance was declined because of the sensitive mission of the ship. According to US Navy reports, the ship was saved only through the efforts of her crew.

#### Damage and Personnel Losses

8. The ship suffered heavy material and personnel casualties. A hole estimated to be 39 feet wide at the bottom and 24 feet wide at the top near the waterline was opened by a torpedo. The ship is flooded below the second deck between frames 52 and 78 (36-inch frame spacing). The crew carried out emergency destruction of classified communications and radar equipment, but the ship's engineering plant is intact. Several flash fires and cannon holes throughout the superstructure caused some minor damage, and the ship's motor whale boat and

virtually all of its life rafts were lost. Personnel casualties include 10 killed, 90 wounded, and 22 missing, most of whom were probably trapped in the flooded compartments. The wounded and the dead have been removed from the ship and some additional crew members put aboard. The ship is expected to arrive in Malta on 14 June for dry docking and hull repairs. Security precautions are being taken to protect the classified intercept equipment in the flooded spaces. The US Navy has convened a board of inquiry to look into the incident.

HERE IS SOURCE FOR VARIOUS POINTS

The Ship and Its Orders

9. The USS Liberty is

AN INTEL SHIP  
BUT THE STORY IS THAT

IT IS

an electronics research ship which had been diverted to the crisis area to act as a radio relay station for US embassies.

James M. Ennes, Jr. Research Papers

10. The Liberty sailed from Rota, Spain, on 2 June under orders to patrol no closer than 12.5 miles of the UAR coast and 6.5 miles of the Israeli coast. A modification of orders issued by the commander of the US Sixth Fleet at 12:17 p.m. (5:17 a.m.) on 8 June had not been received aboard the Liberty, according to the ship's commanding officer, before the Israeli attack. This change, together with messages from other commands which ordered the Liberty to approach no closer than 100 miles of the coasts of the UAR and Israel and 25 miles of the coast of Cyprus, was delayed in transmission in part because of a misunderstanding of responsibilities for delivery.

11. At annex is a listing of events in chronological order.

CHRONOLOGY OF EVENTS

(Stated times are local; Washington times in parentheses)

- 2 June 1967 Liberty departed Rota, Spain en route to position 32-00N, 33-00E, to remain 12.5 miles from Egyptian coast and 6.5 miles from Israeli coast.
- 8 June 2:50 a.m.  
(7 June 7:50 p.m.) CINCUSNAVEUR Duty Officer received phone instructions from Joint Reconnaissance Center directing Liberty to comply with COMSIXTHFLEET 100-mile operating area restriction.
- 8 June 9:50 a.m.  
(2:50 a.m.) Liberty was orbited by two unidentified Delta wing single engine jet fighters, presumably Israeli Mirages.
- 8 June 12:17 p.m.  
(5:17 a.m.) COMSIXTHFLEET orders Liberty at least 100 miles away from coast of UAR and Israel and 25 miles from Cyprus. This message apparently not received by Liberty prior to Israeli attack.
- 8 June 3:05 p.m.  
(8:05 a.m.) Liberty attacked by unidentified jet fighters which made six strafing runs. Ship at position 31-35.5N 33-29.0E (25 miles north-east of nearest land).
- 8 June 3:25 p.m.  
(8:25 a.m.) Three torpedo boats, one identified as Israeli, approach ship. One boat bore number 206-T.
- 8 June 3:27 p.m.  
(8:27 a.m.) Liberty fires at torpedo boat at range of 2,000 yards.
- 8 June 3:28 p.m.  
(8:28 a.m.) Ship hit by torpedo. Torpedo boats cleared to east about five miles.
- 8 June 3:30 p.m.  
(8:30 a.m.) COMSIXTHFLEET reports Liberty hit by torpedo at position 31-23N, 33-25E. Three unidentified gunboats approaching.



8 June 3:50 p.m.  
(8:50 a.m.)

COMSIXTFLEET orders carriers to provide  
air cover for Liberty.

8 June 3:52 p.m.  
(8:52 a.m.)

Liberty reported under attack to  
COMSIXTFLEET

8 June 3:55 p.m.  
(8:55 a.m.)

Liberty reported hit by torpedo star-  
board side/

8 June 3:55 p.m.  
(8:55 a.m.)

Two Israeli helicopters orbited ship at  
range of 500 yards. Israeli torpedo  
boats offered assistance which was re-  
fused.

8 June 3:59 p.m.  
(8:59 a.m.)

Liberty still under air attack |

James M. Ennes' Research Papers

4:14  
8 June 5:14 p.m.  
(10:14 a.m.)

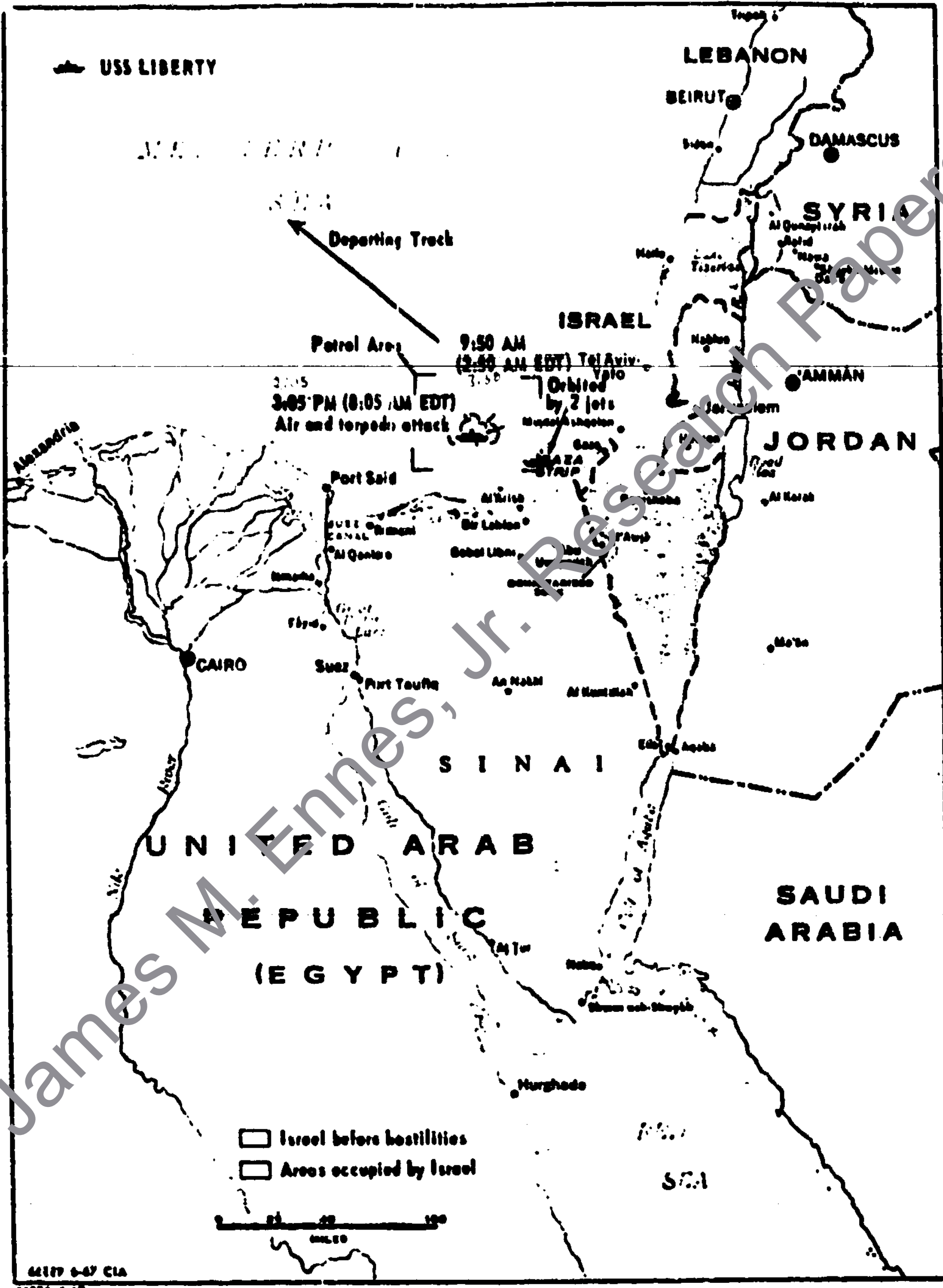
Tel Aviv reports Israeli aircraft and patrol boats attacked ship at 3:00 p.m. (8:00 a.m.) at position 31-25N, 33-33E. Suspecting a US ship, Israel rendering assistance and expresses deep regret.

5:04  
8 June 6:04 p.m.  
(11:04 a.m.)

The US Defense Attache in Tel Aviv reports that Israeli helicopters and the three torpedo boats searched the area until 5:04 p.m. (11:04 a.m.). The Israeli offer of assistance was declined because of the sensitive mission of the ship.

SIXTHFLEET then recalled the aircraft launched from the carriers America and Saratoga and sent two destroyers to assist Liberty. Liberty proceeding northwest at eight knots.

There was no further contact between Liberty and Israeli forces. Two Soviet ships have trailed the Liberty, which proceeds under escort to Malta.



SEP-23-77  
**Central Intelligence Agency Spokesmen Refute  
Old USS Liberty Canard Against Moshe Dayan**

**CIA Cites Cover-Up By Pro-Arab  
Group On Dayan Cover**

SEP-23-77  
**CIA Gives Lie To  
Arab Accusation  
Against Dayan**

**CIA Squashes Twisted Report  
Pro-Arab Group on U.S. Liberty**

**CIA Documents  
Prove Anti-Israel  
Accusations Untrue**

**Attempted Smear Attack On Dayan Backfires!**

SEP-23-77  
**CIA Says Pro-Arab Group Withheld  
Other Version of 1967 Ship Attack**

James M. Ennes, Jr. Research Papers

11

TUESDAY, SEPT 20, 1977

ADMIRAL STANSFIELD TURNER, DIRECTOR  
CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C.

WITH REFERENCE TO YOUR AGENCY'S STATEMENT PUBLISHED TODAY REGARDING VALIDITY OF CIA DOCUMENTS RELATING TO 1967 ATTACK ON USS LIBERTY RELEASED BY US TO PRESS, WE DRAW YOUR ATTENTION TO THE FACT THAT UNDER FREEDOM INFORMATION ACT WE HAD REQUESTED RELEASE OF ALL REPEAT ALL DOCUMENTS RELATING TO THE ATTACK. IN RESPONSE YOUR AGENCY WROTE US ON JULY 14, 1977 STATING QUOTE WE HAVE COMPLETED A THOROUGH AND EXTENSIVE SEARCH OF OUR RECORDS AND WERE ABLE TO LOCATE ONLY THE MATERIALS DISCUSSED BELOW UNQUOTE. THIS LETTER TRANSMITTED TO US THE THREE REPORTS WHICH WE HAVE JUST RELEASED TO THE PRESS DATED 23 JUNE, 27 JULY AND 9 NOVEMBER ALL 1967. SUBSEQUENTLY ON SEPTEMBER 2, 1977 YOUR AGENCY RELEASED TO US A SANITIZED COPY OF CIA INTELLIGENCE MEMORANDUM DATED 13 JUNE 1967, AND WITHHELD IN ITS ENTIRETY A SECOND INTELLIGENCE MEMORANDUM DATED 21, JUNE 1967.

"THE PRESS HAS NOW BEEN GIVEN THE IMPRESSION THAT YOU HAVE IN YOUR POSSESSION DOCUMENTS REFUTING THE STATEMENTS CONTAINED IN THE THREE RELEASED TO US. THIS CONTRADICTS YOUR LETTER OF JULY 14. IF THE ONLY RELEASED DOCUMENT IS THAT OF 21 JUNE, THEN YOU HAVE NOTHING REFUTING THE DOCUMENTS OF 23 JUNE, 27 JULY AND 9 NOVEMBER AND IT WAS IMPROPER OF YOUR SPOKESMAN TO IMPLY THE EXISTENCE OF DOCUMENTATION WHICH CONTRADICTED THE SUBSTANCE OF THOSE JUST RELEASED TO US. OBVIOUSLY DOCUMENTS DATED JUNE 1967 COULD NOT HAVE REFLECTED INFORMATION EMBODIED IN THE LATTER DOCUMENTS JUST RELEASED TO US. WE MUST INSIST THAT YOU PROVIDE PROMPT EXPLANATION YOUR AGENCY'S MISLEADING HANDLING OF OUR FREEDOM INFORMATION REQUEST AND THAT YOU TAKE IMMEDIATE STEPS TO CORRECT THE UNFORTUNATE IMPRESSION THAT HANDLING HAS CREATED.

NORMAN F. DACLY  
CHAIRMAN  
AMERICAN PALESTINE COMMITTEE  
BRIDGEPORT, CONNECTICUT

# 12

**CARL MARCY**

ATTORNEY AT LAW  
LEGISLATIVE CONSULTANT  
200 MARYLAND AVENUE, N.E.  
WASHINGTON, D. C. 20002  
(202) 544-4100

HOME ADDRESS:  
BY S. 002 907  
ANNAPOLIS, MD. 21403  
(301) 266-6400

October 12, 1977

The Honorable Stansfield Turner  
Director of Central Intelligence  
Washington, D.C. 20505

Dear Admiral Turner:

This letter refers to press reports regarding the recent release of CIA documents relating to the 1967 Israeli attack on the USS LIBERTY.

When you read the enclosed press headlines and compare them with the information which the CIA pursuant to the terms of the Freedom of Information Act released to the American Palestine Committee (which I represent) I believe you will agree this letter deserves your personal attention. A representative headline reads: CIA DOCUMENTS PROVE ANTI-ISRAEL ACCUSATIONS UNTRUE. As officers of the CIA know, the opposite is true.

Documents released by the CIA to the Palestine Committee reported that the Israeli attack on the LIBERTY, with the loss of 34 American lives, was deliberate, not accidental as the American people have long believed. When those documents were published by the American Palestine Committee, public statements by CIA officials, and your statement on television on September 19, cast doubt on the CIA's own documents and in so doing, reflected on the integrity of the American Palestine Committee and its Chairman, Mr. Dacey, who had accepted those documents at face value and continues to do so.

\* The CIA has a moral and legal obligation quickly and publicly to set the record straight. Otherwise, perpetuation of misleading statements of this kind will reflect on the CIA, will seriously damage the reputation of the American Palestine Committee and its Chairman, and will keep from the American people information essential to decisions in a democracy.

\* On September 20, 1977, the Chairman of the American Palestine Committee, sent you the following telegram which has not yet been acknowledged or answered:

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The Honorable Stansfield Turner

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TUESDAY, SEPT 20, 1977

ADMIRAL STANSFIELD TURNER, DIRECTOR  
CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C.

2074

"WITH REFERENCE TO YOUR AGENCY'S STATEMENT PUBLISHED TODAY REGARDING VALIDITY OF CIA DOCUMENTS RELATING TO 1967 ATTACK ON USS LIBERTY RELEASED BY US TO PRESS, WE DRAW YOUR ATTENTION TO THE FACT THAT UNDER FREEDOM INFORMATION ACT WE HAD REQUESTED RELEASE OF ALL REPEAT ALL DOCUMENTS RELATING TO THE ATTACK. IN RESPONSE YOUR AGENCY WROTE US ON JULY 14, 1977 STATING QUOTE WE HAVE COMPLETED A THOROUGH AND EXTENSIVE SEARCH OF OUR RECORDS AND WERE ABLE TO LOCATE ONLY THE MATERIALS DISCUSSED BELOW UNQUOTE. THIS LETTER TRANSMITTED TO US THE THREE REPORTS WHICH WE HAVE JUST RELEASED TO THE PRESS DATED 23 JUNE, 27 JULY AND 9 NOVEMBER ALL 1967. SUBSEQUENTLY, ON SEPTEMBER 2, 1977 YOUR AGENCY RELEASED TO US A SANITIZED COPY OF CIA INTELLIGENCE MEMORANDUM DATED 13 JUNE 1967, AND WITHHELD IN ITS ENTIRETY A SECOND INTELLIGENCE MEMORANDUM DATED 21, JUNE 1967.

"THE PRESS HAS NOW BEEN GIVEN THE IMPRESSION THAT YOU HAVE IN YOUR POSSESSION DOCUMENTS REFUTING THE STATEMENTS CONTAINED IN THE THREE RELEASED TO US. THIS CONTRADICTS YOUR LETTER OF JULY 14. IF THE ONLY UNRELEASED DOCUMENT IS THAT OF 21 JUNE, THEN YOU HAVE NOTHING REFUTING THE DOCUMENTS OF 23 JUNE, 27 JULY AND 9 NOVEMBER AND IT WAS IMPROPER OF YOUR SPOKESMAN TO IMPLY THE EXISTENCE OF DOCUMENTATION WHICH CONTRADICTED THE SUBSTANCE OF THOSE JUST RELEASED TO US. OBVIOUSLY DOCUMENTS DATED JUNE 1967 COULD NOT HAVE REFLECTED INFORMATION EMBODIED IN THE LATTER DOCUMENTS JUST RELEASED TO US. WE MUST INSIST THAT YOU PROVIDE PROMPT EXPLANATION YOUR AGENCY'S MISLEADING HANDLING OF OUR FREEDOM INFORMATION REQUEST AND THAT YOU TAKE IMMEDIATE STEPS TO CORRECT THE UNFORTUNATE IMPRESSION THAT HANDLING HAS CREATED.

NORMAN F. DACLY  
CHAIRMAN  
AMERICAN PALESTINE COMMITTEE  
BRIDGEPORT, CONNECTICUT

The Honorable Stansfield Turner

Page 3

On the basic question of whether the Israeli attack on the LIBERTY was deliberate or accidental, the information which follows shows that the press and the public have apparently been misled by CIA officials who have stated and implied, first, that the American Palestine Committee had relevant information regarding the attack which it withheld, and second, that the CIA on the other hand had relevant and reliable information about the attack on the LIBERTY which contradicted documents the CIA had released to the American Palestine Committee and which that Committee had published.

On the first point, the CIA information which the American Palestine Committee did not publish was irrelevant, as shown below; on the second point, the CIA itself has stated to the American Palestine Committee in writing that all its relevant documentation had been released to the Palestine Committee.

Here are the facts:

1) On October 19, 1976 under the terms of the Freedom of Information Act, Counsel requested all relevant documentation related to the attack on the USS LIBERTY.

2) On July 14, 1977 - eight months later - a letter signed by Mr. Gene F. Wilson, Information and Privacy Coordinator of the CIA, stated: "We have completed a thorough and extensive search of our records and were able to locate only the materials discussed below. (Underlining supplied)

Five documents were discussed; a data sheet on the modified USS LIBERTY, a FBIS article of June 14, 1967 which was unclassified (both of which were released to Counsel), and three documents described as "Intelligence Information cables" or "Intelligence Reports" dated June 23, July 27, and November 9, 1967, which were released to the American Palestine Committee.

The only other material discussed in the letter of July 14, 1977 was a reference to some items sent to the Departments of Defense and State and to the N.S.A. "for their review and direct response".

3) On September 2, 1977, a letter signed by Mr. Wilson was sent to Counsel. It referred to the letter of July 14, 1977, and the material which had been sent to Defense, State, and N.S.A. The letter of September 2 stated that a CIA Intelligence Memorandum dated 21 June 1967 was withheld in its entirety and a CIA Intelligence Memorandum dated 13 June 1967 was released in a sanitized form.



The Honorable Stanfield Turner

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The memorandum of June 13 was described by the CIA as "an account of the circumstances of the attack. . . . compiled from all available sources." Dated only five days after the attack on the LIBERTY, paragraph seven of that memorandum stated: "It was not until 4:12 p.m. that the Israelis became convinced that the LIBERTY was American. This was about 44 minutes after the last attack on the ship. . . ."

This June 13 memorandum was by its very nature incomplete. The USS LIBERTY had scarcely reached port; the Naval Board of Inquiry had not been convened; Press accounts were confused.

It should be noted further that both the June 13 Intelligence Memorandum and the June 21 memorandum which was withheld, pre-date the three Intelligence Reports of June 23, July 27, and November 9. It was these later reports from the field which stated that the Israeli attack on the USS LIBERTY had been deliberate. Therefore, the two earlier Intelligence Memoranda - the highest form of CIA evaluation received by the American Palestine Committee -- could not have taken into account the reports received which described the Israeli attack as deliberate. Furthermore, the CIA gave the American Palestine Committee no indication that it had any additional documentation whatsoever related to the attack on the LIBERTY.

Thus, when preparations were made to publish the three Intelligence Reports representing the latest information the CIA had received from the field, the American Palestine Committee decided not to publish the memorandum of June 13 inasmuch as it was prepared prior to receipt of the field reports, could not have taken those reports into account, and was therefore irrelevant.

Furthermore, in order to be completely accurate in presenting this information to the public, Counsel on September 7 asked the CIA what the phrase "unevaluated information" meant inasmuch as that phrase appeared in each of the Intelligence Reports to be published. Counsel was informed by a Mr. Anderson of the CIA in a phone conversation that all reports received by the CIA remain "unevaluated" until they have been compared with other relevant information by an analyst in order to prepare an Intelligence Memorandum. To state that a report is "unevaluated," according to Mr. Anderson, does not pass on its validity.

4) On September 18 and 19, 1977, the American Palestine Committee made public the three Intelligence Reports referred to above. Press accounts of the information contained in these reports stated that Admiral Turner had "brushed aside" a television inquiry as to whether the Israeli attack on the USS LIBERTY had been deliberate. Furthermore, a CIA spokesman, Denis Berend, was quoted in an AP dispatch as stating the material released was "unevaluated information" and that

The Honorable Stansfield Turner

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he could not judge "the possible merits and demerits of the material". The CIA "receives and handles intelligence material of varying degrees of veracity some of its unsubstantiated".

6) On September 19 when officers of the CIA were quoted in the press as belittling the significance of information released by the CIA and suggesting there were more reliable CIA analyses of the LIBERTY incident available, Counsel made a further check with the CIA regarding information in possession of the CIA. Counsel's notes made at 3:15 p. m. on September 19, read as follows:

" 3:15 p. m. 9/19/77

" After a 10:30 a.m. phone call to Mr. Hart, I called again at 3:15 and talked to Mr. Denis Berend (351-7676)

" After a discussion of the press reports, I stated to Mr. Berend that if I were asked to comment - or my client - we would state that any references which the CIA might have made to intelligence memoranda or evaluated information that refer to the analyses dated June 13 and June 21, 1967 - both of which were issued prior to the receipt of the "unevaluated information", which had been released to the Committee. So far as we know, and as the letter from the CIA of July 14, 1977 states, there is no other CIA analysis in existence on this issue which took account of the unevaluated information received subsequent to the June dates.

" Berend said he could not dispute that statement, but that he had not himself conducted the research."

In summary, of the six documents released to the American Palestine Committee, three reported that the Israeli attack on the USS LIBERTY was deliberate, one prepared five days after the attack and before filed reports had been received and the Naval Board convened concluded the attack was an accident, and two were irrelevant.

In fairness to Mr. Dancy and the American Palestine Committee as well as in the public interest in the integrity of the CIA in current dealings with the press, a full public report by the CIA is essential. Ten years have elapsed since the attack

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The Honorable Stansfield Turner

Page 6

on the USS LIBERTY. It is time that the full story be known and that the American people not be further subjected to releases of information identified as complete but which if embarrassing when made public, are then characterized as piecemeal.

An early reply will be appreciated.

Sincerely yours,

*Carl M. Roy*  
Carl M. Roy, Counsel  
To The American Palestine Committee

P.S. A copy of this letter is being sent to the Chairman and Vice Chairman of the Senate Select Committee on Intelligence.

Also enclosed are copies of the three Intelligence Reports -- in printed form as the copies originally received from the CIA were virtually illegible.

Enc: 1) Sample headlines 2) Copies of three intelligence documents

cc: Senator Daniel K. Inouye, Chairman  
Senate Select Committee On Intelligence

Senator Barry Goldwater, Vice Chairman  
Senate Select Committee On Intelligence

# 18

JAMES O. EASTLAND, MISS., CHAIRMAN  
JIMMIE L. MC CLELLAN, ARIZ.  
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FRANCIS C. ROSENBERGER  
CHIEF COUNSEL AND STAFF DIRECTOR

## United States Senate

COMMITTEE ON THE JUDICIARY  
WASHINGTON, D. C. 20510

October 18, 1977

Honorable Stansfeld Turner  
Director of Central Intelligence  
Central Intelligence Agency  
Washington, D. C. 20505

Dear Admiral Turner:

This letter to you is regarding what I consider to be a most disturbing incident concerning the CIA documents on the Israeli attack on the USS Liberty in 1967 and their release to the American Palestine Committee. I am specifically referring to your Agency's release of the "analysis" of June 13, 1967 made before extensive interviews of witnesses, survivors and a court of inquiry could be made and three other documents dated respectively June 23, July 27 and November 9, 1967. One document was withheld but at the time of release of the others and even later you gave the American Palestine Committee and their Washington attorney assurances that CIA files contained nothing that would discredit the latter three documents, which strongly suggested that Israel's attack on the USS Liberty was a deliberate one.

On the basis of your assurances that the papers would not be contradicted by the one withheld, the American Palestine Committee printed the texts in the New York Times and within hours you told the national press that the Committee was mistaken and that the attack had indeed been an honest mistake on the part of the Israelis. There were even further charges from within your Agency that the American Palestine Committee had intentionally withheld another document which would have refuted those published in the New York Times.

There is no doubt in my mind that the American Palestine Committee acted in good faith and that it was entirely fair in delaying publication of the documents until it was satisfied there was nothing to refute the validity or credibility of the CIA documents on the attack.

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- 2 -

copy

But consequently, the American Palestine Committee has been swamped with charges of misrepresentation and its credibility has been all but destroyed because of this unfortunate incident and because of what I perceive as your Agency's unwillingness to so far provide an adequate and public explanation for the CIA's actions and discrepancies in the situation.

I trust you will provide a complete clarification for the record on the release of these sensitive and controversial documents to the American Palestine Committee and I look forward to hearing from you very soon.

Sincerely,

*James Abourezk*  
James Abourezk  
United States Senate

James M. Ennes, Jr.

Research Papers

BRIDGEPORT POST, Wednesday, September 16, 1977

## CIA is criticized on USS Liberty files

Senator James Abourezk (D-S. Dak.) recently dispatched a strong letter to Admiral Stansfield Turner, director of the Central Intelligence Agency, expressing sharp criticism of the Agency's handling of the release several weeks ago of three CIA intelligence reports which stated that the June 1967 Israeli attack upon the USS Liberty was deliberate and had been personally ordered by Mose Dayan, now the Israeli foreign minister but then the country's defense chief.

Through a Freedom of Information action filed last year, the American Palestine Committee, an organization of American citizens who hold that the Palestinian people have been treated unjustly, in recent months obtained release of CIA intelligence reports which ascribed responsibility to Israel and Dayan for a deliberate attack which killed 34 Americans, wounded 164 others, and did \$7.6 million damage to the ship.

The American Palestine Committee is headed by Norman F. Dacey of Bridgeport.

Senator Abourezk said the Committee made the documents public on Sept. 19 only after its Washington counsel had obtained assurances from the CIA that the Agency had nothing in its files refuting their validity or credibility.

Yet, the senator charged, "within hours of their publication) you told the national press that the Committee was mistaken and that the attack had indeed been an honest mistake on the part of the Israelis.

Senator Abourezk criticized the Agency's "unwillingness so far to provide an adequate and public explanation for the CIA's actions and discrepancies in the situation." He demanded that Admiral Turner provide a "complete clarification of the record."

On Sept. 19, Admiral Turner, appearing on a national television program, absolved the Israelis of blame. Later that same day his press aide, Dennis Abend, told reporters that the Committee had withheld another document which had been released to it which expressed the conclusion that the attack was a mistake. Neither Turner nor Abend disclosed that the document to which they referred was prepared on June 13, only five days after the attack and before any intelligence reports had been gathered, before the survivors had been interrogated and before the naval court of inquiry had taken testimony in London and was, in fact, based entirely on news reports.

The documents published by the Committee were dated June 23, July 17 and Nov. 9, 1967.

The Nov. 9, 1967 document published by the Committee said in part: "Dayan personally ordered the attack on the ship, and one of his generals adamantly opposed the action and said 'This is pure murder!' One of the admirals who was present disapproved the action and it was he who ordered it stopped."

The Committee has disclosed that in another Freedom of Information action it obtained from the Navy department a previously-classified document in which a U.S. Navy Liaison Officer reported an earlier threat by the Chief of Intelligence of the Israeli Air Force to attack any American ship or aircraft which accidentally strayed into Israeli waters or airspace.

Carl Marcy, the Committee's Washington lawyer, has demanded of Admiral Turner that he correct the impression he and the Agency had given that the Committee had withheld a document which cleared the Israelis of blame for the deliberate attack. Mr. Marcy, former staff director of the Senate Foreign Relations committee, cited to Turner the efforts by the Committee to confirm that the CIA had nothing in its files contradicting the documents released by the Committee.

*The American Palestine Committee*

P.O. BOX 1001 · BRIDGEPORT, CONNECTICUT 06601

# 21

## *The American Palestine Committee*

P.O. BOX 1001 · BRIDGEPORT, CONNECTICUT 06601 · (203) 374-5226

Norman F. Decey  
(Chairman)

FOR IMMEDIATE RELEASE:

**SENATOR ABOUREZK CALLS  
ON CIA TO DISCLOSE FACTS OF  
1967 ISRAELI ATTACK ON USS LIBERTY**

Senator James Abourezk (D-S. Dak.) has dispatched a strong letter to Admiral Stansfield Turner, Director of the Central Intelligence Agency, expressing sharp criticism of the Agency's handling of the release three weeks ago of three CIA intelligence reports which stated that the June 1967 Israeli attack upon the USS LIBERTY was deliberate and had been personally ordered by Moshe Dayan, now the Israeli Foreign Minister but then the country's Defense Chief.

Through a Freedom of Information action filed last year, the American Palestine Committee, an organization of American citizens who hold that the Palestinian people have been treated unjustly, in recent months obtained release of CIA intelligence reports which ascribed responsibility to Israel and Dayan for a deliberate attack which killed 34 Americans, wounded 164 others, and did \$7.6 million damage to the ship.

Senator Abourezk cited the fact that the Committee had made the documents public on September 19 only after its Washington attorney had asked for and obtained assurances from the CIA that the Agency had nothing in its files refuting their validity or credibility. Yet, he charged, "within hours (of their publication) you told the national press that the Committee was mistaken and that the attack had indeed been an honest mistake on the part of the Israelis. There were even further charges from within your Agency that the American Palestine Committee had intentionally withheld

another document which would have refuted those published in The New York Times". Citing the Committee's good faith in delaying publication until it was assured of the document's validity, Senator Abourezk criticized the Agency's "unwillingness so far to provide an adequate and public explanation for the CIA's actions and discrepancies in the situation." He demanded that Admiral Turner provide a "complete clarification of the record."

On September 19, Admiral Turner appeared on the national television program "Good Morning America," and absolved the Israelis of blame. Later that same day his press aide, Dennis Abend, told reporters that the Committee had withheld another document which had been released to it which expressed the conclusion that the attack was a mistake. Neither Turner nor Abend disclosed that the document to which they referred was prepared on June 13, only five days after the attack and before any intelligence reports had been gathered, before the survivors had been interrogated and before the naval court of inquiry had taken testimony in London and was, in fact, based entirely on news reports. The documents published by the Committee were dated June 23, July 27 and November 9, 1967. Obviously, the information they contained could have played no part in the conclusions stated in the June 13 document.

The November 9, 1967 document published by the Committee said in part:

\*"Dayan personally ordered the attack on the ship, and one of his generals adamantly opposed the action and said 'This is pure murder!' One of the admirals who was present also disapproved the action and it was he who ordered it stopped."

Moshe Dayan, questioned by the press in Washington the day the documents were published, insisted that the attack was an accident and added that Israel had "negotiated payment of the damages to the ship." He failed to mention that "negotiations" were all that there was: Israel has never paid a penny of the \$7.6 million damages.

\*The Committee has disclosed that in another Freedom of Information action it obtained from the Navy Department a previously-classified document in which a U.S.



Navy Liaison Officer reported an earlier threat by the Chief of Intelligence of the Israeli Air Force to attack any American ship or aircraft which accidentally strayed into Israeli waters or airspace.

Carl Marcy, the Committee's Washington lawyer, has also demanded of Admiral Turner that he correct the impression he and the Agency had given that the Committee had withheld a document which cleared the Israelis of blame for the deliberate attack. Mr. Marcy, long-time Staff Director of the Senate Foreign Relations Committee, cited to Turner the efforts by the Committee to confirm that the CIA had nothing in its files contradicting the documents released by the Committee.

-30-

For further information:

Norman F. Dacey, Chairman  
The American Palestine Committee  
Bridgeport, Conn.  
(203) 374-5226

Senator James Abourezk  
224-3121

Carl Marcy, Esquire  
246-1700

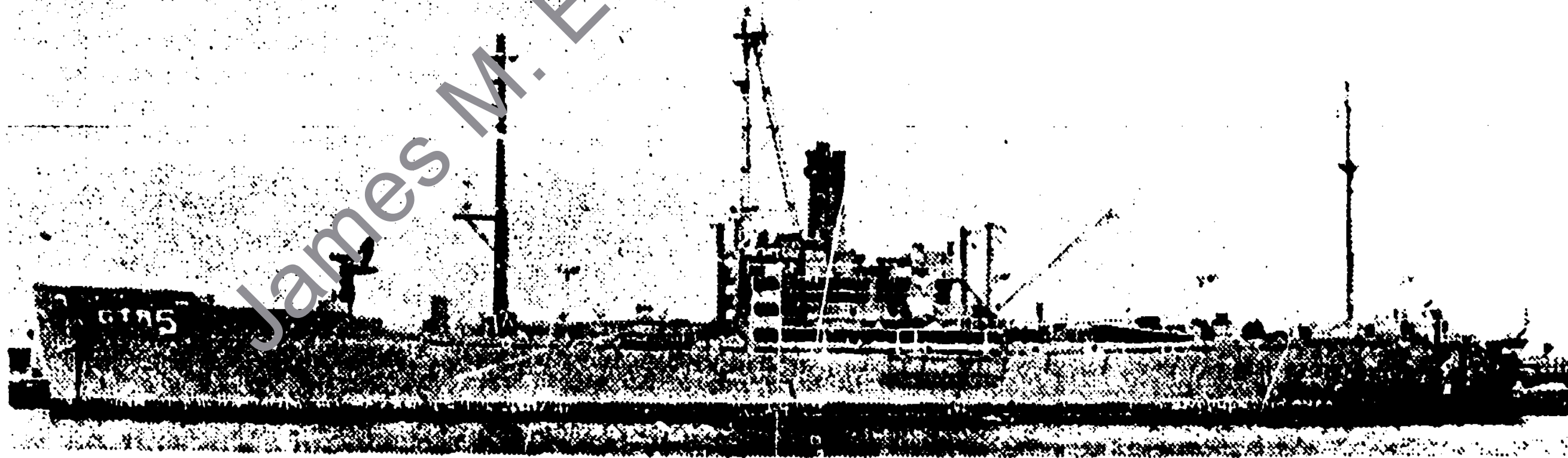
## 2 "Victory" Conversion

AGTR 4 (ex-AG 167) BELMONT (ex-Iran Victory)  
AGTR 5 (ex-AG 168) LIBERTY (ex-Simmons Victory)

Displacement: 7,190 tons light (10,680 tons full load)  
Dimensions: 455 (o.a.) $\times$ 62 $\times$ 24 feet  
Machinery: Turbine. S.H.P.: 8,500=18 kts.  
Complement: 280

### General

Modified "Victory" ships. Conversion completed by Willamette Iron & Steel, Portland, Ore., in Sep. and Dec., commissioned 2 Nov. and 30 Dec. 1964, respectively. Mobile bases for research in communications and electromagnetic radiation.



LIBERTY

1966, courtesy J. A. P. Albornoz

OFFICIAL USE  
LIBERTY'S ACTIVITIES

CAIRO MENA IN ARABIC 0800Z 14 JUN 74

(TEXT) UNDER THE HEADLINE "THE ESPIONAGE SHIP" AN AL-AKHGAR EDITOR SAYS IN THE LIGHT OF THE AMERICAN NEWSPAPER'S AFFIRMATION OF THE LIBERTY'S ROLE AS AN ESPIONAGE UNIT OF THE SIXTH FLEET AND ITS ABILITY TO CONTACT ANY PART OF THE WORLD THROUGH EARTH SATELLITES, AND IN THE LIGHT OF THE PROGRESS OF THE TRIANGLE BATTLE BEGUN BY THE EVIL AGGRESSORS AN HOUR AGO, JUNE 14, AND THE INFORMATION AT HAND, I AS A WIRELESS AND RADIO COMMUNICATIONS EXPERT CAN CONFIRM THAT THE AMERICAN ESPIONAGE SHIP PLAYED A DECISIVE AND EFFECTIVE ROLE IN THE TRIPARTITE INVASION OF OUR LAND AND SKIES. THIS INCLUDED SIMULTANEOUS STRIKES ON ALL OUR AIRPORTS, WHICH UNDOUBTEDLY HAD EFFECTS ON THE PROGRESS OF THE BATTLE FAVORABLE TO THE ENEMY.

THE AL-AKHGAR EDITOR GOES ON TO SAY THE LIBERTY TOOK ITS POSITION OFF THE EGYPTIAN COAST IN ORDER TO OFFER THE FOLLOWING ELECTRONIC SERVICES TO THE ENEMY:

- 1--THE SHIP SPIED ON ALL OPEN WIRELESS AND CODED COMMUNICATIONS IN THE MIDDLE EAST AREA.
- 2--THE SHIP STOOD UNMOVING IN A SPECIFIC POSITION NEAR THE EGYPTIAN COAST. THE SHIP WAS MADE READY TO FACILITATE THE GATHERING OF ENEMY PLANES AT A SPECIFIC POSITION GIVEN AS THE STARTING POINT FOR PLANES GOING FROM NORTH TO SOUTH ALONG THE CANAL. THIS ALSO HELPED THE PLANES REACH THEIR TARGETS IN SUCCESSIVE GROUPS ACCORDING TO A STRICT TIMETABLE.
- 3--THE SHIP DISCOVERED THE TYPE AND FREQUENCIES OF WIRELESS COMMUNICATIONS AND THE ELECTRONIC METHODS USED BY NAVIGATION FACILITIES AT THE AIRPORTS, INCLUDING THE METHODS USED TO ENABLE PLANES TO MAKE PRECISE APPROACHES TO THE MAIN RUNWAYS. THIS DISCOVERY FACILITATED STRIKES ON THESE RUNWAYS BY THE FIRST FLIGHTS OVER THEM.
- 4--THE SHIP CARRIED OUT SEA SEARCH AND DECKIE OPERATIONS UNDER THE PROTECTION OF THE AMERICAN FLAG FOR THE PLANES AND SHIPS THAT WERE ADVANCING AGAINST THE ARAB NAVY.
- 5--THE SHIP JAMMED THE ARAB RADAR EQUIPMENT BOTH BEFORE AND AFTER THE AGGRESSION SO THE ARAB EQUIPMENT COULD NOT LOCATE THE SMALL PLANES AND ASCERTAIN THEIR NUMBER, DIRECTION, AND ALTITUDE IN ORDER TO NOTIFY THE AIR DEFENSE TO INTERCEPT AND DESTROY THEM.

14 JUN 1344Z KCM/OK

*Liberty*

INTELLIGENCE REPORT - INFORMATIONAL REPORT

A 50101 CENTRAL INTELLIGENCE AGENCY

SUBJECT: Israel

REPORT NO.

LIBERTY ORDERED BY DAYAN

DATE: 7 Nov 67

NO PAGES: 1

CLASSIFICATION

DATE OF INFO: 013 67

CLASS: CONFIDENTIAL

THIS IS UNCLASSIFIED INFORMATION

SOURCE

commented on the sinking of the US communications ship, Liberty. Day said that Dayan... that one of his generals... this is pure murder. One of the generals who was present also disapproved the action, and it was he who ordered it stopped... believe that the attack... would be more detrimental to any political end... Dayan may have.

-end-

APPROVED FOR RELEASE  
E23 2 June 1977

COUNTRY: Israel

EVENT: on ship identity of USS LIBERTY

10136-67  
NO 14013  
11/19/67

DATE OF INFO: Early Jun 67

PAGE: 1 of 1

THIS IS UNVALUATED INFORMATION

Israeli submarines and torpedo boats. He said that "you've got to remember that in this campaign there is neither time nor place for mistakes." which was intended as an oblique reference that Israel's success here was that the LIBERTY was flying and exactly what they needed was being hit the hardest.

(Implication: The ship's identity was known at least six hours before the attack but that Israeli headquarters was not sure as to how many ships might have access to the information the LIBERTY was intercepting.) He also implied that there was no certainty of control of the shore the intercepted information was going out again. He stated that Israeli forces did not know what kind of a ship the LIBERTY was and that it was doing whatever it pleased.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

APPROVED FOR RELEASE  
Date 27 June 1977

U.S. GOVERNMENT

CENTRAL INTELLIGENCE AGENCY  
Intelligence Information Cable

ROUTINE

PAGE 1 OF 1 PAGES

CLASSIFICATION AND CONTROL INFORMATION

THIS CABLE IS AN INFORMATION REPORT, NOT FINALLY EVALUATED INTELLIGENCE

1957 00-000000-01

MAY 23 JUNE 1957

ISRAEL/TURKEY/USA

JUNE 1957

TURKISH GENERAL STAFF OPINION REGARDING  
THE ISRAELI ATTACK ON THE USS LIBERTY

(02 JUNE 1957)

1. THE TURKISH MILITARY ATTACHE IN TEL AVIV RECENTLY RETURNED TO TURKEY AND BELIEVES THE TURKISH GENERAL STAFF (TGS) CONSIDERS THE ARAB ISRAELI WAR.
2. THE TGS IS CONVINCED THAT THE ISRAELI ATTACK ON THE USS LIBERTY ON 8 JUNE 1957 WAS DELIBERATE. IT WAS DONE BECAUSE THE LIBERTY'S COMMUNICATIONS WERE HINDERING THE EFFORT OF JACQUES YVES'S MILITARY COMMUNICATIONS. (FIELD COMMENT: THE TGS COMMAND DID NOT SPECIFY THAT THE MILITARY ATTACHE IN TEL AVIV WAS THE SOURCE OF THIS INFORMATION.)
3. FIELD DELIVER: NONE.

APPROVED FOR RELEASE  
Date 7 June 1972

James M. Ennes, Jr. Research Papers

James M. Ennes, Jr. Research Papers

23

SELECTED MESSAGES  
FROM FILES OF  
COMMANDER 6th FLEET  
JUN & JULY 1967

---

MESSAGES SHOW DETAILS OF  
EARLY "PRESS GUIDANCE," RESCUE  
EFFORTS, DAMAGE CONTROL, TONNAGES  
LOST, XFR OF WOUNDED, ETC.

---

ABOUT 1,000 MORE MESSAGES  
FROM THIS FILE CAN BE  
SEEN IN THE HOOVER LIBRARY

FOLDER 23



**CONFIDENTIAL**

KRAJ NR 2480  
O 180624Z JUN 67  
FM CTF SIX ZERO  
TO COMSIXTHFLT  
INFO USS AMERICA

BT  
CONFIDENTIAL  
A. COMSIXTHFLT 180310Z JUN 67  
B. C CS 192310Z JUN 67  
C. SECDEF 312408Z MAY 67  
D. USS AMERICA 052225Z JUN 67

1. THE FOLLOWING IS FORWARDED AS REQUESTED REF A. TO RESPOND TO QUESTION CONTAINED REF B.

A. REF C WAS RECEIVED ABOARD USS AMERICA AT 300233Z MAY 67. ITS CONTENTS WERE MADE KNOWN TO ALL OFFICER AND ENLISTED PERSONNEL ASSIGNED TO PUBLIC AFFAIRS DUTIES BY AMERICA'S PUBLIC AFFAIRS OFFICER.

B. ALL OFFICERS ASSIGNED AS ESCORTS WERE BRIEFED ON ITS CONTENT AND UPON SECURITY PRIOR TO CONTACT WITH NEWSMEN.

C. WIDE INTERNAL DISTRIBUTION OF THE MESSAGE WAS MADE TO ALL AMERICA AND CTF 60 STAFF.

D. USS AMERICA NOTICE 5051 OF 29 MAY 67 WHOSE PURPOSE WAS QUOTE QUOTE TO PROVIDE INFORMATION AND IDENTIFY NEWS MEDIA REPRESENTATIVES BOARD AMERICA UNQUOTE CONTAINED THE

FOLLOWING PARAGRAPH QUOTE SECURITY. THE NEWS MEDIA REPRESENTATIVES DO NOT HOLD CLEARANCES. SEVERAL ARE EMPLOYED TO BY FOREIGN NATIONALS REPRESENTING U.S. NEWS AGENCIES. NONE OF THE NEWSMEN HAVE BEEN AUTHORIZED TO BE EXPOSED TO CLASSIFIED INFORMATION. UNQUOTE. THIS NOTICE RECEIVED SHIP-SIDE DISTRIBUTION INCLUDING AMONG OTHERS ESCORTS AND FOOD STEWARDS.

E. THE FOLLOWING STATEMENT WAS MADE BY THE COMMANDING OFFICER OF AMERICA, OVER THE SHIP'S INTERCOMUNICATIONS SYSTEM ON 29 MAY, PRIOR TO THE ARRIVAL OF THE FIRST GROUP OF NEWS MEN. QUOTE TONIGHT WE WILL HAVE NEWSMEN OF THE WORLD PRESS COMING ON BOARD. ALL HANDS ARE ENCOURAGED TO BE POLITE AND GIVE THESE PEOPLE THE TYPICAL AMERICAN HOSPITALITY. EVERYONE MUST REMEMBER THAT SECURITY OF CLASSIFIED INFORMATION IS OF THE UTMOST IMPORTANCE. TALK ONLY ABOUT UNCLASSIFIED PORTIONS OF THE JOB THAT YOU DO IN AMERICA. DO NOT GIVE NEWSMEN YOUR ANALYSIS OF POLITICALLY IMPORTANT EVENTS. DO NOT SAY ANYTHING ABOUT MATTERS THAT OCCUR OFF THE SHIP. REMEMBER THAT WE HAVE SECURITY AREAS WITHIN THE SHIP WHERE MANY OF US CANNOT GO. IF YOU SEE A NEWSMAN IN ONE OF THESE AREAS POLITELY BUT FIRMLY ASK HIM TO LEAVE. IF HE DOES NOT LEAVE ADVISE YOUR DIVISION OFFICER IMMEDIATELY. UNQUOTE. . . . .

2. REF D IS PERTINENT.

3  
FLAG ACTS  
TOR: 18 JUNE 1842 NR: 465/10

EVON/FRDN/11119Z  
18 06 24Z JUNE 1967

DOWNGRADED AT 9 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 520110

**CONFIDENTIAL**

F PPVV PRCIPR  
OO RUTKRE  
DE RUTPRC  
ZNY CCCCC  
BT  
TO RUDLYO/CINCUSNAVEUR  
RUTPRC/COMSIXTHFLT  
BT

TOR / 0800Z  
10 June 65  
P. 1. 50

CONFIDENTIAL  
FOR ADM MCCAIN AND ADM MARTIN FROM ADM MILLER  
1. ADM HORTON AP STORY FROM AMERICA ALLEGED ONE OF HER OFFICERS  
TOLD HIM THAT LIBERTY WAS A SPY SHIP LIKE RUSSIAN ONES AND EVERY-  
ONE WHEN IT WAS CARRIED ON HAD TONIGHT AND WAS KICKED UP QUITE  
A FINE. MOST INFORMED PADS IN ASD PAJ AND CHIEF BELIEVE THAT  
THE QUOTE WAS A PHONEY OTHERWISE HORTON WOULD HAVE USED IN LEAD  
PARAGRAPH NOT IN LAST PARAGRAPH. HORTON IS WELL INFORMED ON  
MILITARY PLANS AND SHIPS AND COULD "GENERATE" HIMSELF. OTHER  
MILITARY REPORTERS LIKEWISE WELL INFORMED AND SIMILAR STORIES  
CAN BE EXPECTED. WITHOUT "SPORSHIP" THEY CANNOT BE AVOIDED.  
THEREFORE WE MUST BE REALISTIC ABOUT OUR SITUATION.

30-4  
75

CEN  
COULD

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD FORM 500.10

James M. Ennes Research Papers

VISUAL  
P 180929Z JUN 67  
FM USS AMERICA  
TO ALL SHIPS IN VISUAL COMPANY  
INFO COMSIXTHFLT  
CIT SIX ZERO

BT  
UNCLAS  
AMERICA WILL HOLD MEMORIAL SERVICES FOR CREWMEN OF THE  
USS LIBERTY AT 1100H TODAY.  
BT

FLAG ACT.....*14*.....

SHIP ACT...*CHARLAIN*...

TCR 0945Z/10 JUN 67

NR 437/10

0401..... VJS

1 8 1 9 2 9 Z JUN 67

W PPHG718  
P 180938Z JUN 67  
FM USS DAVIS  
TO RUTPRC/CONSIXTHFLT  
INFO RUTKRE/CTF SIX ZERO  
RUTPRN/CTG SIX ZERO PT TWO  
ZEN/CTG SIX ZERO PT FIVE  
RUDDPA/CONCRIDESLANT  
RUENAAA/CHINFO  
RUCRO/CINCUSNAVEUR

UNCLAS  
PRES REL

1. REQ FOR STORY BE CLEARED FOR RELEASE IN HOMETOWN AREAS OF NEWPORT, PROVIDENCE, BOSTON AND FALL RIVER AND ANY OTHER MEDIA DEEMED APPROPRIATE BY YOU OF INFO ADEES.

2. HEADLINE. NEWPORT DESTROYER AIDS STRICKEN NAVY SHIP AT 5:19 P.M. (LOCAL) 8 JUNE, COMMANDER DESTROYER SQUADRON TWELVE, CAPT., H.G. LEAHY, WAS DIRECTED BY COMMANDER TASK FORCE SIXTY PROCEED AT MAXIMUM SUSTAINED SPEED WITH USS DAVIS (DD937) AND USS MASEY (DD-778) EDEEUS WITH USS (E-5)

AS SOON AS POSSIBLE TO RENDER ASSISTANCE. LIBERTY HAD BEEN ACCIDENTALLY STRAFED BY SIX ISRAELI JET FIGHTERS AND

SUBSEQUENTLY ATTACKED BY THREE ISRAELI MOTOR TORPEDO BOATS IN INTERNATIONAL WATERS. SHE HAD SUFFERED ONE TORPEDO HIT AND WAS LISTING HEAVILY TO STARBOARD.

DAVIS AND MASEY PROCEEDED AT 30 KNOTS THROUGHOUT THE NIGHT, ARRIVING ON THE SCENE SHORTLY AFTER DAYLIGHT AT 6:30 A.M. (LOCAL). BOTH SHIPS DISPATCHED MEDICAL ASSISTANCE TEAMS AND DAMAGE CONTROL PARTIES BY BOAT UPON ARRIVAL. THE BOARDING PARTIES WERE LED BY LCDR M.F. CORCORAN, EXECUTIVE OFFICER OF DAVIS. DAVIS THEN PROCEEDED DIRECTLY ALONGSIDE LIBERTY AND MADE FAST TO HER TO EXPEDITE ASSISTANCE. OVER 100 OFFICERS AND MEN FROM DAVIS WENT ABOARD TO ASSIST IN REPAIRING DAMAGE, REESTABLISHING VITAL SHIP FUNCTIONS, AND ASSISTING IN CLEANING UP AS WELL AS PROVIDING HOT FOOD, COFFEE AND WATER. WHEN DAVIS PULLED AWAY ABOUT THREE HOURS LATER, THREE OFFICERS AND 15 ENLISTED MEN REMAINED ABOARD LIBERTY. LIBERTY SUFFERED 9 KILLED, 25 MISSING, 13 SERIOUSLY WOUNDED AND APPROXIMATELY 50 OTHER WOUNDED. DAVIS PERSONNEL ASSISTED IN EVACUATION OF KILLED IN ACTION AND SERIOUSLY WOUNDED TO USS AMERICA (CVA-66) BY AMERICA'S HELOS.

LCDR WILLIAM R. PETTYJOHN, CHIEF STAFF OFFICER FOR COMMANDER LEAHY, REMAINED ABOARD AS ACTING EXECUTIVE OFFICER TO REPLACE LIBERTY'S EXECUTIVE OFFICER WHO HAD BEEN KILLED IN ACTION, LT PAUL TOBIN, DAVIS CHIEF ENGINEER, REMAINED TO COORDINATE REPAIR ASSISTANCE BY DAVIS. DAVIS ENLISTED MEN INCLUDED ENCS ROBERT P. DICKEY, BTC WILLIAM F. MASON, PNI JOHN P. CONROY, ETC LINTON J.

FLAG ACT.....13.....

TOR 11 01 09Z JUNE 67

NR 232/11

CVO.....PA.....CAPO

PAGE ONE OF TWO

18 09 38Z JUNE 67

COATNEY, DCI RAYMOND T. RICHARDS, MM1 ANKER I. MATHISEN AND  
M2 JOHN V. LIBBY.

LIBERTY IS NOW ENROUTE PORT FOR REPAIRS, EXCORDED BY DAVIS AND THE  
FLEET TUG PAPAGO. THE THREE SHIPS ARE EXPECTED TO ARRIVE  
JUNE 11 OR 12, WHEN DAVIS WILL RETURN TO NORMAL DUTY  
AS A UNIT OF THE U.S. SIXTH FLEET.  
■

PAGE TWO OF TWO

10 29 38Z JUNE 67

James M. Ennes, Jr. Research Papers

PPH0615  
P 131637Z JUN 67  
FM COMUSVFOR SIXTHFLT  
TO COMSIXTHFLT  
INFO CFF SIX ZERO

BT

**C O N F I D E N T I A L**

1. FOLLOWING MSG RECD NAVCONUNIT, NAPLES AND PASSED TO BILL ABC NEWS  
CORRESPONDENT USS AMERICA IS QUOTED FYI DUE INTERFERENCE NEXT  
TO US SENTANCE QUOTE COMPETITION TODAY AIRED REPORTS FROM  
AMERICA REGARDING LIBERTY ATTACK AND SURVIVORS, STOP. WE UNDERSTAND THESE

RADIO APES FOUN OFF AMERICA TO ATHENS, STOP. NOW COME NOTHING FROM  
YOU HURRY EFFORT SA.E SOONEST TO DAVID BURN GELANDS NINE STOP ATHENS  
SIX ZERO ONE GREECE STOP WHAT ABOUT REPORT  
AMERICAN NAVY OFFICER SAYS LIBERTY WAS MONITORING COMBATANTS QUARY  
STOP SEE WHAT YOU CAN DO CONFIRM DERIVED UNQUOTE.

GP-1  
BT

DOWNGRADED AT 9 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

13  
FLAG ACT....

TOR 1747Z JUN 67

NR 614/13

CV0.....//00//

DTG 131537Z JUN 67

**CHIEF OF STAFF**

~~CONFIDENTIAL~~

JW UR0821W 940375 L94300W 940375

00 RUTPRC  
DE RUSKRY 0210LV 1611750  
ZNY CCCCC  
O 101750Z JUN 67  
FM CTG SIX ZERO PT FIVE  
TO RUTPRC/COMSIXTHFLT  
RUSKRY/CTF SIX ZERO  
INFO RUSKRY/COMSIXTHFLT  
RUSKRY/COMSIXTHFLT  
RUSKRY/COMSIXTHFLT

RUTPRC/CTF SIX ZERO  
RUTPRC/CTG SIX ZERO PT TWO

BT  
CONFIDENTIAL

1. 001000Z 06 JUN 67. COURSE 270 FROM MALTA. SINKED ABOUT 1100 HOURS.
2. LIBERTY AND COMPANY SHIPMENTS SAT.
3. C.O. STILL TURNED IN BUT MISSING CONFIDENTIALLY. SHRAINELL
4. 101750Z JUN 67.
5. CALON ATION SHIP STABLE EVEN WITH FREE SURFACE. WATER LEVEL IN WIND FROM STARBOARD APPROX. FOUR FEET BELOW OVERHEAD. WIND IS FROM STARBOARD AND MAY BE UP TO FIFTEEN FEET AT BOTTOM. SEVERAL PORTS IN WIND BUT NO OIL, FIBES AND DEBRIS HAVE RECOVERY HAS BEEN MADE AND WILL BE ATTEMPT. MOST MISSING PORTS ARE IN SPACE ACCESSIBLE ONLY BY ATTEMPT. IF SHIP DRYDOCKED PORTS TO PATCHING SOME SORT OF HULL SHOULD BE PUT OVER HOLE OR CONTENTS WILL DRAIN INTO DOCK AND HENCE TO DISCHARGE.
6. OCLUB ALL SHIPMENTS AND COVERED EQUIP OUT OF REACH. DAVIS MAINTAINING ALL GOODS AND PASSING TO LIBERTY.
7. FOOD, FUEL, WATER AND STORES ADEQUATE TO MALTA.
8. 450 HELICOPTER LIBERTY DELIVERING U.S. MAIL ASAP FOR DEPENDENT MILE PURPOSES. AT SAME TIME DELIVER ANY U.S. MAIL AVAIL FOR SHIPS IN COMPANY.

G2-4  
BT  
DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 00010

FLAGACT .....  
T 2200Z/10 JUN 67 NY 113/210 CWO .../MIC

10 17 50Z JUN 67

CONFIDENTIAL

W URG 95  
P 180002Z JUN 67  
FM COMSEVLTANT  
TO RDLKD/CINCUSNAVEUR  
INFO RUEADHA/CINCLANTFLT  
RUEFRG/COMSIXTHFLT  
RUEFRF/COMFAIRMED  
RUEFRZ/COMSERVFOR SIXTHFLT  
RUEFRZ/COMACTS SPAIN  
RUEFRZ/COMACTS ROTTA  
RUEFRZ/COMACTS MALTA  
RUEFRZ/COMACTS LIBERTY  
RUEFRZ/COMACTS FORLANT  
RUEFRZ/COMACTS AIRVINCANT  
BT

CONFIDENTIAL

CONFIDENTIAL

1. THIS COMINTS IS FROM RADM WILEY TO RADM [REDACTED].
2. RADM [REDACTED], COMSEVLTANT, AND PARTY OF [REDACTED] DEPARTS MALTA ABOUT 1300Z TO MEET USS LIBERTY AND [REDACTED] WHILE PLANNING OVERNIGHT FOR SUBSEQUENT REPAIRS IN COMUS.
3. THE PARTY, ALL U.S. NAVY, WILL CONSIST OF:  
CMT C.M. SMITH  
CMT F.L. [REDACTED], JR  
CPT D.J. [REDACTED]  
LCDR J.H. [REDACTED]  
LT R. D. LEVESQUE  
LT R. H. LEE  
ENS R. C. PARTMAN  
C/O J. VICKHAM
4. FOR COMACTS SPAIN, INTEND FUELING STOP (OR CHANGE OF AIRCRAFT) AT ROTTA.
5. FOR U.S. NAVY REP MALTA, REQUEST YOU ARRANGE TRANSPORTATION ON ARRIVAL, OVERNIGHT ACCOMMODATIONS FOR PARTY AND CREW, AND ADVISE LOCAL AUTHORITIES AS APPROPRIATE. RADM [REDACTED] PLANS DEPART ABOUT NOON WEDNESDAY [REDACTED]. SOME IN PARTY MAY NEED REMAIN FOR SEVERAL DAYS, WILL DEPART BY COMMERCIAL AIR, [REDACTED] WILL HAVE THEIR COMMERCIAL TICKETS WITH THEM.

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

FLAG ACT.....3.....

11 01 35Z JUNE 67

NR 228/11

CIC...PP...CAP

18 20 00Z JUNE 67

CONFIDENTIAL



**CONFIDENTIAL**

NAVAL MESSAGE  
NAVYCOMM 1107/1 (REV. 6-67)  
IL 01231810

CLASSIFICATION **CONFIDENTIAL**

RELEASED BY <i>[Signature]</i>	DRAFTED BY <i>[Signature]</i>	PHONE EXT. NO. 159															
DATE 10 JUNE 1967	TOU/TUD 0135	ROUTED BY <i>[Signature]</i>															
MESSAGE NUMBER 144/10	DATE TIME GROUP (GGG) 10 2235Z JUN	<table border="1"> <tr> <td>PREPARED</td> <td>CLASS</td> <td>INDEXED</td> <td>PRIORITY</td> <td>ROUTING</td> </tr> <tr> <td>INDEXED</td> <td></td> <td></td> <td>XX</td> <td></td> </tr> <tr> <td>EXTD</td> <td></td> <td></td> <td>XX</td> <td></td> </tr> </table>	PREPARED	CLASS	INDEXED	PRIORITY	ROUTING	INDEXED			XX		EXTD			XX	
PREPARED	CLASS	INDEXED	PRIORITY	ROUTING													
INDEXED			XX														
EXTD			XX														

FROM CONSIXTHFLT  
TO CTF 60/ANNE VALIETTA

INFO: CIRCUSIAVDR/NAVBUFACT NAPLES/USCINCPAC/OASD (MIL) USNATREPHAFMS MALTA  
CONFIDENTIAL

PUBLIC AFFAIRS ASSISTANCE FOR USS LIBERTY

A. TELECON LOER SINS AND CER COURSE

1. THIS CONFIRMS REF A. REQUEST DIRECT LOER SINS TO PROCEED TO MALTA TO ARRIVE NOT LATER THAN 120000 LOCAL TO ASSIST CO USS LIBERTY IN PUBLIC AFFAIRS MATTERS. PERIOD OF DUTY AS REQUIRED BY PRESS INTEREST.

2. FOR ANNE VALIETTA REQUEST YOU DO NOT ATTEMPT TO GENERATE ANY MEDIA INTEREST IN USS LIBERTY. IF QUERIES ARE RECEIVED CONCERNING THE SHIP'S MISSION, REPLY QUOTE TO CONDUCT TECHNICAL RESEARCH OPERATIONS IN SUPPORT OF U. S. NAVY ELECTRONIC RESEARCH PROJECTS WHICH INCLUDE

3. ELECTROMAGNETIC PROPAGATION STUDIES AND ADVANCED COMMUNICATIONS SYSTEMS SUCH AS SATELLITE COMMUNICATIONS UNQUOTE. NAME OF COMMANDING OFFICER IS: COMMANDER WILLIAM LOREN MOONAGIS. BASIC DIMENSIONS OF THE SHIP ARE: LENGTH 155 FEET; BEAM 62 FEET; DRAFT 23 FEET.

3. REQUEST YOU ARRANGE HOTEL RESERVATIONS FOR LOER SINS EVENING OF

12 JUNE. DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
OP-6 ROR DIA 50010

DISTRIBUTION:

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CLASSIFICATION

DTG 102235Z

3 CONFIDENTIAL

CONF

NAVY MESSAGE  
NAVY USE ONLY (FORM 507, 507)

CLASSIFICATION ...  
PREPARED BY

FROM: *C. C. [illegible]*

TO: *[illegible]*

027 090513Z

FROM: CONFIDENTIAL

TO: USCINCPAC

INFO: CINCPAC (V) / USNORTHMAC (V) / USMACV (V) / USARPAC (V) / USARPAC (V) / USARPAC (V)

CONF *[handwritten marks]*

- 1. PAVIS AND MASSEY HAVE RENDEZVOUSED WITH LIBERTY (090425Z) MEDICAL PERSONNEL HAVE BOARDED LIBERTY.
- 2. POSIT OF RENDEZVOUS LAT 33-01N / LONG 31-59E.
- 3. AT 0455Z LIBERTY WAS 138 miles FROM ~~USS AMERICA~~. CLOSURE SPEED 30 KTS.

UNCLASSIFIED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5300.10

GP-4

*[Handwritten signature/initials]*  
05252

DISTRIBUTION:

CONFIDENTIAL Return to 13

CLASSIFICATION

DND

NAVAL MESSAGE  
NAVPURCS 11174 (REV. 9-87)  
EL 613-618-2100

CLASSIFICATION *Confidential*

RELEASED BY	3	DRAFTED BY	<i>[Signature]</i>	FROM: I.C. 12
DATE	3	FORWARD	610109	RECEIVED BY
MESSAGE NUMBER	029/09	DATE TIME GROUP (DTG)	090551Z JUN 85	PRECEDENCE
				ACCTG
				EST

FROM: COMSIXTHFLT

TO: BTG 60.5

INFO: CINCUSNAVEUR/USCINCEUR

CONFIDENTIAL

DECLASSIFIED AT 1 YEAR INTERVALS  
EXCEPT WHERE SHOWN OTHERWISE  
DOD DIR 5200.10

LIBERTY MISSING PERSONS

FOLLOWING

1. ~~Submit~~ *ASAP* *TO ORIG*

INFO CINCUSNAVEUR AND USCINCEUR: *13*

~~Declassify For [unclear]~~

A. <sup>SEE</sup> WAS SEARCH FOR BODIES CONDUCTED BY LIBERTY PRIOR LEAVING ATTACK AREA?

B. ANY KNOWLEDGE OF BODIES BEING PICKED UP BY ISRAELIS?

C. ARE BODIES BELIEVED TO BE STILL TRAPPED IN COMPARTMENTS?

D. DOES LATEST MUSTER INDICATE THAT THREE ARE STILL MISSING PERSONS?

2. *REP* *SITCS* *AS* *RECORDED* *DESTROY*

DISTRIBUTION: CONCERNING LIBERTY CONDITIONS AND ACTION BEING TAKEN TO RESOLVE INFO

G.P. 4

CHIEF OF STAFF

CLASSIFICATION

BTG

NAVAL MESSAGE  
NAVFORM 1110/1 (REV. 1-67)  
EL 0144-10-140

CLASSIFICATION: **CONFIDENTIAL**

RELEASED BY	DATE	ROUTE	CLASS	PLN	ACT	ROUTINE
<i>[Signature]</i>						
MESSAGE NUMBER	DATE TIME GROUP (ZUL)	FILED	INDEXED	FILED	INDEXED	ROUTINE
042	09 07 04Z					

FROM: COMSIXTHFLT  
TO: CINCUSNAVEUR

INFO: CONFIDENTIAL  
MEDIA COVERAGE OF LIBERTY  
A. WIRENOTE YOUR CAPT BERGNER TO  
MY CAPT KASTEN

- B. COMSIXTHFLT 010546Z JUN 67
- C. USCINCPAC 081650Z JUNE 67

1. NO LIMITATIONS PLACED ON AMERICA  
REGARDING <sup>EXTERNAL</sup> MEDIA AND TV COVERAGE  
LIBERTY FROM AMERICA. REFS  
B AND C REFER.

UP-9

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

*[Handwritten signature]*  
CML 0702

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CHIEF OF STAFF

CLASSIFICATION: ..... DTG: .....

NAVAL MESSAGE  
NAVAL MESSAGE FORM 1 (REV. 6-70)  
U. S. NAVY

CLASSIFICATION UNCLAS EFTO

CLASSIFIED BY	DATE	EXPIRES	PHONE EXT. NO.
<i>[Signature]</i>	0115Z Jun 67		
MESSAGE NUMBER	DATE TIME GROUP (UTC)	PRECEDENCE	CLASS
075	09 09 05Z	ACTON	
		INFO	

FROM: COMSIXTHFLT  
TO: CTF 60 - PITKRF  
INFO: AMERICA / CTG 60.5

COMSIXTHFLT HELLO LIFT  
UNCLAS EFTO

1. HELLO LIFT FOR COMSIXTHFLT TO LIBERTY  
NOT DESIRED UNTIL KIA HAVE BEEN  
REMOVED AND WOUNDED MOVED AS  
REQUIRED.

2. REQUEST ETA OF HELLO AT FLAGSHIP  
FOR COMSIXTHFLT PICKUP

NAVY 977  
TOO: 0215  
C9 1/2

DISTRIBUTION:

Return to 13

CLASSIFICATION UNCLAS EFTO

3 CONFIDENTIAL 3

NAVAL MESSAGE  
NAVY/USN 010/0 (REV. 6-66)  
EL 0424.11.0

CLASSIFICATION CONFIDENTIAL

DECLASS BY	00	CLASSIFIED BY	3	EXPIRES	
NO		EXPIRES	10272	EXPIRES BY	
CLASSIFIED BY	080	EXPIRES	091010Z JUNE 67	EXPIRES BY	
		EXPIRES		EXPIRES BY	
		EXPIRES		EXPIRES BY	

FROM COMSIXTHFLT  
TO RUMFVOTG SIX ZERO PT FIVE

RUMFVOTG SIX ZERO  
RUMFVOTG SIX THREE  
RUMFVOTG SIX THREE  
RUMFVOTG SIX THREE

BT

CONFIDENTIAL  
LIBERTY INCIDENT

1. REC DETERMINE IF POSSIBLE IF ANY MISSING PERSONS HAVE SURVIVED AND ARE TRAPPED IN SEARCH SPACES.
2. USS AMERICA ADVISE SHALOR WATER DIVING CAPABILITY FOR POSSIBLE ASSISTANCE TO SURVIVORS IF ANY.
3. PAPAGO, ADVISE RDIZ LIBERTY

G3-4  
BT

DOWNGRADED AT 8 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DDI DIR 520010

*Handwritten:*  
NK / 002  
10 27 09

Return to 13

DISTRIBUTION:

CONFIDENTIAL

CLASSIFICATION CONFIDENTIAL

DTG 091010Z JUN

NR NR 26503  
P 091306Z JUN 67  
FM CTF SIX ZERO  
TO TF SIX ZERO  
INFO CONSIXTHFLT

BT  
UNCLAS E F T O  
FOLLOWING RECEIVED FROM CONSIXTHFLT: QUOTE  
FROM CONSIXTHFLT  
TO CTF SIX ZERO

FOR RADM GEIS FROM VADM MARTIN  
1. IN THE RUSH OF GETTING THE FLIGHT OFF TO PROTECT LIBERTY,  
I WENT DIRECT TO YOUR CARRIERS BYPASSING YOU. THE ACTION WAS  
INADVERTENT AND I APOLOGIZE FOR IT.  
2. YOUR SUBSEQUENT ACTIONS CLEARLY INDICATED THAT YOU WERE ON  
THE BALL AND HAD EVERYTHING IN HAND.  
3. I PERSONALLY THINK TASK FORCE SIXTIES RESPONSE WAS MAGNIFICENT  
AND THE PERSONAL MESSAGE TO ME FROM ADMIRAL MCCAIN REFLECTS  
THE SAME CONVICTION. UNQUOTE.  
4. I ADD MY OWN APPRECIATION TO MARTIN'S CHARGERS WHO JOIN ME IN  
SAYING TO THE DCSS QUOTE YOUR VOICE CALL IS SO COMPLETELY  
APPROPRIATE UNQUOTE.  
BT

PLAN ACT.....<sup>3</sup>.....

SHIP ACT.....<sup>OPS</sup>.....

ZOR: 09/1445Z JUN 67

RNR: 598/09

CVO.....<sup>ell</sup>.....//P8//

09 13 06Z JUN

KR NR 06724  
P 091458Z JUN 67  
FM SECDEF  
TO RUCIJUA/CIF SIX ZERO  
INFO RUCIJUA/CMSIXTHFLT  
RUDLX/CINCUSNAVEUR  
RUF PBK/USCINCEUR

BT  
UNCLAS DEF 7489 FROM OASD(PA) FOR PAO  
REFERENCE YOUR 081800Z JUNE 67, OASD(PA) CONCURS IN  
MEDIA REQUEST TO SEND FILM OF PREPARATIONS AND LAUNCH OF AIRCRAFT  
ABOARD AMERICA DURING LIBERTY INCIDENT ASHORE TO FIRST AVAILABLE  
COD AIRCRAFT  
BT

13  
FLAG ACT.....

TOR 2245Z/09 JUN 67

MSG NR 814/09

CVO.....

"USEE"

091458Z JUN 67



SECRET

KR NR 06537  
O 091459Z JUN 67  
FM CINCUSNAVEUR  
TO RUIPRG/COMSIXTHFLT  
INFO RUENAAA/CNO  
RUCINSA/DIRNAVSECGRU  
ZEN/DIRNAVSECGRUEUR  
RUTKRE/CTF SIX ZERO  
RJTTP/CTG SIX ZERO PT FIVE  
BT

SECRET

USS LIBERTY (U)

1. THERE IS INDICATION THAT PAPERS OF SOME DESCRIPTION ARE DRIFTING OUT OF THE HOLD IN LIBERTY'S SIDE. FROM INFORMATION AVAILABLE HERE IT SEEMS AS THOUGH THE HOLD LEADS DIRECTLY INTO THE SECURITY GROUP OPERATIONS SPACE. IT IS PROBABLE THAT SOME OF THE PAPER WHICH GOES ADRIPT IS PARTICULARLY SENSITIVE.
2. DO WHATEVER IS FEASIBLE TO KEEP ANY SOVIET SHIPS OUT OF LIBERTY'S WAKE.
3. TAKE WHATEVER STEPS ARE FEASIBLE AND REASONABLE TO MAINTAIN OBSERVATION OF LIBERTY'S WAKE AND IF POSSIBLE FIND OUT WHAT SORTS OF DOCUMENTS ARE BEING LOST IN THE WAY.
4. RECOGNIZING THAT HER WAKE CANNOT, AT THIS LATE HOUR, BE SEARCHED, TAKE WHATEVER OTHER STEPS MAY BE REASONABLE AND APPROPRIATE TO REDUCE POSSIBILITY OF COMPROMISE, NOTING THAT A COMPROMISE COULD HAVE BOTH POLITICAL AND TECHNICAL ASPECTS.

G-2  
BT

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
EXID DIR 3200.10

FLAG ACT...3...COB...3/2/2

IOR 1549/09 JUN 67

MSG NR 614/09

CTO...MAL

09 14 59 Z JUN 67

SECRET

XRAJ VR2343  
O P 021520E JUN 67  
FM USDAO TEL AVIV ISRAEL  
TO RUEPWW/WHITE HOUSE  
RUEPJS/OSD  
RUEPNA/CNO  
RUEHC/DEPT STATE  
RUQKCF/COMSIXTHFLT  
RUEDPSA/CINCSTRIKE  
RUOLXD/CINCNAVEUR  
RUEKDA/JCS  
INFO RUEFJS/DIA  
RUEHDT/USUN  
RUFPOK/CINCEUR-USEUCOM  
RUIPRN/CTG SIXZETO PT TVM  
RUFPPW/USAFE  
RUFPAJ/CINCUSAREUR  
RUIKRE/CTG SIX ZETO  
BT

SECRET 0845 JUN 67.  
AT 09/1300Z THE IDF ASSISTANT ARMY SPOKESMAN

DECLASSIFIED

By DIA Mr. of  
14 May 1982

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01  
13  
F-11 Research Papers  
- 31/312

Downgraded to TOP SECRET  
Internally  
Externally  
Declassified

PAGE 2 RUQMVL 0845 SECRET  
LT COL MICHAEL BLOCH TELEPHONED TO ALUSNA FOLLOWING  
SEVEN POINTS AS QUOTE: FURTHER INFORMATION ON YESTERDAY'S  
INCIDENT WITH THE AMERICAN SHIP. UNQUOTE.

1. SHIP WAS SIGHTED AND RECOGNIZED AS A NAVAL SHIP (13)  
MILES FROM COAST.
2. PRESENCE IN A FIGHTING AREA IS AGAINST INTERNATIONAL  
CUSTOM.
3. THE AREA IS NOT A COMMON PASSAGE FOR SHIPS.
4. EGYPT HAD DECLARED THE AREA CLOSED TO NEUTRALS.
5. LIBERTY RESEMBLES THE EGYPTIAN SUPPLY SHIP EL GUSEIR.
6. SHIP WAS NOT FLYING FLAG WHEN SIGHTED. SHE MOVED AT  
QUOTE HIGH SPEED  
UNQUOTE WESTWARD TOWARD ENEMY COAST.
7. IDF NAVY HAD EARLIER REPORTS OF BOMBARDMENT OF  
EL-ARISH FROM SEA.

COMMENT: 1. AT FIRST COL BLOCH MERELY READ OFF SEVEN  
POINTS. ALUSNA VRESSED HIM FOR A LABEL FOR THE STATEMENT  
ASKING IF THIS WERE AN OFFICIAL EXPLANATION OF INCIDENT.  
2. BLOCH COULD NOT SUPPLY A PREAMBLE ON HIS OWN AND  
ALUSNA REQUESTED HE CONSULT WITH SOME AUTHORITY WHO  
COULD. BLOCH CALLED BACK IN TWO MINUTES WITH THE ABOVE

PAGE 3 RUQMVL 0845 SECRET  
QUOTED HEADING. 2. WHILE EL GUSEIR BEARS A HIGHLY  
SUPERFICIAL RESEMBLANCE TO LIBERTY, ALUSNA CAN NOT  
UNDERSTAND HOW TRAINED PROFESSIONAL NAVAL OFFICERS  
COULD BE SO INEPT TO CARRY OUT YESTERDAY'S  
ATTACK. CERTAINLY IDF NAVY MUST BE WELL DIRLLED IN  
IDENTIFICATION OF EGYPTIAN SHIPS. EL GUSEIR IS LESS  
THAN HALF THE SIZE, IS MANY YEARS OLDER, AND LACKS THE  
ELABORATE ANTENNA ARRAY AND HULL MARKINGS OF LIBERTY.  
3. ALUSNA EVALUATES YESTERDAY'S ERRONEOUS ATTACK  
RESULTED FROM TRIGGER HAPPY EAGERNESS TO GLEAN SOME PORTION OF  
THE GREAT VICTORY BEING SHARED BY IDF ARMY AND AIR  
FORCES AND IN WHICH NAVY WAS NOT SHARING. GP-3.  
BT

RR RUCIPAA  
DE RUTKRE 099 1601758  
ZNY EEEEE  
R 091753Z JUN 67  
FM USS AMERICA  
TO RUCIPAA/NAVCCNRSTA VASJOC

BT  
UNCLAS E F T O  
CITE DFR COLLECT USS AMERICA /NHIB 9JUN67 1968  
VIA WESTERN UNION

BT  
DFR COLLECT  
ASSOCIATED PRESS  
WASHINGTON, D.C.  
BT

ABOARD CARRIER--ADD LIBERTY CASUALTIES.  
NAVY SPOKESMEN DID NOT INFORM NEWSMEN, ATTEMPTING TO COUNT  
INCHIES CASUALTIES BY VISUAL INSPECTION, THAT 22 MEN WERE  
UNACCOUNTED FOR.

NO EXPLANATION WAS GIVEN ON WHY THIS WAS NOT DISCLOSED NOR  
AS TO THE POSSIBLE FATE OF THE MEN.

ABOUT 4 P.M. (2 P.M. GMT), WHEN THE DAY'S HELICOPTER  
EVACUATION WAS COMPLETE, REPORTERS WERE TOLD FLATLY THE OVER-ALL  
TOLL OF CASUALTIES STOOD AT 59 WOUNDED, NINE DEAD.

BT  
MORTON  
BT

copy to [signature]  
[signature]

James M. Eames, Jr. Research Papers

1AS PCN914  
OO RUTPRC  
DE RUCIDDO 96 160183Z  
ZNY CCCCC  
O 091815Z JUN 67  
FM BASE OPS ATHENS AB  
TO RUEHAAA/CHINFO NAVY CHIEF OF INFORMATION  
INFO RUTPP/NAVY PICTORIAL CENTER  
RUEOHRA/OASD PA  
RUTPRC/COM SIXTH FLT  
RUCLKD/CINCSNAVEUR  
CXFPAG/USCINCEUR  
BT

**CONFIDENTIAL**

**CONFIDENTIAL**

FOR CAPT KOONTZ, HAVE FORWARDED LIBERTY  
ACTION PICTURE FILM PACKAGE ADDRESSED CHINFO NAVY DEPT, WASH 20350  
ATHENS CAPT KOONTZ, ROOM 2E 341 PENTAGON MARKED URGENT, WITH FURTHER  
INSTRUCTIONS TO PHONE ON ARRIVAL NUMBERS NOTED.  
SHIPPED VIA U.S. EMBASSY ATHENS DIPLOMATIC POUCH, PACKAGE  
IN POUCH NO. BI 4, 7765 INV. NO. C-258 REG NO. 1012121212 DUE  
DEPART ATHENS SAT JUN, 17 FLT SER T.V.A. PICK UP AT  
POUCH ROOM DEPT. OF STATE, NEW STATE DEPT. BLDG. SHOULD ARRIVE  
11:00 LOCAL TIME.  
BT

DOWNGRADED AT 5 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 32010

13  
FLAG ACT

TORR

2135Z

JUN 67

NR: 788/89

CVO. *Ch* RDA/12143Z

09 18 15Z JUN 1967

**CONFIDENTIAL**

SECRET

VV J40620 APH915AA837Z0478340  
ZZ RUTPNC  
DE RUEPJS 90 1602105  
ZNY 39399  
Z 092105Z JUNE 67 8FF3  
FM JCS  
TO RUCMVL USDAO TEL AVIV  
INFO RUEPNA/USCINCEUR  
RUEPNA/CNO  
RUEPNA/CINCPACFLT  
RUEPNA/COMUSMACV

CORRECTED COPY NR: 1  
CORRECTED PER RE-RUN  
CORRECTION IN PARA 3  
CUIO: B/B.

BT  
SECRET JCS 7541 J 3 SENDS  
SUBJECT: JCS LIBERTY INCIDENT  
RUEPNA TEL AVIV 092105Z.  
1. PRESENT INFO FROM LIBERTY INCONCLUSIVE AS TO  
POSSIBILITY MEN IN WATER.  
2. IT IS RECOGNIZED THAT, DUE TO MANY UNCERTAINTIES  
THEN EXISTING, ON SCENE ASSISTANCE WAS TURNED DOWN AT  
THE TIME OF THE INCIDENT.  
3. DUE TO THE POSSIBILITY THAT PERSONNEL MAY STILL BE  
IN THE WATER, ADDITIONAL SAR BY ISRAELI FORCES WOULD  
BE GREATLY APPRECIATED.  
OP 4  
BT

DECLASSIFIED AT 5 YEAR INTERVALS  
EXCEPTED AT 12 YEARS  
DOW DATED 10/10

FLAG

MSG NR 797/09

CWO

"UBEE"

FOR 2149Z/09 JUN 67

092105Z JUN 67

SECRET

URC634  
P R 091222Z JUN 67  
FM C4INFO  
TO RDLKD/CINCUSNAVEUR  
RUTPRC/COMSIXTHFLT  
RMOZNA//COMIDEASTFOR  
RUEDNK/CINCLANTFLT  
RUTKRE/CTG SIX ZERO PT ONE  
RUTPRN/CTG SIX ZERO PT TWO  
RLOKRN/CTF SIX ONE  
RLOKRN/CTF SIX TWO  
RUTPRE/CTF SIX THREE  
INFO RUMHBR/CINCPACFLT  
RUMGIL/COMSEVENTHFLT

BT

UNCL'S  
SIXTH FLEET HEADLINE REPORT 09 JUN 67

1. ALL MEDIA THIS MORNING CONTINUES EXTENSIVE COVERAGE OF ATTACK ON LIBERTY. REPORTS SAY THAT LIBERTY WAS FIRED AT BY A NUMBER OF ISRAELI JETS THAT MADE SIX STRIKING PASSES, FOLLOWED TWENTY MINUTES LATER BY THREE TORPEDO BOATS THAT FIRED AT LEAST TWO TORPEDOES. SOME STORIES SPECULATED THAT THE ISRAELI TROOPS HAD BEEN HINDERED BY 1519 SHIPS LYING OFF SHORE AND HAD ORDERS TO CLEAR THE AREA OF ENEMY SHIPS. MOST STORIES ALSO IMPLY THAT THE SHIP WAS ON A MISSION OTHER THAN THE ONE OF COMMUNICATION ANNOUNCED BY PENTAGON SPOKESMAN. MEDIA THIS MORNING REPORT THE NEWS PAPER, PARTIES IN MID EAST WAR HAVE ACCEPTED THE UN CEASE FIRE. THE STORIES POINT OUT THAT ALTHOUGH IT WAS NOT CONSIDERED A SURRENDER, IT WAS OBVIOUS THAT THE ARAB ARMY HAD BEEN HOPELESSLY OUTCLASSED AND DEFEATED.

2. UPI STORY DATED IN WASHINGTON IN YESTERDAY AFTERNOON PAPERS AND IN PAPERS THIS MORNING SAYING THAT THE SOVIETS ARE STEPPING UP THEIR HARASSMENT OF SIXTH FLEET SHIPS. REPORTS QUOTE STRONG MESSAGE SENT BY MARTIN TO THE SOVIETS TELLING THEM TO DISCONTINUE THEIR UNSAFE PRACTICES AND CLEAR OUT OF THE MEDITERRANEAN. STORY GOES ON TO SAY THAT SPECULATION IS INCREASING THAT THE SIXTH FLEET MAY TAKE SOME ROLE IN UN PEACE KEEPING EFFORTS AS AS WAR ENDS IN MIDDLE EAST. THE STORIES QUOTE SOURCES AS SAYING THAT ALTHOUGH NOTHING OFFICIAL HAS BEEN ANNOUNCED THE FLEET MIGHT BE USED TO ENFORCE TRUCE LINES THAT MAY RESULT FROM THE CEASE FIRE.

3. CHICAGO TRIBUNE REPORTS THAT EVIDENTLY THE TENSION HAS BEEN LIFTED AT LEAST FOR THE MOMENT. THE STORY DATED IN MALTA SAYS THAT FIVE SHIPS AND MARINES THAT HAD BEEN PLACED ON TWO HOUR NOTICE TO SAIL NOW HAVE BEEN SCHEDULED TO STAY IN MALTA TO PERMIT ANOTHER WEEK OF LIBERTY.

13  
FLAG ACT.....

TOR: 0201Z/10 JUN 67

NR:244/10

CWO.../DR.

21 22Z JUN 67

VV PPNG459APH992MNA9512CYHJ349

OO NUTPRO  
DE RUQPNKA 4806 150225Z  
ZNY EEEEE  
O 092252Z JUN 67

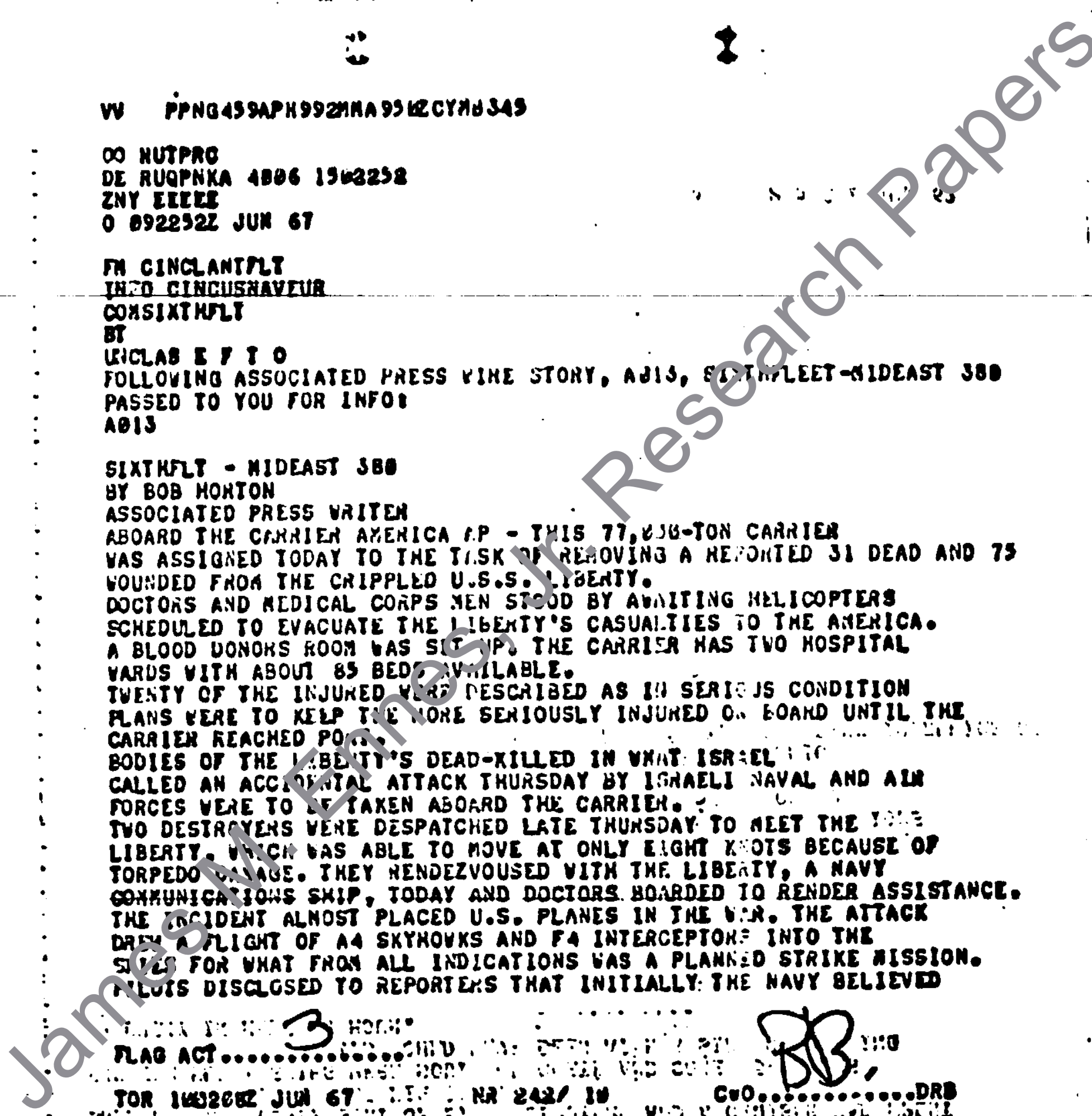
FM CINCLANTFLT  
INFO CINCSNAVFUR  
CONSIXTHFLT

BT  
UNCLAS E F T O  
FOLLOWING ASSOCIATED PRESS WIRE STORY, A013, SIXTHFLT-MIDEAST 380  
PASSED TO YOU FOR INFO:  
A013

SIXTHFLT - MIDEAST 380  
BY BOB MONTON  
ASSOCIATED PRESS WRITER  
ABOARD THE CARRIER AMERICA AP - THIS 77,000-TON CARRIER  
WAS ASSIGNED TODAY TO THE TASK OF REMOVING A REPORTED 31 DEAD AND 75  
WOUNDED FROM THE CRIPPLED U.S.S. LIBERTY.  
DOCTORS AND MEDICAL CORPS MEN STOOD BY AWAITING HELICOPTERS  
SCHEDULED TO EVACUATE THE LIBERTY'S CASUALTIES TO THE AMERICA.  
A BLOOD DONORS ROOM WAS SET UP. THE CARRIER HAS TWO HOSPITAL  
WARDS WITH ABOUT 85 BEDS AVAILABLE.  
TWENTY OF THE INJURED WERE DESCRIBED AS IN SERIOUS CONDITION  
PLANS WERE TO KEEP THE MORE SERIOUSLY INJURED ON BOARD UNTIL THE  
CARRIER REACHED PORT.  
BODIES OF THE LIBERTY'S DEAD-KILLED IN WHAT ISRAELI  
CALLED AN ACCIDENTAL ATTACK THURSDAY BY ISRAELI NAVAL AND AIR  
FORCES WERE TO BE TAKEN ABOARD THE CARRIER.  
TWO DESTROYERS WERE DESPATCHED LATE THURSDAY TO MEET THE  
LIBERTY, WHICH WAS ABLE TO MOVE AT ONLY EIGHT KNOTS BECAUSE OF  
TORPEDO DAMAGE. THEY RENDEZVOUSED WITH THE LIBERTY, A NAVY  
COMMUNICATIONS SHIP, TODAY AND DOCTORS BOARDED TO RENDER ASSISTANCE.  
THE INCIDENT ALMOST PLACED U.S. PLANES IN THE WAR. THE ATTACK  
DREW A FLIGHT OF A4 SKYHAWKS AND F4 INTERCEPTORS INTO THE  
MIDDLE EAST FOR WHAT FROM ALL INDICATIONS WAS A PLANNED STRIKE MISSION.  
A SOURCE DISCLOSED TO REPORTERS THAT INITIALLY THE NAVY BELIEVED

FLAG ACT.....  
TOR 140200Z JUN 67 NR 242/10 CNO.....DRB  
PAGE 1 OF 2 TOR 4806 150225Z JUN 67

ARE THESE...  
THEY...  
THEY...  
THEY...







**CONFIDENTIAL**

URC632  
O 292254Z JUN 67  
FM CINCLANT  
TO CINCUSNAVEUR  
INFO COMSIXTHFLT  
BT

**CONFIDENTIAL**

**SECURITY VIOLATION**

1. ASSOCIATED PRESS WIPE STORY, A313, SIXTHFLEET-MIDEAST 380, ON USS LIBERTY WRITTEN BY BOB HORTON FROM ABOARD THE CARRIER AMERICA STATES, QUOTES THE OFFICIAL EXPLANATION FOR THIS NON-COMBAT SHIP BEING SO NEAR THE FRONT OF ISRAELI-EGYPTIAN FIGHTING WAS THAT THE LIBERTY WAS TO HELP PROTECT AMERICAN NATIONALS AS THE POSSIBLE NEED TO EVACUATE BECAME APPARENT. "THE LIBERTY WAS ONLY 15 MILES OFF THE SI'AI COAST. BUT AN OFFICER SAID: "TO PUT IT BLUNTLEY, SHE WAS THERE TO SPY FOR US. RUSSIA DOES THE SAME THING. WE MOVED IN CLOSE TO MONITOR THE COMMUNICATIONS OF BOTH EGYPT AND ISRAEL. WE HAVE TO. WE MUST BE INFORMED OF WHAT'S GOING ON IN MATTER OF MINUTES." THE LIBERTY, THIS OFFICER SAID, WAS LOADED WITH ELECTRONIC EQUIPMENT CAPABLE OF RAPIDLY ACQUIRING DATA AND TRANSMITTING INTELLIGENCE REPORTS TO POSTS THROUGHOUT THE MIDDLE EAST. UNQUOTE.
  2. THIS IS A SIGNIFICANT SECURITY VIOLATION IN VIEW OF IMPACT OF SEVER LOSS OF LIFE SUSTAINED IN LIBERTY. CONSIDER IMMEDIATE AND THOROUGH INVESTIGATION OF CIRCUMSTANCES OF ALLEGED STATEMENT WARRANTED WITHOUT DELAY.
  3. ENTIRE TEXT OF AP STORY PARA ONE BEING SENT BY PRIORITY MESSAGE
- GP-4  
BT

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.1

FLAG ACT.....

FOR 8152Z JUN 67

NR 239/19

CWO.11.0...//00//

DTG 892254Z JUN 67

**CONFIDENTIAL**

CONFIDENTIAL

PPNO 446  
O 092356Z JUNE 67  
FM COMSERVFOR SIXTHFLT  
TO RUTPRC/COMSIXTHFLT  
BT  
CONFIDENTIAL  
REPAIRS TO USS LIBERTY  
L YOUR 1954Z

A YOUR 092356Z  
1. ARRANGEMENTS REQUIRED REF A AND B WILL BE MADE EARLIEST WHEN PHONE CONNECTIONS CAN BE ACCOMPLISHED.  
2. LOCAL HELLENIC NAVY WELL AWARE DAMAGE TO LIBERTY DUE PRESS RELEASES AND MOST SYMPATHETIC. MOST WILLING TO PROVIDE ASSISTANCE WHERE POSSIBLE. IN VIEW OF EXTENSIVE USE RHM FACILITIES SOUDHA RECOMMEND CONSIDER GREEK SHIPYARD AS WELL AS MALTA OR NAPLES FOR HULL REPAIRS.  
CP-4  
BT

UNCLASSIFIED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 520010

3  
FLAG ACT.....

TOR 120078Z JUN 67

NR 216/18 CNO.....//LDB//

0 9 2 3 5 6 2 JUN 67

CONFIDENTIAL

YQJQ DE Y3PZ

-T-ZI-081245Z

-FM NORS

-TO CIRCUMVEUR

-INFO Y3JK / B002 / J002

BT 06F 0700 00.0

THE FOLLOWING RECEIVED FROM ROOHTHTAR

UNDER ATTACK AND HIT BAD REEEDLE HIT BADDY.

TOP 1238Z

BT

1255Z/08

AUTH IS CORRECT

F A 3

438  
08

James M. Ennes, Jr. Research Papers

**CONFIDENTIAL**

Z 081250Z JUN 67  
FM COMSIXTHFLT  
TO USS SARATOGA  
USS AMERICA  
INFO CTF SIX ZERO  
CTG SIX ZERO PT TWO  
BT

**CONFIDENTIAL**

1. AMERICA LAUNCH FOUR ARMED A4'S TO PROCEED TO 31-23N 133-55E TO  
DEFEND USS LIBERTY WHO IS NOW UNDER ATTACK BY GUN BOATS. PROVIDE  
FIGHTER COVER AND TANKERS. RELIEVE ON STATION. SARATOGA LAUNCH  
FOUR ARMED A-1'S ASAP SAME MISSION.  
GP-4  
BT

3/ DD  
DUF.....REL.....

TOD: 131548 JUN 67 MSG NR 078/08

CVO.....MAL

081250Z JUN 67

UNGRATED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 13 YEARS  
DOD DIR 5200.10

Return to 13

**CONFIDENTIAL**

FLASH

Z 081252Z  
FIJ ROCK STAR VIA SKEMATIC (KTU 60.2.9)

I AM UNDER ATTACK 31.23N 33.25E HAVE BEEN HIT REQUEST ASSISTANCE

BT

481  
—  
08

F-A-3

08/081236Z/HI-COMB/PEARSON R-2

Return to 13

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NAVAL MESSAGE  
 NAVY DEPT. WASHINGTON, D.C. 20340  
 TELETYPE UNIT  
 RELEASED BY

CLASSIFICATION

DATE: 12/14/43

MESSAGE NUMBER: 134

FROM: Com South Flt

TO: Liberty

INFO:

PERFORMED	PLACED	INDEXED	FILED	ROUTINE

Your flash traffic received. Sending aircraft to cover you. Surface units on the way. Keep siting coming.

CNL Parley  
 12/13/43

Return to 13

DISTRIBUTION:

CLASSIFICATION: Unclass DTG: 12-14-43

1

SECRET

3

XHAJ NR1995  
Z 08 316Z JUN 67  
FM CTF SIX ZERO  
TO ZEN/USS AMERICA  
RUCKHF/USS SARATOGA  
INFO RUTPRC/COMSIXTHFLT  
TASK FORCE SIX ZERO

BT

SECRET

DEFENSE USS LIBERTY

1. FOR AMERICA: LAUNCH FOUR AKMED A4'S ASAP TO PROCEED TO 31-23N9733-25E3 TO DEFEND USS LIBERTY WHO IS NOW UNDER ATTACK BY GUNBOATS. PROVIDE TANKERS AND FIGHTER COVER.
2. FOR SARATOGA: LAUNCH 4 AKMED A1'S ASAP SAME MISSION. ADVISE LAUNCH TIME REQUIRED TO EFFECT A1'S RELIEF ON STATION OVER LIBERTY.
3. FOR ALL: PLAN TO RELIEVE ALL ACFT ON STATION OVER USS LIBERTY AS REQUIRED.
4. DEFENSE OF USS LIBERTY MEANS EXACTLY THAT. DESTROY OR DRIVE OFF ANY ATTACKERS WHO ARE CLEARLY MAKING ATTACKS ON LIBERTY. REMAIN OVER INTERNATIONAL WATERS. DEFEND YOURSELF IF ATTACKED.

CP-4

BT

FLAG ACT.....COG.....

TOR 1355/8 JUN 67

MSG NR 588/28

CNO.....70.....

Z B 1 3 1 6 Z JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AT THE 12 YEAR  
DOD DIR 520030

SECRET

3 CONFIDENTIAL 3

Z 081322Z JUN 67  
FM USS SARATOGA  
TO RUTPRO/AF SIXTHFLT  
INFO RUTKRE/DTF SIX ZERO  
RUTPR/CIG SIX ZERO PT TWO  
RUTKRE/USS AMERICA  
BT

CONFIDENTIAL  
FOUR ARMS A-1'S  
DUE LAUNCH 1600Z ETA TARGET 190200.  
GP-4  
BT

FLAG ACT.....

TOR 1331/08 JUN 67

MSG NR 498/08

CWO.....MAL

081322Z JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

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NAVAL MESSAGE  
NAVY/AFCEP 11/9/68 (REV. 1-68)  
IL 001-010-001  
SUBMITTED BY

CLASSIFICATION

DATE	CLASSIFIED BY	EXPIRES	GROUP	CONTROL
08/08	311 [Signature]			
MESSAGE NUMBER	PAGE/TOTAL (C/S)	FILED	FILED	INDEXED
0813367	JUN 67			

FROM: COMSIVTNET

TO: AMMUNA / SHER TO CIA

INFO: CTF 60 / CTF 60.1

UNCLAS CFTO

1. ENSURE PILOTS DO NOT REPORT  
DO NOT FLY OVER LAND.

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CTK [Signature]  
OK [Signature]

DISTRIBUTION:

CHIEF OF STAFF

CLASSIFICATION

0813367 JUN 67

ZL17/13 XVEU  
MOR MEX ZUJ ZUJ FOR FLASH FLASH 7/????????????????

02  
01-~~8~~  
3

XRAJ NR2001

Z 071540Z JUN 67  
FM CINCPACNAV  
TO RUEPFA/USC LIBERTY  
INFO RUIPCF/NAVCOMSTA MOROCCO  
RUCYIC/NAVCOMSTA GREECE  
RUIKIC/NAVCOMSTA SPAIN

BT

- UNCLAS
1. ESTABLISH IMMEDIATE COMMUNICATIONS WITH ANY MID AREA COMSTA.
  2. NAVCOMSTA CANC MOPROCC TAKE ALL AVAILABLE ACTIONS TO ESTABLISH COMM WITH USC LIBERTY REPORT WHEN ESTABLISHED.
  3. FOR USC LIBERTY: REQUEST SYSTEM REPORT OF ATTACK.

BT

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**CONFIDENTIAL**

NYC 091  
Z 081349Z JUN 67  
FM COMSIXTHFLT  
TO CNO  
CINCUSNAVEUR  
CIS SIX ZERO  
Z 231339Z JUN 67  
FM COMSIXTHFLT  
TO USS AMERICA  
USS SARATOGA  
BT

USS LIBERTY INCIDENT

1. IAW CINCUSNAVEUR INST P83120.5B FORCES ATTACKING LIBERTY ARE DECLARED HOSTILE

2. YOU ARE AUTHORIZED TO USE FORCE INCLUDING DESTRUCTION AS NECESSARY TO CONTROL THE SITUATION. DO NOT USE MORE FORCE THAN REQUIRED. DO NOT PURSUE ANY UNIT TOWARDS LAND FOR REPRISAL PURPOSES. PURPOSE OF COUNTERATTACK IS TO PROTECT LIBERTY ONLY.

3. BRIEF ALL PILOTS CONTENTS THIS MSG. IN ADDITION BRIEF PILOTS THAT EGYPTIAN TERRITORIAL LIMIT ONLY 12 MILES AND LIBERTY RIGHT ON EDGE. DO NOT FLY BETWEEN LIBERTY AND S... LINE EXCEPT AS REQUIRED TO CARRY OUT PROVISIONS PARA 2 ABOVE. ... FIGHTER COVER THAT ANY ATTACKS ON ATTACK AIRCRAFT, LIBERTY, OR ... THEMSELVES IS HOSTILE ACT AND PARA TWO ABOVE APPLIES.

GP-4  
BT

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 520010

REF: 002 ..... REL: 00 .....  
TOD: 1412/08 JUN 67

MSG NR 211/08

Return 0113  
CVO ..... MAL

**CONFIDENTIAL**

051339Z JUN 67

CONFIDENTIAL

00	
01	(14)
3	

JVRB  
O 291358Z JUN 67  
FM USS SARATOGA  
TO COMSIXTHFLT

BT  
CONFIDENTIAL  
THIS STATION RECEIVED ATTACK REPORT FROM STATION ROCK STAR AT  
1210Z VE CHALLENGED WITH VS ROCKSTAR AUTHENTICATED CORRECTLY  
WITH 09. PUB USED WAS KAA 33.  
GP-4  
BT

3  
FLAG ACT.....

TOR 1430/25 JUN 67

MSG NR 511/28

CVO.....VAL

0 8 1 3 5 8 Z JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 6200.10

CONFIDENTIAL

NAVAL MESSAGE  
NAVAL FORM 107/1 (REV. 6-54)  
CLASSIFICATION

**CONFIDENTIAL**

CLASSIFICATION

ISSUED BY <i>Heath</i>	DRAWN BY	PLANS BY
DATE	ROUTED BY	CONTROL BY
MESSAGE NUMBER	LINKING GROUP (CG)	

FROM **COMSIXTHFLT**  
 TO **CINCLANTFLT**  
 BT  
 USS LIBERTY INCIDENT  
**CONFIDENTIAL**

**DECLASSIFIED**  
 ON AND BY PERIOD  
 0901P/210920G  
 25 JAN 1982

- A. COMSIXTHFLT 081309Z JUN 67 PIRATED
- B. CTF 60 050316Z JUN 67 PIRATED

1. REFS A AND B REFLECT ACTION TAKEN TO INSTRUCT PILOTS IN RULES OF ENGAGEMENT.

GP. 3

*B* / *JVPB*  
 1455Z / *0807A*

DECLASSIFIED AT 17 YEAR INTERVALS  
 NOT AUTOMATICALLY RECLASSIFIED  
 DND D.R. 50118

Return to 13

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CLASSIFICATION .....

DTG *251447Z*

NAVAL MESSAGE  
NAVY COMM. INST. 107.1 (57)  
CLASSIFICATION  
CLASSIFIED BY

GLN

CLASSIFICATION

CLASSIFIED BY	DATE CLASSIFIED	CLASSIFIED BY	DATE CLASSIFIED
<i>K. Palmer</i>	<i>08/07/08</i>	<i>W</i>	<i>08/07/08</i>

MESSAGE NUMBER	DATE TIME GROUP (DTG)	PRECEDENCE	PRIORITY	PARCEL	GROUP	REMARKS
<i>092/08</i>	<i>081359Z JUN67</i>	<i>SECRET</i>	<i>SECRET</i>			

FROM: CINCUSMIDCOM  
TO: FAULT CONTROL TWO / BASE OPS ATTENDS / SENNA V4-2  
INFO: BASE OPS ATTENDS

INFO: CINCUSMIDCOM  
UNCLAS E F I O

RE: BASE OPS ATTENDS LOSS TO SENNA V4-2 DET  
ATTENDS

1. IMMEDIATE RECALL ANY V4-2  
ACFT AIRBORNE LAUNCHED FROM  
ATTENDS. DO NOT REPEAT OR NOT LAUNCH  
ANY V4-2 ACFT UNTIL FURTHER  
ADVISED.

*REC'D 13  
14/5/48*

*TURS  
14/5/48*

DISTRIBUTION:

Return to 15

CLASSIFICATION

*081359Z JUN67*

C CONFIDENTIAL

VJRS  
O 091406Z JUN 67  
FM USS SARATOGA  
TO CQ SIXTHFLT

BT  
C O N F I D E N T I A L  
1. ACKNOWLEDGE YOUR 091336Z  
2. INFO PASSED TO PILOTS  
BT

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FLYING CIRCUIT.....

FOR 1413/08 JUN 67

MSG NR 514/BR

CVO.....MAL

0 9 1 4 0 6 Z JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

Return to 13

CONFIDENTIAL

ZFG ZFG ZFG  
KR NR 05719  
Z 091416Z JUN 67  
XM OF SIX ZERO  
TO ZEN/USC AMERICA  
PICKUP/USC SARATOGA  
INFO PUT/PC/COMSIXTFLT  
BT

SECRET  
DEFENDERS OF LIBERTY

1. COMSIXEFLT 091339Z APRPLIES AND OVERRIDES MY 091316Z9 ON FILES  
OF ENGAGEMENT

3-1  
BT

GROUP 1  
Excluded from automatic  
downgrading and  
declassification

DECLASSIFIED

James M. Ennes, Jr. Research Papers



IP NR 05725  
Z 021416Z JUNE 67 15FS  
FM JCS  
TO USCINCEUR  
INFO COMSIXTHFLT  
CINCUSMAVEUR

BT  
SECRET JCS 352 JCS SEND  
YOU ARE AUTHORIZED TO USE WHATEVER FORCE REQUIRED  
TO DEFEND USS LIBERTY FROM FURTHER ATTACKS.  
BT

PLG/CT.....COS..... 312/31

JUN 14 14 08 JUN 67

MSG NR 523/15

CWO.....MAL

ENTERED LOGGED.....MAL

9 8 1 6 2 JUN 67

NAVAL MESSAGE  
 NAVY/NAVY 01/01/01  
 EL 011-11-01  
 WILLIAMSBURG

CLASSIFICATION UNCLAS EFTO

DATE		SUB/TOP		DRAWN BY		PHONE EXT. NO.	
MESSAGE NUMBER		DATA TRF. GROUP (SEE)		FRAG-DEVICE	PLANS	ELITE	PRIORITY
097		08 1X 01 02		ACID	RVV		
				INFO	X		

FROM: COMSIXTHFLT

TO: CTF 67/CTF 67.2/GAILEN SIRENELLA/JACOBSON OSA

INFO: CTF 67/SINCEB/ANVOR

UNCLAS EFTO

VP REQUIREMENTS.

1. INSTANTANT VP MUST BE AIRBORNE AT THIS TIME OR PREPARED TO LAUNCH TO REMAIN WEST OF THIRTY DEGREES EAST LONGITUDE AND REMAIN AT LEAST ONE HUNDRED MILES NORTH OF COAST AND BORDERS OF EGYPT AND ISRAEL UNTIL FURTHER ADVISED.
2. BE PREPARED TO RESPOND IMMEDIATELY TO CTF 67/COMSIXTHFLT REQUIREMENTS.

Return to 13

DISTRIBUTION:

W 10/01  
 01/01/01

CLASSIFICATION .....

DIG 16 14302

NAVAL MESSAGE  
NAVEFORM NO. 1  
IL NO. 1  
RELEAS DATE

CLASSIFICATION

CLASSIFIED BY	FROMS REL. NO.							
DATE	CLASSIFIED BY							
RELATION	4442							
RELATION NUMBER	DATE TIME GROUP (DTG)	100/08	081440Z JUN 67	1200	1200	1200	1200	1200
1200	1200	1200	1200	1200	1200	1200	1200	1200

FROM: COMSIXTHFLT R/V/RESEARCH PAPERS  
 TO: AMERICA/SAKATOGA/CTF60/CTG60.2  
 INFO: CONFIDENTIAL

1. RECALL ALL STRIKES REPEAT  
 RECALL ALL STRIKES.

GP-5

DECLASSIFIED

*Base*  
*7/2 ORESTES*  
*08 JUN 67*  
*4442*

DECLASSIFIED AT 17 YEAR INTERVAL;  
 NOT AUTOMATICALLY DECLASSIFIED  
 DCO D.R. 570.10

DISTRIBUTION:

CHIEF OF STAFF 081440Z JUN 67  
 CLASSIFICATION

PPNG 098  
O 081506Z JUN 67  
FM CTF SIX SEVEN  
TO RUTPRC/COISIXTHFLT  
INFO RUSYRO/INCUSNAVEUR  
RUDKRD/CTF 02 7.7  
RUFRS/PATRON SIGONELLA  
RUTXC/PATRON ROTA

BT  
UNCLAS E F T O

FM RUTPRC FLASH 097 159143Z (DTG GARBLED) VP REQUIREMENTS  
I. HAVE INSTRUCTED ALL VP ACFT NOT TO RESPOND TO LOW ALTITUDE INCIDENT  
UNLESS DIRECTED BY YOU OR HIGHER AUTHORITY. AND FURTHER TO REMAIN  
AT LEAST 100 MILES EGYPT/ISRAEL BORDERS  
BT

James M. Ennes, Jr. Research Papers

FLAG ACT.....<sup>3</sup>.....

TOR 0811656Z JUNE 67

NR 571/08

CJO.....<sup>DD</sup>.....JAD

9 8 1 5 0 6 7 JUNE Y67

NAVAL MESSAGE  
NAVY FORM 1107 (REV. 4-67)  
16 0123 0-100

CLASSIFICATION

RELEASED BY

DATE

MESSAGE NUMBER

110/08 081508Z J11/67

FROM: COMSIXTHFLT

TO: CTF 60

INFO: CTF 63 / CTF 67

CONFIDENTIAL

1. DETACH TWO DD TO PROCEED AHEAD AT MAX SUSTAINED SPEED TO JOIN LIBERTY TO PROVIDE ESCORT AND ASSISTANCE. PROVIDE WARNERS TO DD PRIOR DETACHMENT
2. LIBERTY AT POSIT 31-35N 23-29E7 AT 081405Z COURSE 340/7 SPEED 42/8.
3. PROVIDE AIR COVER TO DESTROYERS IF AND WHEN THEY PENETRATE WITHIN ONE HUNDRED MILES OF UAR.
4. DIRCCT DD TO ESCORT LIBERTY TO SUDH BAY

~~5. 7. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.~~

~~AND SPEED WILL BE MAINTAINED~~

~~5. FOR LIBERTY. CLEAR ONE HUNDRED MILES FROM~~

~~DISTRIBUTION: UAR AT 1800 SPEED 1800~~

NA 110  
PH 1610

CHIEF OF STAFF / 1508Z J11/67  
CLASSIFICATION

316

1 DECLASSIFIED 1

PPNG103  
O 081513Z JUN 67  
FM AMEMBASSY TEL AVIV  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 169  
INFO RUIPCR/COMSIXTHFLT IMMEDIATE  
STATE GRNC  
BT  
SECRET TELUVIV 4014

EXDIS

REFI CONF. V6029

ATTACK BY ISRAELI NAVAL AND AIR UNITS ON AN ALLEGED US  
FLAG VESSEL REPORTED BY REFTEL. ISRAELIS OBVIOUSLY  
SHOCKED BY ERROR AND TENDER SINCERE APOLOGIES.  
INVESTIGATION NOW UNDER WAY TO OBTAIN MORE INFO  
ABOUT VESSEL. ISRAELIS DO NOT INTEND GIVE ANY PUBLICITY  
TO INCIDENT. URGE STRONGLY THAT WE TOO AVOID PUBLICITY.  
IF IT IS US FLAG VESSEL ITS PROXIMITY TO SCENE CONFLICT  
COULD FEED ARAB SUSPICIONS OF US-ISRAEL COLLUSION.

GP-3. BARBOUR  
BT

DECLASSIFIED  
Per Dept. of State  
ltr. of 16 July 1982

FLAG ACT..... 2 COG 312

OR 1738Z JUN 67

NR 524/68

INFO.....//00//

CITED

DTG 081513Z JUN 67

REPRODUCED AT 10 YEAR INTERVALS  
NOT AUTHORIZED TO BE DECLASSIFIED  
800 DTR 820010

DECLASSIFIED  
SECRET

X-AJ NR 2016  
P 081527Z JUN 67  
FM USS SARATOGA  
TO COMSIXTHFLT  
BT

UNCLAS E F T O  
FOLLOWING RECEIVED FROM USS LIBERTY  
WE HAVE PHOTOS OF ATTACKING SURFACE VESSELS  
DO YOU HAVE MEANS OF DEVELOPING  
BT

FLAG ACT.....

1051 05 1235Z JUN 67

REF 543/78

CMDR.....// (PG) //

RLB

08 15 27Z JUN 67

CHIEF OF STAFF

3 3 CONFIDENTIAL CC

XRAJ NR2018  
Z O 081528Z JUN 67  
FM USDAO TEL AVIV ISRAEL  
TO RUEPWW/WHITE HOUSE  
RUEPJS/CSD  
RUEPNAF/CNO  
RAKUC/DEPT STATE  
RUSKCE/COMSIZTHFLT  
RUEPDS/CINCSTRIKE  
RUDLID/CINCPACVEUR  
RUEPDA/JCS  
RUEPUS/LIA  
RUEPDT/USUN  
RUEPBR/CINCELR-USEUCOM  
RUEPNA/CIS SIX ZETO PT TWO  
RUEPBY/USAFE  
RUEPAG/CINCPACREUR  
RUEPKE/CTS SIX ZETO  
BT  
CONFIDENTIAL NR21 JUNE 67  
REF NY 025. FLO REPORTS SHIP IDENTIFIED U.S.S. LIBERTY

DECLASSIFIED  
By DIA MA.  
of 14 May 1982

5A-51M PRESENTLY UNDERWAY CLOSE NORTHWEST AT 19 KNOTS. ISRAELI  
MIBS OFFERED ASSISTANCE WHICH SHIP REFUSED. NO INFO CASUALTIES.  
ISRAELIS ARRANGING HELICOPTER FOR ALUSNA TO OVERFLY SHIP AND  
ATTEMPT COMMUNICATE.  
COORDINATED WITH EMBASSY.  
GP-3.  
BT

James M. Ennes Jr. Research Papers

3  
FLAG ACT.....

DECLASSIFIED

TOR 1539Z JUN 67

NR 544/28

CH0.....//00//

DECLASSIFIED BY 10 YEAR INTERVAL  
NOT AUTOMATICALLY DECLASSIFIED  
DOD OIR 510210

Return to 13 DTG 081528Z JUN 67

CONFIDENTIAL



SECRET

PPNG 096  
Z 081529Z JUNE 67 2FF3  
FM JCS  
TO RUEPBA/USCINCEUR  
INFO RUIPAC/COMSIXTHFLT  
RUDLKD/C INCUSNAVEUR

BT  
SECRET JCS1369 JCS SEND  
REF: A. JCS 7354/081416Z  
B. TELECON ADM RIVERO TO SEN BURCHINAL 8 JUN.  
C. CONFIRMING REF TELECON DISCONTINUE USE OF  
FORCE AUTHORIZED BY REF 9. 0814  
BT

FLAG ACT.....

COG.....

31/312

TOR 08/1503Z JUNE 67

NR 547/38

CWO.....

JSD

BT LOGGED 9

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 520010

081529Z JUNE 67

SECRET

0 081626Z JUNE 67  
FM CTU 60.2.9  
TO COMSIXTHFLT  
U N C L A S  
LAUNCHED 4 A1A AT 081602G, ALL DIVERTED SUDA WAY  
CRETE WITH HEAVY ORDINANCE.  
BT

James M. Ennes, Jr. Research Papers

3

FLAG ACT.....

TOP

NR 563/RB

CWO.....JSD

0 8 1 6 2 6 Z JUNE 67

NAVAL MESSAGE  
NAVFACFORM 101 (REV. 5-77)  
11-850-010-000

CLASSIFICATION

CONF

RELEASED BY

DRAFTED BY

PHONE FILE NO.

RATE

ISSUED

REVISED BY

CLASSIFIED BY

MESSAGE NUMBER

DATE TIME GROUP (GMT)

ISSUE

PRIORITY

ROUTE

126

081640Z

FROM: COMNAVSTA

TO: COMBESRON/TWELVE

INFO: DAVIS/DASSEY/CTF.60/31-35N2/33-32E1

CONF.

1.1 ... (1646Z)

1.2 FOLLOWING IS STATUS OF LIBERTY:

a. UNCLAS VOICE COMM ONLY, C RUIT  
ECHO DELTA.  
081800Z POSIT 31-35N2/33-32E1.  
CUS. NW SP. 10 KTS.

b. CASUALTIES: FOUR DEAD/THREE SEVERELY  
WOUNDED/FIFTY WOUNDED.

c. DAMAGE: TORPEDO HIT STBD, MIDSHIPS.

LISTING STOPPED AT NINE DEGREES, AND  
NAVIGATIONAL EQUIP INOP. FUEL TANKS  
DRAINING.

DECLASSIFIED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

DISTRIBUTION:

GP-4

CHIEF OF STAFF

CLASSIFICATION

UTC

CONFIDENTIAL

NAVAL MESSAGE  
NAVYFORM 101/4 (REV. 5-75)  
EL 100-100-100

CLASSIFICATION

CONF

RELAYED BY

CLASSIFIED BY

00

*Kantor*

DATE

NOTED BY

MESSAGE NUMBER

PRECEDENCE GROUP (ICB)

128

08 16 49 Z

FROM

COMINTFLT

TO:

USCINCPAC

INFO:

AIG 924/CNO/CS/COP/FAIR/CS (O/OTO 10)

*11000*

*221*

*16592*

CONF

*PRECEDENCE*

08 16 49 Z

CONFIDENTIAL 08 16 45

1. ALL AIRCRAFT FROM AMERICA AND SARATOGA HAVE BEEN RECALLED AND ARE ACCOUNTED FOR.

2. MAPAGO DIVERTED TO RENDER ASSISTANCE IF REQUIRED.

*11-016/2*

DOWNGRADED AT 8 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

*Conf*

*16592*

Return to 13

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CONFIDENTIAL

CLASSIFICATION

CONF

OTO

CONFIDENTIAL

NAVAL MESSAGE  
NAVFORM 1110/6 (REV. 1-54)  
IL 00-4.0-010  
RELEASED BY

CLASSIFICATION

DATE	TIME	ROUTE	PRECEDENCE	CLASSIFICATION	ROUTE
27/08	081642Z		ROUTINE		

FROM: COMSIXTHFLT  
TO: P11150/

INFO: CTF 63/COMUSNAVSUB/CTF 60/COMDESRON 128

CONF

- 1. PROCEED IMMEDIATELY TO ~~US NAVY~~ TOWARD RENDEZVOUS POINTS WITH ~~USS LIBERTY~~ AND STANDBY TO RENDER ASSISTANCE IF REQUIRED USS LIBERTY.
- 2. ~~SAVIS~~ SAVIS ~~WATSEY~~ WATSEY ON THE WAY TO RENDER ASSISTANCE. ETA 1200Z
- 3. USS LIBERTY 021600Z POSIT 31-35N 233-32E1 COURSE 340/7 SPEED 10/1. WILL PROCEED WESTERLY DIRECTION UPON CLEARING 100 MILE FROM LAND.

4. ~~REPORT~~ PIRLAUTH.  
GP.4  
Return to 13  
MYC/913  
1727

DISTRIBUTION:  
DOWNGRADED AT 5 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

CONFIDENTIAL

CLASSIFICATION ..... DTC .....

XFAJ NR2197  
O 081702Z JUN 67  
FM CTF SIX ZERO  
TO RUEPJS/OASD PA  
INFO RUTPRO/COMSIXTHFLT  
RUIKRUXXCINCUSNAVEUR  
RUFFBK/USCINCEUR  
RUEPJS/JCS  
RUENAAA/CNO  
RUENAAA/CHINFO

BT

CONFIDENTIAL

1. FOLLOWING COPY FROM NEWSMEN EMBARKED FOR TOUR ACTION, 29 ABOARD THE CARRIER AMERICA IN THE MEDITERRANEAN, JUNE 3 (AP) A MAJOR ACTIVITY APPEARED AFOOT TODAY IN THESE TENSE WATERS AS SOVIET SHIPS -- PARTICULARLY A SWIFT PATROL ESCORT CRAFT -- SYSTEMATICALLY HARASSED SIXTH FLEET UNITS. AT ONE POINT THIS CARRIER SUDDENLY RECALLED AIRCRAFT WHICH HAD BEEN LAUNCHED ONLY MOMENTS EARLIER. THERE WAS A SENSE OF URGENCY ABOUT THE BRIDGE, AND REPORTERS WERE REQUESTED TO LEAVE. THE CAPTAIN'S AREA WAS TEMPORARILY PLACED OFF LIMITS. PARA A REPORTER HEARD A RADIO TRANSMISSION WHICH SAID "WE'VE BEEN HIT." IT WAS NOT CLEAR WHETHER THIS WAS AN AIRCRAFT OR SHIP TRANSMISSION OR WHETHER IT WAS A REFERENCE TO ANY HOSTILE FIRE. PARA DURING ALL THIS AMERICA TASK FORCE UNITS SUDDENLY SEEMED TO SURROUND THE SOVIET PATROL CRAFT WHICH FOR HOURS HAD BEEN HARTING IN TOWARD THE CARRIER BUT PREVENTED FROM PULLING CLOSE BY A DESTROYER SERVING AS A BUFFER. A-4 SKYRAKES AND FOUR F-4 PHANTOM INTERCEPTORS WERE BEING SENT ALOFT WITH BOMBS AND MISSILES. UNQUOTE

3. TO WATERCOAST NEWYORK (COLLECT) PRESS URGENT THERE IS AN UNCONFIRMED REPORT THAT A U.S. NAVY SHIP HAS BEEN TORPEDGED IN MEDITERRANEAN SEA. THERE WAS NO INFORMATION AVAILABLE IMMEDIATELY ON WHAT VESSEL MAY HAVE BEEN HIT NOR IS THERE ANY INFORMATION ON HOW IT MIGHT HAVE BEEN TORPEDGED. STOP THE COMMANDER OF THE SIXTH FLEET EARLIER ANNOUNCED THAT A SUBMARINE WAS PROBABLY OPERATING IN THAT IMMEDIATE AREA BUT THERE WAS NO INDICATION OF ITS POSSIBLE NATIONALITY. STOP THE USS AMERICA IMMEDIATELY WENT INTO CONDITION TWO, WHICH INCLUDES THE ARMING OF ALL AIRCRAFT. STOP THE FLEET BY NOW STEAMING IN CLOSER FORMATION THAN IS NORMAL WITH THE CARRIER SERVING AS A BUFFER. STOP THE USS AMERICA IS BEING STEAMING WITHIN SIGHT OF THE USS AMERICA AS WELL AS APPROXIMATELY FIFTEEN OTHER AMERICAN SHIPS. STOP TWO RUSSIAN NAVAL SHIPS, COMRA, A GUIDED MISSILE DESTROYER AND A PATROL CRAFT COMRA ARE ALSO OPERATING

13  
PLAG ACT.....

TOR 2247Z JUN 67

NR 318/09.

RYB  
CYO.....//00//

PAGE ONE OF TWO

DTG 081722Z JUN 67

UNCLASSIFIED AT 5 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
FOR DIR 520210

CHIEF OF STAFF

IN CLOSE PROXIMITY TO THE SIXTH FLEET STOP GORALSKI  
4. URGENT PRESS COLLECT TO NEWSCAST LONDON PMA UNDISCLOSED EVENT  
OCCURRED IN THE MEDITERRANEAN STOP NEWSMEN INCLUDING MYSELF BARRED  
FROM BRIDGE OF USS AMERICA STOP UNCONFIRMED REPORTS WERE SUGGEST  
SOME PLANES BOARD NOW ARMED AND READY FOR DISPATCH STOP POSSIBLE  
CONNECTION SONAR CONTACT BY SIXTH FLEET VESSEL QUOTE PROBABLY AND  
AS FAR UNIDENTIFIED SUBMARINE UNQUOTE MUCH SPECULATION ABOARD IMMINENT  
NEWSBREAK STOP WE TOLD TO STAND BY FOR THIS STOP PLEASE SORT OUT COM-

PLICATED COMMUNICATIONS PROCEDURE EX THIS VESSEL WITH FINER STOP  
UNDER STAND URGENT CABLES GO VIA WASHINGTON STOP FILMING ABOARD RE-  
STRICTED PROTEMP BUT WILL ENDE YOUR CAUTIONS PIECE TO CAMERA LATER  
CUMOVEFLAY STOP FINER STANDING BY TO DISPATCH FILE EX AMENS MARGOLD  
5. URGENT OPA COLLECT UNITED PRESS INTERNATIONAL--WASHINGTON D.C.  
FEET 0/9 1ST NIGHT ID FIGHT BY HARRY L. STATHOS UNITED PRESS INTER-  
NATIONAL ABOARD THE AIRCRAFT CARRIER USS AMERICA IN THE MEDITERRANEAN  
(UPI)--THE U.S. SIXTH FLEET'S TASK FORCE 60 THURSDAY WAS ORDERED INTO  
A HIGH STATE OF COMBAT READINESS, APPARENTLY BECAUSE OF THE YAC IN  
THE MIDDLE EAST. AT 3 P.M. (1300 GMT), FLIGHT OPERATIONS ABOARD THE  
AIRCRAFT CARRIER USS AMERICA WERE ABRUPTLY SUSPENDED. THEN 30 MINUTES  
LATER, NEWSMEN WERE BARRED FROM THE BRIDGE AND WERE ORDERED TO REPORT  
TO THE PRESS ROOM. NO JET FIGHTERS OR BOMBERS HAD FLOWN FOR TWO DAYS.  
BUT THIS MORNING, FLIGHT OPERATIONS WERE RESUMED. AND THIS AFTERNOON,  
SEVERAL OF THE WARPLANES WERE BEING ARMED WITH SIDEWINDER AND SPAC-  
RO AIR-TO-AIR MISSILES. NEWSMEN ALSO SAW 500-POUND BOMBS BEING  
BROUGHT UP FROM THE MAGAZINES BELOW DECKS.

THE ENTIRE FLIGHT DECK SUDDENLY BECAME ALIVE WITH ACTION AND THE  
77,000-TON AIRCRAFT CARRIER'S HAWKEYES, RADAR PICKET PLANES NICK-  
NAMES "HUMMERS," WERE READY TO TAKE OFF.  
THE AMERICA HAS THREE SQUADRONS OF A-4 SKYHAWKS AND TWO SQUADRONS  
OF F-4 PHANTOMS.

THE AIRCRAFT CARRIER USS SARATOGA AND THE GUIDED MISSILE LIGHT  
CRUISER CALVESTON, ALONG WITH SEVERAL DESTROYERS, JOINED UP THE  
AMERICA, THE GUIDED MISSILE LIGHT CRUISER AND THE REST OF THE  
DESTROYERS THAT MAKE UP TASK FORCE SIXTY.

6. NO RELEASES OR STATEMENT HAVE BEEN MADE BY ORIGINATOR PER  
CINCUSNAVELR DIRECTIVE

GP-4  
BT

~~CONFIDENTIAL~~

NAVAL MESSAGE  
 PAYMENT IN FULL (NAVY. 441)  
 EL (1-4-65) 128

CLASSIFICATION ~~CONFIDENTIAL~~

CREATED BY *[Signature]*

8 JUN 67

MESSAGE NUMBER 132

DATE LAST RECD (607) 08 17 16Z

STATION	OFFICE	DATE	PLACES	ROUTE
ACRON	XXX			
LDG	XXX			

FROM COMSIXTHFLT  
 TO ~~CINCPAC~~ CINCUSNAVEUR - RU  
 INFO: CTF-60/COMSIXTHFLT/ASSTCOMSIXTHFLT/OPS/CHINFO, OSD(PA), CINCUSNAVEUR  
 CONFIDENTIAL

- A. CINCUSNAVEUR 051517Z NOTAL
- B. SEC DEP MSG DEF 7344 FROM ASD(PA)
1. SEVENTEEN RESEARCH EMPLOYED IN AMERICA FOR SPECIAL FRIENDS ON JUNE CARRIER OPS WERE TOP SIDE TO WITNESS NORMAL FLIGHT AND OBSERVED AND PHOTOGRAPHED LIBERTY INCIDENT STRIKES.
2. IN VIS REF A, MEMO COPY BEING FORWARDED TO OASD (PA) BY CLASSIFIED MESSAGE BY CTF-60.
3. CTF-60 PROCEEDING WITH BRIEFING REFUTING ARAB CHARGES THAT SIXTH FLEET AIRCRAFT PARTICIPATED IN RAIDS ON EGYPT, SYRIA AND JORDAN, IAW REF. B.

GP-4

~~NYC/917~~  
1742

DOWNGRADED AT 3 YEAR INTERVALS  
 DECLASSIFIED AFTER 12 YEARS  
 DOD DIR 5200.10

DISTRIBUTION:

~~CONFIDENTIAL~~

CLASSIFICATION ~~CONFIDENTIAL~~ DTG .....



SECRET

XRAJ 142114  
O 081903Z JUN 67  
FM: CUSNAVEUR  
TO RUF/PBK/USCINCEUR  
INFO RUENAAA/CNO  
RUF/PRC/COMSIXTHFLT  
RUEDNWF/CINCLANTFLT  
RUJEPJS/JCS

BT  
SECRET

MOVEMENTS AND POSITION OF LIBERTY

- A. JCS CFP JAS SENDS DTG 011545Z JUN 67
- B. CINCUSNAVEUR 071357Z JUN 67
- C. COMSIXTHFLT 071503Z JUN 67 PASEP
- D. JCS 7347 DTG 080110Z JUN 67
- E. CINCUSNAVEUR 080455Z JUN 67 PASEP
- F. USCINCEUR ECJC/JRC 09045 DTG 080625Z JUN 67 PASEP
- G. COMSIXTHFLT 090517Z JUN 67
- H. USS LIBERTY 021330Z JUN 67

1. BY REF A JCS DIRECTED LIBERTY TO PROCEED  
DIRECTION 32-20N 33-30E.

2. BY REF B CINCUSNAVEUR PASSED OPCON TO  
CONSTANTLY. MOVEMENTS OF LIBERTY WERE STILL  
GUIDED BY REF A.

3. AT 072300Z CINCUSNAVEUR DUTY OFFICER RECEIVED  
PHONE CALL FROM MAJOR REEDLOVE, JRC WASHINGTON  
DIRECTING THAT USS LIBERTY COMPLY WITH NEW  
COMSIXTHFLT OP AREA RESTRICTIONS DELINEATED IN  
LAST SENTENCE PARAGRAPH TWO OF REF C AND FURTHER  
PROCEED CLOSER THAN 100 MILES TO ISRAEL, SYR A CR  
UR. THIS WAS VERBAL DIRECTIVE WITH NO DTG ON  
MESSAGE AVAILABLE. NECESSARY MESSAGES WERE THEN  
PREPARED.

4. AT 082140Z AND PRIOR TO RELEASE OF ANY MESSAGES,  
THE USCINCEUR DUTY OFFICER, LT COL WAGNER, WAS  
CALLED AND ADVISED OF JRC PHONE CALL. IN VIEW OF  
NO WRITTEN DIRECTIVE AT THIS TIME, HE WAS REQUESTED  
TO OBTAIN DTG OF MESSAGE FROM JCU BECAUSE A PREVIOUS  
JCS DIRECTIVE WAS BEING MODIFIED.

5. AT 080325Z USCINCEUR DUTY OFFICER, LT COL RUSSELL,  
WAS CONTACTED TO SEE WHAT RESULTS HAD BEEN ACHIEVED  
ON PREVIOUS PHONE CALL. HE CALLED JRC WASHINGTON  
AND OBTAINED REFERENCE D, WHICH MODIFIED REFERENCE A.

PLAG INT.....3..... COG.....312.....

TOR: 08/2206Z JUN 67

NR: 711/BB

CIO.....(PG)111

PGE 1 OF 2

08 19 03Z JUN 67

DOWNGRADED AT 5 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 520010

SECRET

U. F. JCS #115452)  
THIS WAS READ TO CINCUSNAVEIM DUTY OFFICER.  
6. AT 080410Z CINCUSNAV ESTABLISHED TELETYPE  
CONFERENCE WITH COMSIXTHFLT DUTY OFFICER, CDZ  
SLUSSER, AND RELAYED REFERENCE D, AND TOLD HIM  
"TAKE FORAC OFFICIAL MESSAGE FOLLOWS."  
7. AT 080455Z CINCUSNAVEIM SENT IMMEDIATE MESSAGE  
TO COMSIXTHFLT DIRECTING HIM TO TAKE REF D FORAC.  
8. AT 080914Z CINCUSNAVEIM RECEIVED USCINCEUR MSG  
REFERENCE F, DIRECTING CINCUSNAVEIM TO TAKE REF D  
FORAC.  
9. AT 080917Z COMSIXTHFLT SENT A MESSAGE, REF G,  
DIRECTING LIBERTY TO COMPLY WITH REF D AND REMAIN  
100 MILE FROM COASTS UAR, ISRAEL, LEBANON, AND  
SYRIA. LIBERTY WAS ALSO INFO ADDED ON REF D, SENT AT  
081102Z WHICH DIRECTED HER TO REMAIN 100 MILES FROM  
VIGILANT COASTS.  
10. AM DIRECTING COMSIXTHFLT TO INVESTIGATE REASON FOR NON-RECEIPT OR  
NON-COMPLIANCE BY LIBERTY TO RESPOND TO TWO  
MESSAGES, REFS D AND G DIRECTING HER TO PROCEED 100  
MILES FROM COAST.  
11. LIBERTY'S MOVEMENT REPORT REF H (OF JUNE SECOND)  
INDICATED SHE WOULD ARRIVE AT POSITION DIRECTED  
IN REF A (POSIT 32-00N 33-00E) AT 080300Z.  
G-4  
H

NAVAL MESSAGE  
 NAVY/COMSIXTHFLT (REV. 5-67)  
 IL 01-01-1110

CLASSIFICATION ..... *COPY*

RELEASED BY *06/1/67* DRAFTER BY *312/Chick* PHONE EXT. NO.

FOR/TO *19332* ROUTED BY

MESSAGE NUMBER *148* DATE TIME GROUP (GG) *08 19 13 1967*

FROM *COMSIXTHFLT*

TO *CTG 60.5*

INFO: *PAPA60/CTF60/CTG 60.2/COMSIXTHFLT*

CONFIDENTIAL

A. YOUR 081612Z JUN'67

1. LIBERTY HAS BEEN DIRECTED TO OPEN COAST ON COURSE 340/7. WHEN ONE HUNDRED MILES FROM LAND LIBERTY WILL HEAD WEST.
2. INTERCEPT WITHIN THESE PARAMETERS
3. FYI LIBERTY HAS NO RPT NO CAPABILITY RECEIVE OR TRANSMIT CLASSIFIED TRAFFIC
4. LIBERTY GUARDING - CINCUSNAVEUR HICOM,

GP-5

CONFIDENTIAL  
 UNCLASSIFIED  
 EXCEPT WHERE SHOWN OTHERWISE

*06/01/67*  
*19332*

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CHIEF OF STAFF

DTG *08 19 13 1967*  
*SUN 67*

NAVAL MESSAGE

CLASSIFICATION UNCLASSIFIED EFTO

RELEASED BY

DATE

8 JUN 1967

MESSAGE NUMBER

153

DATE TIME GROUP (DTG)

08 19 42 Z

PRECEDENCE

ROUTING

TO

FROM

TO

INFO

UNCLAS EFTO

PROMPT, INDECENT

1. WHEN THE USS LIBERTY WAS ATTACKED TODAY, THE RESPONSE OF THE

SIXTH FLEET UNDER MOST DIFFICULT CIRCUMSTANCES WAS OUTSTANDING. I

WANT ALL HANDS TO KNOW HOW PROUD I AM OF THEIR PERFORMANCE.

WELL DONE.

WALTER MARTIN

Return to 13

CLASSIFICATION UNCLASSIFIED EFTO

08 19 42 Z

James M. Ennes, Jr. Research Papers

LRC82B  
P 0537/52 JUN 67  
FM CINCU-NAVEUR  
TO RUFFEK/USCINCEUR  
INFO RUTFR/COMSIXTHFLT  
RUTARE/CTF SIX ZERO

13  
Research Papers

**C O N F I D E N T I A L**

NEWS STORIES SUGGESTING CENSORSHIP IN SIXTHFLT (U)

- A. SECDEF DEF 7263 DTG 071957Z JUN 1967 (PASEP)
- B. USCINCEUR ECAP 29241 DTG 072348Z '67, 1967 (PASEP)
- C. CINCU-NAVEUR 051956Z JUN 1967 (PASEP)

1. REF A INDICATES THAT REPORTS HAVE REACHED DOD THAT SOME FORM OF CENSORSHIP IS BEING IMPOSED ON REPORTERS EMBARKED IN SIXTHFLT SHIPS.
2. REF B REQUESTS INFORMATION TO CLARIFY AND NEUTRALIZE SUGGESTIONS OF ALLEGED CENSORSHIP.
3. REF C PROVIDED PUBLIC AFFAIRS GUIDANCE TO OFFICIAL NAVY SPOKESMEN IN RESPONDING TO PRESS QUERIES CONCERNING CONDITIONS OF READINESS OF ALERT WITHIN SIXTH FLEET.
4. ON 5 JUNE DURING NORMAL MOVEMENT ABOUT THE SHIP NEWSMEN EMBARKED IN AMERICA OBTAINED INFORMATION WHICH WAS CLASSIFIED CONFIDENTIAL. SOME OF THIS WAS INCLUDED IN ORIGINAL DRAFTS OF THEIR COPY AND THEY WERE REQUESTED TO EDIT THEIR COPY PRIOR TO FILING. COMCARDIV FOUR, EXERCISING HIS RESPONSIBILITY FOR SECURITY AT THE SOURCE, DELAYED TRANSMISSION OF THE COPY UNTIL COMSIXTHFLT PEO ARRIVED BY HELICOPTER TO PROVIDE GUIDANCE. THE COPY, AFTER MINOR CHANGES, WHICH WERE AGREED TO BY THE CORRESPONDENTS, WAS THEN TRANSMITTED.
5. THE NEWSMEN IN AMERICA WERE THEN DEBRIEFED. THEY WERE INFORMED:
  - (A) THEIR COPY WOULD CONTINUE TO BE TRANSMITTED ASHORE VIA NAVY COMMUNICATIONS.
  - (B) COPY WHICH CONTAINED CLASSIFIED INFORMATION WHICH A CORRESPONDENT CHOSE NOT TO DELETE WOULD BE ASSIGNED A SECURITY CLASSIFICATION AND FORWARDED UNEDITED VIA NAVY CIRCUITS TO APPROPRIATE HIGHER AUTHORITY.
6. NEWSMEN WHOSE COPY WAS BEING PROCESSED IN ACCORDANCE WITH THE PROCEDURE OUTLINED IN PAR 4

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIB 520310

FLAG ACT... 13 .....

TCR 0142/09 JUN 67

NSA IR 259/09  
Return to 13 CVO. PA .....NAL

PAGE ONE OF TWO PAGES **CHIEF OF STAFF** 0 2 2 JUN 67

5. ABOVE COULD USE NAVY COMMUNICATIONS TO INFORM THEIR EMPLOYER THAT A STORY HAD BEEN FILED IN SUCH A MANNER

6. RESPONSE TO THE REBRIEF INCLUDING THE PROCEDURES OUTLINED ABOVE WAS FAVORABLE RE SHEEHAN OF NEW YORK TIMES AND HORTON OF AP COMPLAINED ABOUT DELAY IN FILING.

7. REPORTS INDICATE THAT SHEEHAN AND HORTON HAVE CONSISTENTLY FELT THAT ANY SUGGESTED CHANGE IN TEXT FOR THE SAKE OF ACCURACY IS TANTAMOUNT TO CENSORSHIP. AS A RESULT SOME OF THEIR COPY AS TRANSMITTED HAS CONTAINED INACCURACIES.

8. THE CONTENT OF NEWSMENS COPY TRANSMITTED BY SIXTYEIGHT SHIPS, INCLUDING HORTON'S STORY OF 6 JUNE IN WHICH HE INCLUDED A COMPLAINT OF NEWS RESTRICTIONS DISCREDITS ANY INFERENCE OR ALLEGATION OF NEWS CENSORSHIP.

P-4

BT

PAGE TWO OF TWO PAGES

0 R 2 R 1 5 Z JUN 67

3  
3  
TG ORESTES  
R 062022Z JUN 67  
FM CTF SIX ZERO  
TO RUTPRC/CONSIXTHFLT  
BT

CONFIDENTIAL  
BRIEFING OF NEWSMEN

A. CONSIXTHFLT 081716Z JUN 67

1. BECAUSE NEWSMEN ATTENTION COMPLETELY TAKEN BY OTHER MATTERS  
THEY WERE NOT RECEPTIVE TO BRIEFING EVENING 8 JUNE, THEREFORE  
BRIEFING RESCHEDULED FOR 091000 LOCAL.

2. INTEND TO PROCEED WITH BRIEFING WITH PERSONNEL AVAILABLE  
IN AMERICA PLUS ONE SARATOGA NARRATOR AND CHARTS. CONSIDER  
CAPTAIN WASTEN'S MATERIAL HIGHLY DESIRABLE. WOULD LIKE TO HAVE  
CAPTAIN WASTEN AVAILABLE, IF FEASIBLE. PERSONAL APPEARANCE  
OF CONSIXTHFLT ANTICIPATED BY NEWSMEN, BUT IF INCONVENIENT,  
WE WILL HANDLE.

GP-4  
BT

N

13  
FLAG ACT.....

TOP/ 2116Z/03 JUN 67

NR:706/08

CVD...../DR.

08 28 22Z JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 320.10

**CONFIDENTIAL**

PPNQ21W  
PP RUTPRC  
DE RUTKRE 093 1592041  
ZNY CCCCC  
P R 082041Z JUN 67  
FM USS AMERICA  
TO RUEPJS/OASD PA  
INFO RUTPRC/COMSIXTHFLT  
BT

**CONFIDENTIAL**  
FLEET PAO SEIDS

1. FOLLOWING NEWS COPY FORWARDED FOR YOUR ACTION  
2. QUOTE URGENT DFR COLLECT - UNITED PRESS INTERNATIONAL WASH-  
INGTON, D.C. 2ND NIGHT LEAD FLEET BY HARRY J. STATHOS UNITED PRESS  
INTERNATIONAL ABOARD THE AIRCRAFT CARRIER USS AMERICA IN THE MED-  
ITERRANEAN (UPI)-- A U.S. NAVY SHIP WAS ATTACKED BY ISRAELI TOR-  
PEDO BOATS AND AIRPLANE BY MISTAKE TODAY AND FOUR AMERICANS WERE  
KILLED AND 53 INJURED. PARA  
THE USS LIBERTY, A 450-FOOT-LONG TACTICAL RESEARCH SHIP, WHICH  
HAS A CREW OF 15 OFFICERS, 279 PD AND THREE CIVILIAN AIDES, WAS  
HIT BY AT LEAST ONE TORPEDO ABOUT 15 MILES NORTH OF THE SINAI PEN-  
INSULA IN THE MEDITERRANEAN. PARA  
U.S. NAVY OFFICIALS ABOARD THE AIRCRAFT CARRIER USS AMERICA DECLIN-  
ED TO COMMENT ON THE REPORT. PARA  
THE ISRAELI GOVERNMENT WAS REPORTED TO HAVE APOLOGIZED FOR THE  
INCIDENT WHICH ALMOST TRIGGERED AN AIR STRIKE BY WARPLANES OF THE  
SIXTH FLEET CARRIER USS AMERICA. PARA  
SHORTLY AFTER THE ATTACK OCCURRED AT ABOUT 3 P.M. (1500 GMT),  
TASK FORCE SIXTY OF THE SIXTH FLEET, WHICH HAS BEEN OPERATING IN  
THE EASTERN MEDITERANEAN DURING THE MIDDLE EAST CRISIS, WAS ORDER-  
ED INTO CONDITION TWO, A HIGH STATE OF COMBAT READINESS. PARA  
NEWSMEN WERE BARRED FROM THE BRIDGE AS GRIM-FACED PILOTS, WITH  
BANDOLIERS OF AMMUNITION DRAPED AROUND THEIR NECKS, RUSHED TO FAN  
THEIR AIRCRAFT. AT LEAST TWO A-4'S (SKYHAWKS) AND FOUR F-4'S  
(PHANTOMS) ARMED WITH SIDEWINDER AIR-TO-AIR MISSILES WERE LAUNCHED  
FROM THE AMERICA FOR AN AIR STRIKE BUT WERE RECALLED WHEN IT WAS  
LEARNED THAT THE ATTACK ON THE USS LIBERTY WAS AN APPARENT ACCI-  
DENT. PARA  
THE LIBERTY WAS BELIEVED TO BE STEAMING TOWARDS THE TASK FORCE  
AT A SPEED OF ABOUT EIGHT KNOTS (NAUTICAL MILES AN HOUR) THE  
TACTICAL RESEARCH SHIP WAS REPORTED LISTING BUT NOT IN ANY DANGER  
OF SINKING. PARA  
WHEN AN AIR STRIKE WAS ORDERED, BOTH SEGMENTS OF TASK FORCE  
SIXTY WERE IN FORMATION, BEING CLOSELY WATCHED BY A SMALL SOVIET  
PATROL CRAFT ESCORT. PARA  
IT WAS THE FIRST TIME THAT CARRIER PILOTS ABOARD THE AMERICA WERE  
SEEN BY NEWSMEN TO BE WEARING SIDEARMS AND CARRYING BANDOLIERS  
OF AMMUNITION. PARA  
ONE PILOT SAID GRIMLY, "I GUESS THIS IS IT," AS HE RUSHED TO HIS  
SMALL BOMBER A SKYHAWK. PARA  
OTHER PILOTS JUST RAN TO THEIR PLANES AND AWAITED FOR THEIR TURN  
TO BE CATAPULTED FROM THE DECK OF THE 77,600-TON AMERICA.  
PARA UNQUOTE DOWNGRADED AT 3 YEAR INTERVALS

BT

FLAG ACT... 13  
TOR 0135Z/89 JUN 67

**CONFIDENTIAL**

MSG NR 255/89

3B  
CIC... "USEE"  
082041Z JUN 67



VISUAL  
P 082032Z JUN 67  
FM USS AMERICA  
TO COMSIXTHFLT

BT  
UNCLAS  
YOUR 081918Z  
1. CAN ACCOMMODATE THREE FIVE H.M.M. REMAINS IN CH.I. ENVIRONMENT  
BT

3  
FLAG A:T.....

TO: 21532/05 JUN 67

NR 373/08

CV01... PJS

082032Z JUN 67

CONFIDENTIAL

8

XRAJ NR2148  
 O 082100Z JUN 67  
 FM USDAO TEL AVIV ISRAEL  
 TO RUEPJS/DIA  
 RUEHC/DEPT STATE  
 RUEPJS /OS  
 RUEHIS/USDAO AMMAN  
 RUEHDT/USUN  
 EFO RUEJPSA/CINCSTRIKE  
 RUEHUR/AMCONSEN JERUSALEM  
 RUEPBA/USCINCPAC-USEUCOM  
 RUEHID/CINCUSNAVEUR  
 RUEFRN/CTG SIX ZERO PT TWO  
 RUEHFW/CINCUSAFE  
 RUEPFA/CINCUSAFESTR  
 RUEHCF/COMSIXTHFLT  
 RUEHDA/JCS  
 RUEHID/USDAO LONDON  
 RUEHRE/CTG SIX ZERO  
 RUEHRA/AFEMBASSY JIDDA

CONFIDENTIAL 0834 JUN 67  
 SUBJECT: ISRAELI ACCIDENTAL ATTACK ON U.S.S. LIBERTY, 8 JUNE.  
 1. FLO HAS PASSED IDF ARMY SPOKESMAN STATEMENT RELEASED TO  
 PRESS AT 1900Z. QUOTE: AN UNIDENTIFIED VESSEL APPROACHED THE  
 EL BRISH (3107N-3348E) AREA AT NOON TODAY. FIRE WAS OPENED ON  
 THE VESSEL. AFTER IT WAS VERIFIED THAT THE VESSEL WAS NOT AN  
 ENEMY VESSEL, ASSISTANCE WAS OFFERED BUT THE VESSEL CONTINUED  
 UNDER OWN STEAM. THE VESSEL BELONGS TO THE U.S. NAVY AND THE  
 ISRAELI AUTHORITIES APOLOGIZED. THE VESSEL WAS 18 MILES OFF THE COAST

- UNQUOTE.  
 2. LOCAL APOLOGIES FROM IDF PASSED TO ALUSNA EARLIER. SEE  
 DAO 0829.  
 3. DAO HAS MADE NO COMMENT TO IDF, WHO ARE APPARENTLY VERY  
 CONCERNED AND WORRIED HOW ACCIDENTAL ATTACK WILL BE TREATED BY  
 US.  
 4. EGYPTIAN SKELLING ATTACK FROM SEA IN GAZA AREA REPORTED BY  
 DF YESTERDAY. SEE DAO 0812.  
 5. ASSISTANCE AFTER ACCIDENT OFFERED BY IDF NAVY MTB WHICH  
 WE HAVE BEEN TOLD USS LIBERTY WAIVED OFF.  
 6. REF PHONE CONVERSATION (COL TAYLOR DIA AND COL PERNA DAO,

PL 18 ACT.....

TOR: 08/2321Z JUN 67

RR: 778/08 CVO.....// (PG) //

CITE LOGGED... (PG)...

2 8 2 1 0 02 JUN 67

Return to 13

DECLASSIFIED BY 12 YEAR INTERVAL  
 NOT AUTOMATICALLY DECLASSIFIED  
 DOD DIR 5200.10

CONFIDENTIAL

TEL AVIV) ISRAELI HELICOPTERS NOT USED OR PRESENTLY CONTEMPLATED FOR RESCUE. WE UNDERSTAND FROM PHONE CONF. USS LIBERTY DOES NOT PRESENTLY SEEK ISRAELI ASSISTANCE, AND HAS SATISFACTORY RADIO CONTACT WITH USN NET.

7. ALUSA OVERFLIGHT IN IDF HELICOPTER FOR INSPECTION AND ATTEMPTED CONTACT NON PRODUCTIVE, EXCEPT TO OBSERVE SHIP UNDERWAY AT APPROX 8 KNOTS NORTHERLY, COURSE 60 NM WEST OF ASKELON AT 1930. LIBERTY LISTING APPROX 10 DEGREE. STAFFBOARD AND MAY BE HAVING SOME STEERING DIFFICULTY.

8. IDF WILL RESPOND IN RESCUE IF ASKED, HOWEVER WE SHALL INITIATE NO REQUEST REPEAT NO REQUEST UNLESS ADVISED BY NMCC OR OTHER USN AGENCY.

9. IDF REQUESTS THAT IF ANY OTHER US SHIPS (OR AIRCRAFT) ARE IN OR CONTEMPLATE ENTRANCE TO COMBATANT AREAS, WE PROVIDE APPROPRIATE NOTICE. COORDINATED WITH EMBASSY.

CS-3.  
BT

3

CONFIDENTIAL

XRAJ RR 2159  
O R 082137Z JUN 67  
FM USS AMERICA  
TO RUEPJS/CASD P3  
INFO RUIH7/CO SIXTHFLT

CONFIDENTIAL

FLEET PAC SENDS

1. FOLLOWING NEWS COPY FORWARDED FOR YOUR ACTION
2. QUOTE FOR URGENT COLLECT TRANSMISSION TO NEW YORK TIMES

NEW YORK PARS.

3. PROCEEDING DECK SECOND AND NEW LEAD SHEENANS RETARDMENT

PARA  
 4. STROKES AND SPIN FOUND BONES ON OTHER TRACKS WERE PROOF  
 OF THE EVACUATION FROM THE MEGAZONS FLOOR AND CHANGE ROOMS  
 AS RED SHIRTS BEGAN ATTACHING THEM TO THE H2B TRACKS UNDER  
 THE WALLS OF SKYHAYES PARS.

5. OTHER SHIRTS WERE ARMED WITH BULLETPROOF AIR TO PROTECT  
 THE MEN CHANGING FOR LUNCHED BOUND IN HEADS IN THE

6. THE ONLY SIX SHIRTS WHICH WERE ARMED WITH BULLETPROOF AIR FOR THE  
 FIRST TWO DAYS IN THE EVENT OF A BOMBING WERE FOUND IN THE  
 DECK THIS MORNING BY THE FIGHTING DECK OFFICER AND THE  
 DECK STATES ENGINEER. PARS.

7. AS THE TWO PHANTOMS AND THE TWO SKYHAYES FIRED OFF THE  
 TEAR GAS BULLETS IN THE WAIST AT FOUR THIRTY LOCAL TIME  
 AN AN-4A TANKER FOLLOWED TO RELOAD THEM IN THE AIR, MORE  
 PARAZINES AND ADDITIONAL SKYHAYES AND PHANTOMS WERE ARMED FOR  
 POSSIBLE LATER STRIKES PARS.

8. IT WAS EVIDENT THAT THE AIR WAS FAR FROM A DRILL AND WHEN  
 GIVING THE ORDER TO CLEAR THE DECK FOR TAKEOFF OVER THE LOUD-  
 SEAWAY THE FLIGHT COLLECTOR OFFICER USED THE WORD QUOTE STRIKE

UNQUOTE TO DESCRIBE THE MISSION OF THE PHANTOMS AND SKYHAYES  
 PARS PARS SHEENAN  
 ST

James M. Eames Jr. Research Papers

B

TCR 0113Z/RR JUN 67

R59 NR 313/89

"USEE"

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

CONFIDENTIAL

P R 2 1 : 32 JUN 67

CONFIDENTIAL

XRAY NR 2149  
O R 021132Z JUN 67  
FM USS AMERICA  
TO RUEPJS/OASD P0  
INFO RUTPRC/COMSIXTHFLT

CONFIDENTIAL

FLEET POC SENDS

- 1. FOLLOWING NEWS COPY FORWARDED FOR YOUR ACTION.
- 2. QUOTE FOR URGENT COLLECT TRANSMISSION TO NEW YORK TIMES NEW YORK PARA.

3. TRAFFIC DECK RECORD AND NEW LEAD SHEPHERD'S MANEUVER

4. STICKS AND 500 POUND BOMBS ON OTHER THREATS WERE BROUGHT UP THE ELEVATORS FROM THE WEAPONS DECK AND GUIDANCE BOMBS IS RED SHIRTS BEGAN ATTACHING THEM TO THE BOMB PACKS UNDER THE BELTIES OF SKYHAWKS PARA.

5. OTHER SKYHAWKS WERE ARMED WITH BULL-UP AIR TO ROUND MISSILES CARRYING FOUR MOUNTED HAND GRENADES

6. IRONICALLY, SIX SKYHAWKS WHICH HAD BEEN EQUIPPED WITH BOMBS AND BULL-UPS IN THE HOURS BEFORE THE FLIGHT DECK FOR THE FIRST TIME IN THE EVENT OF A SINKING WAS ORDERED, WERE DISPATCHED THIS MORNING AS TEL FIGHTING BETWEEN ISRAEL AND THE ARAB STATES DIMINISHED. PARA.

7. AS THE TWO PHANTOMS AND THE TWO SKYHAWKS ROARED OFF THE DECK, THE PHANTOMS IN THE WAVE AT FOUR THIRTY IN LOCAL TIME AND AN F-4 TANKER FOLLOWED TO RESCUE THEM IN THE AIR. MORE BOMBS AND MISSILES WERE BROUGHT UP THE ELEVATORS FOR THE PHANTOMS AND ADDITIONAL SKYHAWKS AND PHANTOMS WERE ARMED FOR POSSIBLE LATER STRIKES PARA.

8. IT WAS EVIDENT THAT THE ALERT WAS FAR FROM A DRILL AND WHEN GIVING THE ORDER TO CLEAR THE DECK FOR TAKEOFF OVER THE LOUD-SEALER THE FLIGHT CONTROL OFFICER USED THE WORD QUOTE STRIKE

UNQUOTE TO DESCRIBE THE MISSION OF THE PHANTOMS AND SKYHAWKS  
PARA MORE SHEETS  
BT

19 01132Z JUN 67

PSS NR 313/89

CWO

"URGE"

DECLASSIFIED AT 8 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DLR 320010

CONFIDENTIAL 021132Z JUN 67

CONFIDENTIAL

URC426  
O R 032145Z JUN 67  
FM USS AMERICA  
TO RUEPJS/CASD P0  
INFO RUTPRO/CONSIXTHFLT  
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CONFIDENTIAL  
ALLET P00 SENDS

1. FOLLOWING NEWS COPY FORWARDED FOR YOUR ACTION  
2. QUOTE FOR URGENT COLLECT TRANSMISSION TO NEW YORK TIMES NEW YORK PARA

PROFESSIONAL DESK FIRST AND NEW LEAD SHEPHERD HONAS. EDIT 06 00  
THE AIRCRAFT CHANGED FROM WHAT HAD BEEN A RETURNING AIRCRAFT OF  
IDENTITY OCCURRED AT TWO FORTY-FIVE P.M. LOCAL TIME BRAC AT  
TWELVE FORTY FIVE CAT UNDERCUT THIS AFTERNOON W. CO. 15-  
PERCENT VISITING THE BRIDGE OF THE CARRIER ONLY HEARD A RADIO  
TRANSMISSION IN WHICH A VOICE IN AMERICAN ENGLISH SAID QUOTE

WE'VE BEEN HIT UNDERCUT PARA  
THE VOICE WAS APPARENTLY AN OFFICER, ABOUT 40, LIBERTY REPORTING THE  
ATTACK BY ISRAELI PLANES AND TOWERS TO DATE PARA

THE CORRESPONDENT WAS IMMEDIATELY ASKED TO LEAVE THE BRIDGE AND  
THE CARRIER WAS REQUESTED TO ALERT PARA

THE VOICE OF THE FLIGHT CONTROL OFFICER ANNOUNCED WITHIN A FEW  
MINUTES THAT THE CARRIER WOULD BE TRYING TO RECOVER UNDERCUT AIRCRAFT  
IT HAD LAUNCHED SHORTLY BEFORE FOR PRACTICE DUKY WORKING PUNS  
AGAINST THE GREEK ISLAND OF ANONISI ON THE OTHER SIDE OF CRETE PARA  
QUOTE WE WANT TO RECOVER ALL AIRCRAFT IMMEDIATELY UNDERCUT HE SAID  
OVER THE LOUDSPEAKER TO THE FLIGHT DECK CREW STOP REQUEST THIS IS  
NOT A DRILL UNDERCUT PARA

WHILE THE DECK WAS BEING CLEARED FOR THE INCOMING AIRCRAFT, F-4  
PHANTOM PILOTS ON NORMAL ALERT TO DEFEND THE CARRIER AGAINST ANY  
SURPRISE ATTACK RAN TO THEIR AIRCRAFT BESIDE THE CATAPULTS STOP  
TWO OF THE PHANTOMS WERE ALREADY ARMED WITH SIDEWINDERS AND SPARROWS  
AND WERE LAUNCHED WITHIN A SHORT PERIOD OF TIME BEFORE THE LANDING  
OF THE UNDERCUT AIRCRAFT BEGAN PARA

OTHER SKYHAWK AND PHANTOM PILOTS WERE SUMMONED TO THE READY ROOMS  
FOR A PRE-EMPTIVE BRIEFING WHILE ORDNANCE CREWS BEGAN WHEELING MORE  
SPARROWS AND SIDEWINDERS ACROSS THE DECK ON TROLLEYS TO ARM OTHER  
PHANTOMS PARA MORE SHEPHERD  
BT

FLAG ACT...13.....

TOR 0119/09 JUN 67

ASG NR 235/09

CYD...NAL

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

08 21 45 Z JUN 67

CONFIDENTIAL

CONFIDENTIAL

KRAT NR 2160  
O R 082147Z JUN 67  
FM US AFRICA  
TO RUEPJSXOASD PA  
INFO RUTPRC/CSIXTHFLT  
BT

CONFIDENTIAL

FLEET P/O SENDS

1. FOLLOWING NEWS COPY FORWARDED FOR YOUR ACTION,  
2. CHECK FOR REPORT COLLECT TRANSMISSION TO NEW YORK TIMES NEW YORK  
PARA INFORMATION DESK INLET SHEHANS NEW LEAD MANAGEMENT PARA  
INLET IN SHEHANS NEW LEAD MANAGEMENT AFTER THIRD PARA ENDING DASH  
VIA INITIAL AND LINES PARA  
IT WAS UNKNOWN HOW CLOSE THE AIRCRAFT APPROACHED TO THE SEVENTH FIGHT  
WHERE THE LIBERTY WAS TOWED, BUT IT IS BELIEVED THEY DID FLY IN  
THE DIRECTION WHERE THEY WERE RECALLED. THE LIBERTY WAS ABOUT  
SIXTY MILES SOUTH OF THE VETERAN FIELD OF GATE AND ABOUT 400 MILES  
EAST SINCE WHEN THE JETS WERE LAUNCHED PARA  
THE A-4 SKYHAWK ATTACK JETS ARMED WITH MISSILES ARE SUPERSONIC PLANE, BUT  
THE F-4 PHANTOM WITH AIR-TO-AIR MISSILES ARE THE MOST CAPABLE OF  
CONVENTIONAL AIRCRAFT FIGHTER-BOMBER WITH A TOP SPEED OF ABOUT 1,400  
MILES PER HOUR WHILE ARMED. PARA INLET. PICKUP AT 1400 HOURS IN  
NEW LEAD MANAGEMENT ORIGINAL'S DASH THE FOUR F-4 PHANTOMS ETCETERA  
FINIS/SHEHANS UNKITE  
BT

13

BT.....

TOR 0049/09 JUN 67

Y57 NR 232/09

CONFIDENTIAL

08 21 47Z JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 520010

CONFIDENTIAL

CONFIDENTIAL

XRAJ HR 2178  
O R 002149Z JUN 67  
FM USS AMERICA  
TO RUMJCS/CASD PA  
INFO RUMJCS/CCSIXTHFLT  
BT

CONFIDENTIAL  
FLEET PAO SENDS

1. FOLLOWING NEWS COPY FORWARDED FOR YOUR ACTION.  
2. QUOTE FOR URGENT COLLECT TRANSMISSION TO NEW YORK TIMES NEW YORK  
PARA PROPOSED LESH NEW LEAD SHEKHAN'S MANAGEMENT PARA  
ABOARD THE AIRCRAFT CARRIER USS AMERICA IN THE EASTERN MEDITERRANEAN,  
JUN 6 THIS SIXTH FLEET CARRIER RESPONDED TO THE ISRAELI ATTACK ON  
THE NAVY RESEARCH SHIP USS LIBERTY THIS AFTERNOON BY ISSUING AN  
IMMEDIATE ALERT AND LAUNCHING A FLIGHT OF SIX JETS ARMED WITH MISSI-  
LES AND 500 POUND BOMBS SHORTLY AFTERWARDS PARA  
THE ATTACKS ABOARD THE CARRIER WAS EXTREMELY CLOSE AND THE PILOTS  
AND FLIGHT DECK CREWS LOADING THE MISSILES AND BOMBS ABOARD THE AIR-  
CRAFT WERE UNDER THE IMPRESSION THAT THEY WERE GOING INTO ACTION  
WITHIN HALF AN HOUR, HOWEVER, AT FIVE P.M., APPARENTLY AFTER IT HAD  
BEEN VERIFIED THAT THE ATTACK WAS ACCIDENTAL AND AN ISRAELI  
MISTAKE HAD BEEN RECEIVED IN WASHINGTON, THE JETS WERE RECALLED  
WITHOUT HAVING EXPENDED THEIR MISSILES AND BOMBS PARA  
THE FOUR F-4 PHANTOM JETS ARMED WITH AIR-TO-AIR GUIDED MISSI-  
LES LANDED BACK ON THE CARRIER WHILE THE TWO A-4 SKYHAWK ATTACK JETS  
ARMED WITH 500 POUND BOMBS WERE DIVERTED TO THE GREEK AIR FORCE BASE  
AT SOUTHERN ERY ON NEARBY CRETE, BECAUSE IT IS DANGEROUS FOR THEM TO  
LAND ON THE CARRIER WITH THEIR BOMBS PARA  
SIXTH FLEET OFFICIALS REFUSED TO MAKE ANY COMMENT ON THE ALERT AND  
THE LAUNCHING OF THE ARMED AIRCRAFT PACAFORE SHEKHAN UNQUOTE  
BT

FLAG ACT.....

0001 8119Z/89 JUN 67

NR:242/89

CVO...../DR.

28 21 49Z JUN 67

DECLASSIFIED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 13 YEARS  
DOD DIR 920018

CONFIDENTIAL



CONFIDENTIAL

XRAJ 17 2174  
O R 082155Z JUN 67  
FM USS AMERICA  
TO RUEPJA/CASD PA  
INFO RUTRAC/CASIXTHFLT  
BT

CONFIDENTIAL  
FLEET PAO SCDS

1. FLEET NEWS COPY FORWARDED FOR YOUR ACTION
2. QUOTE URGENT 2 DIR COLLECT UNITED PRESS INTERNATIONAL, WASHINGTON, D.C.

URGENT

URGENT

082155Z JUN 67 U.S. NAVY OFFICERS REPORTED ETC. PARA  
AN OFFICER SOUTH FLEET STATION SAID THE LIBERTY WAS AT 31 DEGREES  
25 MINUTES NORTH LATITUDE AND 33 DEGREES 25 MINUTES EAST LATITUDE  
WHEN SHE WAS ATTACKED. PARA

THE OFFICER SAID TWO MEMBERS OF THE CREW OF THE USS DAVIS  
DIED, ONE WOUND BY ONE OF THE B.P. PROJECTILES, AND THE OTHER BY  
A MISSILE. OTHERS WERE WOUNDED BY U.S. MISSILES. WHILE RACING TO THE  
LIBERTY'S ASSISTANCE AT A SPEED OF 30 KNOTS. PARA

AT 08:00 (GMT), THE LIBERTY WAS ABOUT 100 MILES FROM THE TRACK  
FORCE. THE TRACKING SHIPS WERE EXPECTED TO RECONNOITER WITH THE TRACK-  
ING SHIP AT 6 AM, FRIDAY (GMT). PARA

ABOARD THE DAVIS WAS THE COMMANDER OF DESTROYER STURGEON 12, CAPT  
H.C. LEAHY, FOUR DESTROYER CAPTAINS, ONE DOCTOR AND TWO CORPSEMS TO  
ASSIST THE WOUNDED. PARA

THE NAVY SPOKESMAN SAID THE LIBERTY WAS AN 1,100-TON, 455-FOOT ASR  
(AUXILIARY TECHNICAL RESEARCH SHIP) WITH A CREW OF 15 OFFICERS,  
275 ENLISTED MEN AND THREE TECHNICAL REPRESENTATIVES ON BOARD. PARA  
THE MISSION OF THE LIBERTY WAS TO CONDUCT OPERATIONS IN SUPPORT  
OF THE U.S. NAVY RESEARCH PROGRAMS, WHICH INCLUDE ELECTRO-MAGNETIC  
PROPAGATION STUDIES AND ADVANCED COMMUNICATION SYSTEMS LIKE  
SATELLITE COMMUNICATIONS.

FLAS ACT.....3.....

TOR 012109 JUN 67

PSR 13 245/89

CVC.....RML

R 8 2 1 5 3 2 JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

CONFIDENTIAL

3

CONFIDENTIAL

3

XPAJ NR 2158  
OR 082155Z JUN 67  
FM US AMERICA  
TO RUEPUS/DAND PA  
INFO: INTERCOM SIXTHFLT

CONFIDENTIAL  
FLEET PAB SEAS

1. FLEET NEWS COPY FORWARDED FOR YOUR ACTION.  
2. QUOTE: INCIDENT - DER COLLECT UNITED STATES INTERNATIONAL WASHINGTON, D.C. URGENT 1ST AND SUBSAX SATELLITE COMMUNICATIONS. PIRA "SPECIALLY DESIGNED NOT A COMBAT SHIP AND DESIGNED TO THE MIDDLE EAST TO HELP PROTECT AMERICAN NATIONALS AS THE POSSIBLE FIELD FOR SUCH PROTECTION BECAME APPARENT." THE NAVY SPOKESMAN SAID. PARA THE SPANISH CONFIRMED THAT THE LIBERTY HULL WAS ATTACKED BY ISRAELI MOTOR TORPEDO BOATS AND PLANES. THE SHIP WAS HIT BY ONE TORPEDO. PARA  
ALTHOUGH THE NAVY REMAINED SILENT, IT WAS REPORTED THAT THE CAPTAIN OF THE AMERICA RECEIVED A MESSAGE FROM THE LIBERTY SHORTLY BEFORE 3 P.M. (1800 GMT) SAYING SHE WAS UNDER ATTACK AND NEEDED ASSISTANCE. PARA  
NAVY FIGHTERS AND BOMBERS WERE ORDERED INTO ACTION AND THEY WERE CAPABLED FROM THE FLIGHT DECK SHORTLY AFTER THE MESSAGE WAS RECEIVED FROM THE ATTACKED SHIP. BUT ABOUT 10 MINUTES LATER, THE AIR STRIKE WAS CALLED OFF AND THE PLANES RETURNED TO THE AMERICA. PARA  
(PICKUP AS DESIRED)  
THE USS DAVIS (DD957) IS COMMANDED BY CDR R.P. FILTON, THE PARSEY (DD778) IS UNDER CDR. W.S. LEWIS (NO ADDRESSES). PARA  
ALSO ABOARD THE DAVIS WAS THE COMMANDER OF DESTROYER SQUADRON 12, CAPT. W.G. LEAHY. PARA  
BT

13  
FLASACT.....

OR 8117/89 JUN 67

PSB NR 236/89

CNO.....NAL

OR 2155Z JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 15 YEARS  
DOD DIR 5200.10

CONFIDENTIAL

PPN0241  
PP RUTPRC  
DE RUTKRE 120 1592159  
ZNY CCCCC  
P R 092159Z JUN 67  
FM USS AMERICA  
TO RUEPJS/OASD PA  
INFO RUTPRC/COMSIXTHFLT

BT  
CONFIDENTIAL  
FLEET PAO SDCS

1. FOLLOWING NEWS COPY FORWARDED FOR YOUR ACTION.  
2. QUOTE ASSOCIATED PRESS WASHINGTON, D.C. SECOND LANDING ABOARD THE CARRIER AMERICA IN THE MEDITERRANEAN, JUNE 8 (AP) - SIX U.S. WARPLANES TOOK OFF WITH BOMBS AND MISSILES WHEN THE ISRAELI FORCES MISTAKENLY ATTACKED AN AMERICA TACTICAL RESEARCH SHIP JUST OFF EGYPT.

ALTHOUGH NAVY SPOKESMEN DECLINED TO DISCUSS SUDDEN ALERT CONDITIONS WHICH GRIPPED THE CARRIER ABOUT MID-AFTERNOON, THE PLANES APPARENTLY WERE EN ROUTE FOR AN AIR STRIKE. PARA THEY WERE RECALLED TO THE SHIP WITHIN A HALF HOUR, APPARENTLY WHEN WASHINGTON INFORMED THE SIXTH FLEET THAT THE U.S. SHIP WAS A MISTAKEN TARGET. PARA SENT ALOFT ON VIRTUALLY AN EMERGENCY BASIS WERE FOUR F-4 PHANTOMS EQUIPPED WITH AIR-TO-AIR ROCKETS AND TWO A-4 SKYHAWK BOMBERS STRAP-

PED WITH SIX 500-POUND BOMBS. PARA THE CARRIER HAD BEEN HARRASSED REPEATEDLY THROUGHOUT THE DAY BY SOVIET SHIPS, MAINLY SHIFT MANEUVERING PATROL CRAFT ESCORT, AND MANY CREWMEN THOUGHT THE FLEET MIGHT BE RESPONDING TO THE RUSSIAN ACTIONS. PARA THE CARRIER WAS IN THE MIDST OF RESUMING TO NORMAL TRAINING EXERCISES WHEN ALL AIRCRAFT WERE SUDDENLY RECALLED FOR A LANDING, AND THE HALF-DOZEN PLANES DISPATCHED WITH ORDINANCE. PARA A SENSE OF URGENCY SPREAD AMONG CREWMEN WORKING FRANTICALLY TO GET THE PLANES AIRBORNE QUICKLY. NEWSPEN WERE TEMPORARILY PLACED UNDER ESCORT AND BARRED FROM CERTAIN AREAS OF THE SHIP. PARA NAVY SPOKESMEN WOULD ANSWER NO QUESTIONS ABOUT WHERE THE PLANES WERE RECALLED, WHETHER THE BATTLE-FOCUSED ATMOSPHERE WAS A DIRECT RESULT OF THE ISRAELI ATTACK OR WHY THE PLANES WERE BROUGHT BACK PARA THE AIRCRAFT ROUTINELY DUMPED THEIR BOMBS AS A SAFETY MEASURE BEFORE LANDING. PARA EVEN AS THE AMERICA'S PLANES WERE CATAPULTING SKYWARD, THE SOVIET PATROL CRAFT, WITH A GUIDED MISSILE DESTROYER NEARBY, CONTINUED ITS PERSISTENT ATTEMPTS TO PULL NEAR THE CARRIER, PARA (PICK UP) HORTON UNQUOTE

BT

FLAG ACT... 13

TCR 0330Z/09 JUN 67

MSG NR 363/09

CVC ...

"UBEE"

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5800.10

Return to 13

082159Z JUN 67

CONFIDENTIAL

VV PPM320EVV QACB11KRE624  
OO RUTPRC  
DE RUTKRE 121 1592201  
ZNY CCCCC  
OR 082201Z JUN 67  
FM USS AMERICA  
TO RUEPJS/OASD PA  
INFO RUIPRC/COMSIXTHFLT

BT  
CONFIDENTIAL  
FLEET PAO SENDS

1. FOLLOWING NEWS COPY FORWARDED FOR YOUR ACTION.  
2. QUOTE ASSOCIATED PRESS, WASHINGTON, D.C. FIRST ADD (SECOND LEAD)  
REGARD THE CARRIER AMERICA IN THE MEDITERRANEAN, JUN 8 (AP)--AN ASS-  
OCIATED PRESS REPORTER HEARD A RADIO TRANSMISSION FROM THE  
CARRIER ABOUT 12:30 P.M., GMT, THAT "WE'VE BEEN HIT." PARA  
IMMEDIATELY STRICT SECURITY WAS ENFORCED AND CERTAIN AREAS WHERE TOP  
OFFICERS WERE WORKING WERE PLACED OFF-LIMITS TO PERSONNEL. PARA  
THE CARRIER SPRANG INTO ACTION. DECK CREWS WERE ADVISED THAT AIR-  
CRAFT TAKEN OUT ON FLIGHT MANEUVERS WERE BEING BROUGHT BACK IMM-  
EDIATELY. THEY WERE NOT TOLD WHY, BUT SPEED IN CLEARING THE DECK  
AND GETTING READY FOR RECOVERIES--LIFTING--WAS STRESSED. PARA  
BENEATH THE FLIGHT DECK, HANGAR CREWS WERE BREAKING OUT STO-POUD  
BOARDS AND GETTING EIGHT-FOOT BULLPUP AIR-TO-GROUND MISSILES READY FOR  
LOADING UNDER THE PLATES. PARA  
ABOVE DECK, LOWER-RANKED SAILORS WERE REMOVED FROM NEAR SECURITY AREAS.  
PARA "THIS IS IT," WAS A COMMON REMARK. MOST THOUGHT COMBAT WITH  
THE SOVIETS MIGHT BE IMMINENT. PARA  
(PICK UP) HORTON UNQUOTE  
BT

DECLASSIFIED AT 5 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
EOD DATE 520010

CLASS ACT.....

TOR 0115Z/08

MSG NR 233/09

CVO.....DCB

082201Z JUN 67

CONFIDENTIAL

XRAJ 182198  
O R 022032Z JUN 67  
FM USS AMERICA  
TO RUEPJS/OASD PA  
INFO RUTPRC/COMSIXTHFLT  
BT

CONFIDENTIAL  
FLEET TAG SENDS

1. FOLLOWING NEWS COPY FORWARDED FOR YOUR ACTION.  
2. QUOTE ASSOCIATED PRESS, WASHINGTON, D.C. ABOARD THE CARRIER AMERICA IN THE MEDITERRANEAN, JUN 8 (AP) -- A NAVY SPOKESMAN SAID TONIGHT TWO DESTROYERS, THE DAVIS AND MASSEY, HAD BEEN DETACHED FROM THE CARRIER SARATOGA'S TASK GROUP AND WERE HEADING AT 38 KNOTS TO MEET THE CRIPPLED SHIP. THEY WERE EXPECTED TO RENDEZVOUS ABOUT 5 A.M. (4.P.M., GMT) TO RENDER ANY ASSISTANCE. PARA  
THE SIXTH FLEET'S TASK FORCE WAS OVER 400 MILES FROM THE LIBERTY EARLY TONIGHT. THE SHIPS HEADED EASTWARD. THE LIBERTY WAS MOVING NORTHWARD FROM THE SINAI PENINSULA AT 8 KNOTS. PARA  
"I WOULD PRESUME SHE WOULD HAVE A PRETTY BIG HOLE IF SHE'S GOING ONLY 8 KNOTS," A SPOKESMAN SAID. PARA  
THE DESTROYERS DAVIS AND MASSEY EACH HAS ONE DOCTOR AND TWO HOSPITAL

PAGE TWO RUTKRE 122 CONFIDENTIAL  
CORPSMEN, BUT THEIR SICK BAY FACILITIES WERE DESCRIBED AS SMALL. PARA  
A NAVY SPOKESMAN SAID IT WAS NOT DEFINITE WHERE THE MORE SERIOUSLY WOUNDED WOULD BE TAKEN, BUT SAID SOME MAY BE BROUGHT ABOARD THE CARRIERS SARATOGA AND AMERICA OR THE CRUISERS GALVESTON OR LITTLE ROCK. PARA  
ASKED WHY THE LIBERTY WAS SO NEAR EGYPT DURING THE WAR, THE SPOKESMAN SAID: "BASICALLY SHE'S NOT A COMBAT SHIP AND SHE MOVED TO THE MIDDLE EAST TO HELP PROTECT AMERICAN NATIONALS AS THE POSSIBLE NEED FOR SUCH PROTECTION BECAME APPARENT." PARA  
THE NAVY DESCRIBED THE LIBERTY AS AN AUXILIARY GENERAL TECHNICAL RESEARCH SHIP USED TO SUPPORT ELECTRONICS RESEARCH PROGRAMS INCLUDING ELECTROMAGNETIC PROPAGATION STUDIES AND ADVANCED COMMUNICATIONS SYSTEMS SUCH AS SATELLITE COMMUNICATIONS. PARA MORE  
BT

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

**CONFIDENTIAL**

XRAJ NR2162  
O R 082205Z JUN 67  
FM USS AMERICA  
TO RUEPJE/OASD PA  
INFO RUTPR/COMSIXTHFLT  
BT

**CONFIDENTIAL**

FLEET PAO SENDS  
1. FOLLOWING NEWS COPY FORWARDED FOR YOUR ACTION.  
2. QUOTE DER COLLECT TO DETROIT NEWS, DETROIT, MICH TELETYPE 003-5344  
ABOUT THE CARRIER AMERICA -- (JUNE 6) -- THE TORPEDOES AND MACH-  
INE-GUNNERS OF A NAVY RADIO MONITORING SHIP OFF THE SINAI PENINSULA  
TODAY CAUSED AN ATTACK EXPECTED TO BE LAUNCHED FROM THE CARRIER AME-  
ICA, FLAGSHIP OF THE U.S. TASK FORCE SIXTY PARA  
THE AIR STRIKING FORCE INCLUDING SUPERSONIC PHANTOM JETS, CARRYING  
AIR-TO-AIR MISSILES AND A-4 SKYHAWKS ARMED WITH LARGE BOMBS. PARA  
WORD OF THE ATTACK CAME BY RADIO FROM THE SINKER SHIP, THE LIBERTY,  
WHICH REPORTED IT WAS IN TROUBLE AND THAT THE COLLISION WAS NOT. PARA  
THE AMERICA, WHICH HAD JUST RESUMED AIR TRAINING MANEUVERS AFTER  
THREE-DAY HULL, IMMEDIATELY CALLED BACK ITS UNARMED TEAMS ALOFT AND  
SENT OUT THE ALARM SIREN. PARA  
THE STRIKE PLANES WERE CALLED BACK HANDLY MORE THAN A HALF HOUR WHEN THEY  
WERE CALLED BACK. IT WAS LATER LEARNED THAT THE LIBERTY HAD BEEN  
HEAVILY HIT IN A MISTAKE BY ATTACKING ISRAELI AIRPLANES AND TORPEDO  
BOATS. PARA  
THE LIBERTY WAS REPORTED TO HAVE GONE ON STATION ONLY THIS MORNING  
ABOUT 15 MILES OFF THE COAST OF THE SINAI PENINSULA TO MONITOR RADIO  
REPORTS COMING OUT OF THE ISRAELI EGYPTIAN WAR AREA AND TO RELAY  
INFORMATION PERTAINING TO THE EVACUATION OF AMERICAN CITIZENS.  
PARA UNQUOTE  
BT

FLAG ACT.....

TOR 0255/09 JUN 67

NR 229/09

CVO.....

VJS

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 520010

0 8 2 2 0 5 2 JUN 67

**CONFIDENTIAL**



**CONFIDENTIAL**

URC450  
PP RUTPRC  
DE RUTWRE 125 1592209  
ZNY CCCCC  
P R 082209Z JUN 67  
RFH USS AMERICA  
TO RUEPJS/OASD PA  
INFO RUTPRC/COMSIXTHFLT

**CONFIDENTIAL**

FLEET PAO SENDS

1. FOLLOWING NEWS COPY FORWARDED FOR YOUR ACTION.  
2. QUOTE SECOND ADD DETROIT NEWS COPY ONE FLIER RUNNING PAST A  
NEWSMAN BELOW DECK SAID, "WELL, THIS LOOKS LIKE IT." PARA  
TWO OTHER OFFICERS DASHING THROUGH COMPARTMENTS TO GET TO THE  
FLIGHT DECK AND THEIR PLANES SAID, ONE TO THE OTHER, "I WISH THE  
----- THEY'D TELL US WHO WE'RE GOING TO FIGHT." PARA  
THE PLANES WERE LAUNCHED AND THOSE ALOFT ON THE EARLIER TRAINING  
MISSION WITH THE SMOOTH PRECISION THAT MARKS EVERY ACTIVITY  
ABOARD THE SHIP. PARA  
THE AIRCRAFT COULD NOT HAVE GONE FAR BEFORE THE AIR BOSS ANNOUNCED  
THE STRIKE - S BEING CALLED BACK. APPARENTLY THE NATURE OF THE  
ATTACK ON THE LIBERTY HAD BEEN QUICKLY ASCERTAINED. PARA  
ADDING TO THE EXCITEMENT ABOARD THE AMERICA WAS THE AGGRAVATING  
MANEUVERING OF A SMALL RUSSIAN PATROL CRAFT ESCORT WHICH HAD BEEN  
HOUSE TO THE CAT-EYED ESCORT DESTROYERS OF THE AMERICA. PARA  
ASV MORNING, THE KHAKI-COLORED RUSSIAN DODGED IN CLOSE TO THE  
AMERICA, TRYING TO "FAKE OUT" THE DESTROYER IN ORDER TO COME RIGHT  
ALONGSIDE THE BIG CARRIER. PARA  
THE BIG-MULLEDEST DESTROYER, TRYING TO ANTICIPATE THE SMALLER SHIP'S  
EVERY MOVE, KEELER HARD OVER IN ADRICIT WHEELING TURNS AS FOAMING WAVES  
CRISS-CROSSED EACH OTHER. PARA  
HOWEVER, THE SMALL RUSSIAN WAS NOT DISCOURAGED. SEVERAL TIMES IT  
GOT SO CLOSE THAT MEN ABOARD THE AMERICA COULD SEE RUSSIAN CREWMEN  
IN BLUE SHORTS AND WHITE HATS AND COULD HEAR ITS WHINING GAS  
TURBINE ENGINE. PARA UNQUOTE.

DOWNGRADED 5 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS,  
EXCEPT WHERE SHOWN OTHERWISE

ILR ACT. 13

TGR 0330Z/09 JUN 67

MSG NR 347/09

CVQ... "UBEE"

Return to 13

**CONFIDENTIAL** 082209Z JUN 67



PPM0200  
PP RUTPRC  
DE RUTKRE 127 159221Z  
ZNY CCCCC  
P R 062213Z JUN 67  
FM USS AMERICA  
TO RUEPJS/OASD PA  
INFO RUEPJS/CONSIXTHFLT  
BT

**C O N F I D E N T I A L**

FLEET PAO SENDS

1. FOLLOWING NEWS COPY FORWARDED FOR YOUR ACTION.  
2. QUOTE DFR COLLECT ASSOCIATED PRESS WASHINGTON, D.C. FIRST LEAD  
ABOARD THE CARRIER AMERICA IN THE MEDITERRANEAN, JUN 8 (AP) - U.S.  
ATTACK PLANES WERE SUDDENLY ARMED WITH 500-POUND BOMBS AND AIR-TO-  
GROUND MISSILES TODAY FOR A MISSION UNKNOWN. PARA  
URGENCY CRIPPED THE FLIGHT DECK AS THIS AIRCRAFT CARRIER BEGAN  
RECALLING PLANES WHICH HAD JUST BEEN LAUNCHED ON PRACTICE EXERCISES.

PARA  
A-4 SKYHAWK BOMBERS AND F-4 PHANTOM INTERCEPTORS ARE BEING  
READYED FOR WHAT APPEARED TO BE POTENTIAL AIR STRIKES. PARA  
THE SMALL SUBSONIC SKYHAWKS CARRIED SIX 500-POUND BOMBS OR TWIN  
BULLPUP AIR-TO-GROUND MISSILES. PARA  
OFFICERS CLAIMED STRICT SECRECY OVER WHAT MAY HAVE BEEN A FOOT. PARA  
A NAVY SPOKESMAN TOLD ASSEMBLED NEWSMEN, WHO WERE PLACED UNDER  
ESCORT, A SITUATION WAS UNDERWAY WHICH HE COULD NOT DISCUSS. BUT  
HE ADDED THAT THE FLIGHT OPERATIONS HAD "NOTHING TO DO WITH ANY  
SHIPS IN THIS VICINITY." PARA

THE SPURT OF ACTION BEGAN ABOUT MID-AFTERNOON AFTER TWO SOVIET  
SHIPS - PARTICULARLY A QUICK-MANEUVERING PATROL ESCORT CRAFT - HAD  
SYSTEMATICALLY HARASSED THE AMERICA, AND WHILE SIXTH FLEET UNITS  
STOOD VIGIL IN AN AREA WHERE AN APPARENT SUBMARINE WAS EXPECTED TO  
SURFACE. PARA

THERE WAS NO IMMEDIATE INDICATION THE SOVIET HARASSMENT AND THE  
ARMING OF U.S. PLANES WERE RELATED. PARA  
(PICK UP) HORTON UNQUOTE  
RBT

FLAG ACT.....

TOR/09/1135Z

KSG NR 415/09

CVO.....RV

DTG 032213Z JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 530018

Return to 13

PP RUTKRC  
DE RUTKRE 04 1618048  
ZNY EEEEE

F 160402Z JUN 67  
FM CTF SIX ZERO  
TO RUTKRC/COMSIXTHFLT  
BT

UNCLAS E F T O  
FOR CAPT COLEMAN SMITH FROM CDR COONEY  
1. FOLLOWING NEWS MEN WERE ALREADY ON BOARD 5 JUN. READ NAME,  
COMPANY, NATIONALITY.

1. WILLIAM GILL, AMERICAN BROADCASTING CO., AMERICAN
2. CHARLES RAPALLO, AMERICAN BROADCASTING CO., AMERICAN
3. ROBERT CIRACE, AMERICAN BROADCASTING CO., AMERICAN
4. ROBERT GOKALSKI, NATIONAL BROADCASTING CO., AMERICAN
5. PETER STURKEN, NATIONAL BROADCASTING CO., AMERICAN
6. ALBERTO PASQUINI, COLUMBIA BROADCASTING CO., ITALIAN
7. VICENZO MARIANI, COLUMBIA BROADCASTING CO., ITALIAN
8. WILLIAM RAY, LIFE MAGAZINE, AMERICAN
9. NEIL SHEEHAN, NEW YORK TIMES, AMERICAN
10. ROBERT HORTON, ASSOCIATED PRESS, AMERICAN
11. HARRY STATHOS, UNITED PRESS INTL, AMERICAN
12. COLIN LAWSON, LONDON DAILY EXPRESS, ENGLISH

PAGE TWO RUTKRE 04 UNCLAS E F T O

13. RONALD PAYNE, LONDON SUNDAY TELEGRAPH, ENGLISH
14. ALBERT BLANCHARD, DETROIT NEWS, AMERICAN
15. ROBERTO FORNEZZA, A.P., ITALIAN
2. THE FOLLOWING HAVE JOINED ON THE DATES INDICATED.
  1. MARVIN ZIM, TIME/LIFE, AMERICAN, 8 JUN
  2. J.A. GRIGGS, BBC, ENGLISH, 8 JUN
  3. E.G. FALKINS, BBC, ENGLISH, 8 JUN
  4. T.C. FARGOLLO, BBC, ENGLISH, 8 JUN
  5. JAMES ALLAN, LONDON DAILY TELEGRAPH, ENGLISH, 8 JUN
  6. J. PSCHOVITIS, ACRAPOLIS NEWSPAPER, GREEK, 9 JUN
  7. D. TSAILAS, TA NEA NEWSPAPER, GREEK, 9 JUN
  8. HELMUT SORRE, DER SPIEGEL, GERMAN, 9 JUN
3. THE FOLLOWING DEPARTED ON THE DATES INDICATED.
  1. RAY, DEPARTED 4 JUN, RETURNED 051800Z JUN
  2. PAYNE, DEPARTED 4 JUN, RETURNED 051800Z JUN
  3. TSAILAS, 9 JUN
  4. PSCHOVITIS, 9 JUN
  5. FORNEZZA, 7 JUN
  6. LAWSON, 6 JUN
4. ONLY OTHER PRESS MEN INVOLVED ARE OFFET OF LIFE WHO ARRIVED

PAGE THREE RUTKRE 04 UNCLAS E F T O

36. RAY DEPARTED 1 JUN, AND DON COOK OF L.A. TIMES WHO ARRIVED
  36. RAY AND DEPARTED 2 JUN
- BT

CONFIDENTIAL

PPNG 458  
P 100225Z JUN 67

FM CINCUSNAVEUR  
TO RUFPBK/USCINCEUR  
INFO RUENAAA/CNO  
RUEDNKA/CINCLANTFLT  
RUTPRC/COMSIXTHFLT  
RUTPRE/COMSERVFORNSIXTHFLT  
BT

CONFIDENTIAL

LIBERTY REPAIRS

1. AFTER VISITING LIBERTY THIS AFTERNOON, AND AFTER FULL CONSIDERATION OF THE SEVERAL MATERIAL AND SECURITY FACTORS, AND TO EXPEDITE RECOVERY OF ILL BODIES, COMSIXTHFLT RECOMMENDED THAT LIBERTY PROCEED DIRECT TO MALTA FOR DRYDOCKING RATHER THAN GO TO SOUDA BAY FIRST.

2. I HAVE DIRECTED HIM TO DO SO.

3. ARRANGEMENTS ARE NOW BEING MADE FOR MALTA DRYDOCKING.

GP-4

BT

W  
FLAG ACT .....

TOR 10/015Z JUN 67

NR 247/10

AB  
C&O .....LES

100225Z JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

CONFIDENTIAL

CONFIDENTIAL

PPNG988  
O 112214Z JUN 67  
FM USS FRED T BERRY  
TO GUTPRC/COMSIXTHFLT  
BT

CONFIDENTIAL

1. YOUR 112120Z JUN 67  
2. ADM KIDD AND PARTY EMBARKED 2000Z  
3. ETA RDVII 120200Z  
BT

THIS WAS  
TRANSFERT TO  
USS LIBERTY

FLAG ACT.....

1349/12 JUN 67

NR 23/12

C40.....

LS

3  
DOWNGRADED AT 8 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

BB  
112214Z JUN 67

CONFIDENTIAL

KR NY 03170  
 P 112032Z JUN 67  
 FM USS TIDEWATER  
 TO RUTPRE/COMSERVORSEXTFLT  
 INFO RUCPNV/USSE LIBERTY  
 RUTPR/COMSIXTHFLT  
 RUEDDF/COMCRUIESLANT  
 RUTKSE/CTF SIX ZERO  
 RUTPI/CTF SIX ZERO PT FIVE  
 RUEDH/NVNSIPSYSOM  
 RUCIJH/NVY SUBSISTENCE OFFICE  
 RUCIJH/NVCOMPT WASH  
 RUEDAK/NFC CLEVE  
 RUCJFA SUPERS  
 RUEDHK/COMSERVLANT  
 BT  
 UNCLAS E F T O  
 1. YOUR 112032Z JUN 67 NOTAL  
 2. LAW REF A COR ROBERT KAUDER SO USN 541063109 WILL BE PROVIDED  
 TO LIBERTY AS SUPPLY OFFICER TEL DR. WILL DEPART SMOON FLT 32012  
 12 JUN FOR MILTA.  
 BT

James M. Emmons Jr. Research Papers

COR ROBERT KAUDER  
 BECOMES ASSISTANT  
 TEMPORARY SUPPLY  
 OFFICER RELIEVING  
 DICK TAYLOR, WHO WAS  
 WOUNDED -- BUT DICK FROM  
 RETURNED TO SHIP FROM  
 NAPLES AFTER BRIEF  
 TREATMENT.

PL 0 CT *dpz*

FORM 01247/12

NR 212/12

*JB*  
 CNO.....// BEN

112030Z JUN 67

CONFIDENTIAL

EXAMPLE OF INTERVIEW OF CONTROL

URC011  
P R 112005Z JUN 67  
FM USS AMERICA  
TO RUENAAA/CHINFO  
INFO ZEV/CTF SIX ZERO  
RUTPR/CMSIXTHFLT  
BT

CONFIDENTIAL  
PUBLIC AFFL/RS INTERVIEW OF LIBERTY CREWMAN  
A. OPNAV INST. 65727.1B  
B. USCINCEUR 681650Z JUNE 1967  
C. CHINFOINST 5720.25

1. ON 11 JUNE 1967 NEWS MEDIA REPRESENTATIVES EMBARKED ABOARD AMERICA WERE PERMITTED TO INTERVIEW CTSN KENNETH ECKER 571364C/USN A CREWMAN OF USS LIBERTY RECOVERING ABOARD AMERICA FROM WOUNDS RECEIVED IN THE RECENT ISRAELI ATTACK MD COR. J.J. GORDON HOUSE AMERICA

MEDICAL OFFICER. THE INTERVIEW WAS REQUESTED BY NEWS MEDIA REPRESENTATIVES. PRESENT AT THE INTERVIEW WERE ROBERT GORDON SR OF NBC, HARRY STATHOS OF UPI REPORTING UNDER THE PSEUDONYM OF JAMES STAFFORD FOR CBS RADIO, HELMUT SORGE OF DER SPIEGEL, GENE SHERMAN OF COLEY NEWS SERVICE, D.C. THERRY OF MILWAUKEE JOURNAL, BOB HORTON OF AP AND WILLIAM GILL OF ABC. THE INTERVIEW WAS NOT FILMED BY TV MEDIA REPRESENTATIVES BUT WAS RECORDED IN PART BY CBS RADIO. PUBLIC AFFAIRS OFFICER AMERICA HAS A TAPED RECORDING OF THE INTERVIEW WHICH WILL BE FORWARDED UPON REQUEST.

2. SEAMAN ECKER WAS BRIEFED IAW REF (C)P3-73 AND B. CLEARED BY THE MEDICAL OFFICER AND SIGNED A STATEMENT AGREEING TO THE INTERVIEW. AMERICA PUBLIC AFFAIRS OFFICER MONITORED THE INTERVIEW. ECKER WAS INTRODUCED AS A RADICMAN ABOARD LIBERTY.

3. WHILE NOT REQUIRED THIS REPORT IS SUBMITTED IAW REF (C)P3-73 OF THE SENSITIVE NATURE OF THE LIBERTY INCIDENT.

4. THE INTERVIEW DEALT WITH ECKER'S EXPERIENCES DURING THE ISRAELI ATTACK. HE WAS ASKED TO ACCOUNT IN DETAIL HIS OWN ACTIONS DURING THE ATTACK. MUCH ATTENTION HAD BEEN FOCUSED ON HIM BECAUSE OF HIS BATTLE HELMET, WHICH HE RETAINS. THE HELMET HAS BEEN CREDITED WITH SAVING HIS LIFE. IT HAS SEVERAL SHRAPNELL HOLES AND A PART OF ONE RIBBON REMAINS LODGED IN THE HELMET AT A POSITION NEAR THE TEMPLE.

5. NO UNEXPECTED PROBLEMS WERE ENCOUNTERED IN THE INTERVIEW. AT ONE POINT WHEN ASKED OF THE GENERAL FEELING AMONG LIBERTY CREWMEN AS THEY SPENT THE NIGHT IN DISTRESS, ECKER ANSWERED RATHER PASSIONATELY QUOTE WE WANTED TO GET THEM SOONS OF BITCHES WHOEVER ATTACKED US UNQUOTE. WHEN PRESSED FOR THE FEELING AFTER IT BECAME KNOWN THAT THE ATTACKERS WERE ISRAELIS, ECKER REPLIED QUOTE WE STILL WANTED TO GET THEM. WE DONT CARE WHETHER THEY WERE FRIENDS OR ENEMIES. THEY HIT OUR SHIP AND WE WANTED TO MAKE THEM PAY UNQUOTE.

BT  
DOWNGRADED AT 5 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

FLAG ACT.....

*Handwritten signature*

CONFIDENTIAL

C40..... LS  
1 1 2 0 0 5 2 JUN 67

TOR: 0221/19 JUN 67

NR 28232  
11 802Z JUN 67  
CIG SIX ZERO FT FIVE  
RUIPPACTIF SIX ZERO  
INFO RUENAY/NO  
RUENAY/CHINFO  
RUKRO/CINCUSNAVELM  
RUPBK USCINCEUR  
RUIPPACYSIXTHFLT  
RUIPPACTIF SIX THREE  
RUIPPACTO SIX ZERO FT TWO  
RUIPPJSS FT BERRY

PAPAGO FINOS BODY  
OF A. P. MENDEL IN  
WAKE

CONFIDENTIAL

NINER NINETEEN  
NY 110000Z JUN 67 30 1510 AND 20 1519 COMMS 280 SPEED 19.76  
AND DEEPING BACK. 3 1 1 0 0 0 AMER. HAS NOT BEEN IN WAKE  
IN ANY TIME.  
3. 1932 PAPAGO FROM SKEET ADDITION BODY NAME A. P. MENDEL. NOT ON  
LIST OF MISSING. REPORT REPORTS NOT LISTED DUE FACT WAS BOARD  
FOR TAD. LIBERTY/NG RECORDED REPORT THIS ADDITIONAL DIA.  
3-4  
31

UNCLASSIFIED AT 8 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

3

CLASS ACT .....  
101 12 JUN 84 12 87209/12

CNO.....CJ

11 802Z JUN 67

James M. Ennes, Jr. Research Papers

000000  
P 111315Z JUN 67  
FM USS LIBERTY  
TO RUENAAA/SECNAV  
INFO RUCIJFA/BUPERS  
RUCIJIA/BINED  
RUDEGA/NAVFINCEN CLEVE  
RUCILBA/COMFIVE  
RUENAAA/CNO  
RUCRQ/CINCUSNAVEUR  
RUEDNKA/CINCLANTFLT  
RUEDNKA/COMSERVLANT  
RUEDSFA/COMSERVRON EIGHT  
RUCPRC/COMSIXTHFLT  
RUCHUA/COMFOUR  
RUCILUA/NAVSTA NORVA  
BT

THORNTOWN'S  
RECOVERED  
AT SEA  
TSO DY

UNCLAS E F T O  
PERSONNEL CASREP PERTO THOMAS RAY THORNTOWN CT3, 997 57 91, USN

A. P. Y 101230Z JUN 67  
1. REMAINS RECOVERED AT SEA BY USS PAPAGO. HELD ON BRD LIBERTY AND  
RETAINED FOR FURTHER DISPOSITION. WILL ADVISE.  
BT

James M. Ennes, Jr. Research Papers

FLAG ACT.....002.....

TOR: 01582/12

NR 223/12 CVO.....// 00

11 13 15Z JUNE 67

RIB



SECRET

DECLASSIFIED

VV PPN0856 KDK300  
RR RUTPRC  
DE RUDLKD 1041 162131L  
ZNY SSSSS  
R 111311Z JUN 67  
FM CINCUSNAVEUR  
TO RUFFPBW/USCINCEUR  
INFO RUENAAA/CNO  
R JEDN4F/CINCLANTFLT  
RUTPRC/COMSIXTHFLT  
RIJEPJS/JCS

RUTPRC/COMFARMED  
RUTKRE/CTG SIX ZERO  
RUTPR/CTG SIX ZERO PT FIVE  
RUTPR/RUCKRM/USS LIBERTY  
RUTPR/CTG SIX ZERO PT TWO  
RUEDA/COMSERVLANT  
RUTPR/COMSERVFOR SIXTHFLT  
RUCIJFA/JAG  
RUTKX/COMNAVSTA ROTA

BT  
SECRET

COURT OF INQUIRY (CUI)

1. MY 091633Z NOTAL

2. USCINCEUR ECDC 09203 DTG 101045Z NOTAL

3. JCS 7634 DTG 111852Z NOTAL

1. A COURT OF INQUIRY HAS BEEN CONVENED TO INQUIRE INTO THE CIRCUMSTANCES SURROUNDING AN ARMED ATTACK ON USS LIBERTY ON EIGHT JUNE 1967. THE COURT IS DIRECTED TO INQUIRE INTO ALL THE PERTINENT FACTS AND CIRCUMSTANCES LEADING TO AND CONNECTED WITH THE ARMED ATTACK, DAMAGE RESULTING THEREFROM, AND DEATHS AND INJURIES TO MILITARY PERSONNEL. THE COURT HAS BEEN DIRECTED TO SUBMIT ITS FINDINGS OF FACT.

2. RADM ISAAC G. WOOD, JR., USN, IS PRESIDENT OF THE COURT. CAPT HERMERT J. LAUFF, USN, AND CAPTAIN BERT M. ATKINSON, USN ARE MEMBERS OF THE COURT. CAPT WARD BOSTON, USN, IS COUNSEL FOR THE COURT. LIEUTENANT COMMANDER ALLEN FEINGERSCH, USN, IS ASSISTANT COUNSEL FOR THE COURT.

3. THE COURT WILL CONDUCT ITS PROCEEDINGS IN CLOSED SESSIONS.

4. THE COURT CONVENED AT 102230Z JUN AT THE HEADQUARTERS OF CINCUSNAVEUR. IT IS UNDERSTOOD THAT THE COURT WILL PROCEED TO THE MEDITERRANEAN ON 11 JUN AND BOARD USS LIBERTY AT SEA AS SOON AS FEASIBLE.

5. CINCUSNAVEUR WILL NOT MAKE PRESS RELEASE UNTIL AFTER COURT DEPARTS LONDON AND THEN ONLY IF QUERIED. FURTHER PRESS GUIDANCE WILL BE FURNISHED NOT LATER THAN TIME OF LIBERTY'S ARRIVAL IN MALTA.

6. A COPY OF THIS MESSAGE IF BEING FURNISHED TO THE PRESIDENT OF THE COURT.

7. CTG SIXTY POINT FIVE (COMDESRON TWELVE) DELIVER TO LIBERTY.

8. COMNAVSTA ROTA DELIVER TO RADM RENKEN, COMSERVLANT, WHO MAY PASS THROUGH ROTA ENROUTE MALTA ON SUNDAY OR MONDAY.

G-3

BT

FLAG ACT..... 3

TCR 161127/JUN67

SECRET

MSG NR 602/11

WA.....DCB

James M. Jones Jr. Research Papers

DECLASSIFIED  
Date: 10/15/2011  
Authority: 13526  
Automatically declassified

**CONFIDENTIAL**

XRAY NR2715  
011250Z JUN 67  
FM CTG SIX ZERO PT FIVE  
TO RUTPP/USS FT BERRY  
INFO RUAKCF/COMSIXTHFLT  
RUAKCF/CTF SIX ZERO  
RUTPP/USS TIDEWATER  
ZEIV/USS LIBERTY

BT

**CONFIDENTIAL**

RADM KIDD AND PARTY

1. LIBERTY'S ESTIMATED 240006 POSIT 35N8 21E3. SUBJECT TO RADM KIDD'S DESIRE RECOMMEND TRANS BY YOUR BOAT TO LIBERTY WHERE ADEQUATE ACCOMMODATIONS ARE AVAILABLE.
2. ADVISE ME OF ANY OTHER ARRANGEMENTS OR ADVANCE PLANNING DESIRED BY RADM KIDD.
3. COMMANDING OFF LIBERTY TURNED-IN WITH LEG SHOT WOUND. MY CHIEF STAFF OFF LCDR PETTYJOHN ACTING XO.
4. GUARDING 0112, 0011, 0053.

CP-4

BT

DOWNGRADED AT 8 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 53010

3  
FLAG CT.....  
TOR 1250Z/11

**CONFIDENTIAL**

NR 530/11

212  
CWO.....//BEN  
111250Z JUN 67

CONFIDENTIAL

KR NR07000  
P 111122Z JUN 67  
FM CTG SIX ZERO PT FIVE  
TO RUTPIC/CMSIXTHFLT  
RUTKRE/CTF SIX ZERO  
INFO RUCNAAA/CNO  
RDLKD/CINCPACFLT  
RUPPK/USCINCEUR  
RUTPR/CTG SIX ZERO PT TWO  
RUCNAAA/CHINFO  
RUTPR/USS TIDEWATER  
RUTPR/CMSIXTHFLT NATREP  
RUTPRE/CTF SIX THREE  
BT

CONFIDENTIAL

- SITREP SEVENTEEN
  - 1. 120013Z POSIT 34-45N 123-39E7 COURSE 250/0 SPEED 10.5/6 COMPLETED UNDER 055337.
  - 2. HAVE RECOVERED TWO BODIES. WALTON, F.J., RM, 235 31 86 USN RECOVERED BY LIBERTY FROM SPACES. PAPAJO RECOVERED THORITOI, T.R., CT3, 997 7 91, USN FROM WAKE.
  - 3. ONLY PAPER OBSERVED IN WAKE UNCLAS FORMS.
  - 4. AM ATTEMPTING TO CLOSE OFF UPPER PART OF HOLE WITH CANVAS RIGGER WITH HOISTING LINE.
  - 5. LIBERTY HAS DRY DOCKING PLANS AVAILABLE ON BOARD.
- UP-4  
BT

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

FLAG ACT.....

TOR:1359/11

MSG NR:553/11

CNO.....

LS

CONFIDENTIAL

DTG: 1 1 1 1 22 JUN 67

James M. Ennes Jr. Research Papers

NAVAL MESSAGE RELEASED 310945 **CONFIDENTIAL**

NAVTOPFORM 11174 (REV. 6-52)  
 IL 02-0010-001  
 CLASSIFICATION CONFIDENTIAL

RELEASED BY 3/1/67 CLASSIFIED BY 0171 PAGES 02

DATE 11 JUL 67 TIME 11016Z GROUP 200

PERIOD	FRAMES	INDEX	TRANSMIT	RECEIVE
051	11 09 50			

FROM: COMSIXTHFLT  
 TO: F. T. HERRY

*3 R 7*

INFO: TIDEWATER/AIRSEA ATHENS/CTF 61/CTF 60/CTF 62... CINCUSNAVREP/CTF 61/  
 CTN 60.5/COMPAUSM/CTN 61.2/CTF 63/

CONFIDENTIAL  
 DIVISION

1. ADM KIDD AND PARTY OF 3 SHIP ARRIVE SODHA BAY AT 111700Z 17T USS LIBERTY.
2. UPON ARRIVAL ADM KIDD AND PARTY, F.T. HERRY GET UNDERWAY PROCEED AT 25 KNOTS TO ROW WITH USS LIBERTY. LIBERTY 110912Z POSIT 34-40N1 24-05E1 COURSE 250 SPEED 10.
3. UPON COMPLETION TRANSFER PROCEED AND REPORT TO CTF 61 VIC 34-00N7 26-00E8 FOR TRANSFER OF MEN AND ESCORT DUTY.
4. LOAD TO 61 MEN PRIOR DEPARTURE SODHA BAY BUT ON WTB WITH REQUIREMENT TO DEPART SODHA BAY IMMEDIATELY UPON ARRIVAL ADM KIDD.
5. FOR TIDEWATER. ARRANGE TRANSPORT ADM KIDD DIRECT FROM AIRFIELD TO F.T. HERRY.
6. ACCT NR 037 C57 TO ATHENS.

DOWNGRADED AT 3 YEAR INTERVALS  
 DECLASSIFIED AFTER 12 YEARS  
 DOD DIR 5300.10

*46/169*  
*0171 1016*

DISTRIBUTION:

**CONFIDENTIAL**  
 CLASSIFICATION CONFIDENTIAL DTG 110950Z

SECRET

NIV 741VV KDN262  
DE RDLKD 1010 162225  
ZNY SSSSS  
O 110225Z JUN 67  
FM CINCPACFLT  
TO RADM REYKEN/COMSERVANT  
RU RDC/COMSIXTHFLT

RU RFF/COMAIRFPD  
RU RFE/COMSERVFOR SIXTHFLT  
RU PP/CTG SIX ZERO PT FIVE  
RU TCF/ADMIRALTA  
RU D/DIRNAVEOPS  
RU IISA/DIRNAVSECOP  
RU KC/COMNAVSTA ROTA  
RU D/RUFPL/USCINCPAC  
RU RFE/CTF SIX ZERO  
RU NAAP/COM  
RU DNB/COMSIXTHFLT

SECRET

SECURITY OF LIBERTY DRY DOCKING (C)

1. TELEPHONE CONVERSATION INDICATES THAT RADM REYKEN, COMMANDER SERVICE FORCE, ATLANTIC FLEET, WILL SHORTLY LEAVE NORFOLK FOR MALTA TO BE PRESENT AT THE DOCKING OF LIBERTY ON 13 JUNE.
2. RADM REYKEN HAS BEEN MADE AVAILABLE TO ORGANIZE AND TAKE CHARGE OF ARRANGEMENTS FOR THE TWO TASKS OF PARA THREE BELOW.
3. ON PUMPING OF DRY DOCK THERE WILL BE TWO PRIMARY REQUIREMENTS. ONE IS RECOVERY OF BODIES AND OTHER IS PRESERVATION OF SECURITY OF DOCUMENTS, EQUIPMENTS, AND SPACES. IT IS POSSIBLE FOR EXAMPLE, THAT, WITHOUT PROPER PRECAUTIONS, DOCUMENTS MAY BE FLUSHED OUT OF SHIP INTO DRY DOCK AS WATER RECESSES.
4. FOLLOWING SUPPORTING ACTION REQUESTED:
  - A. CONFIRMED SEND TO MALTA SUFFICIENT USN MEDICAL PERSONNEL TO RECOVER BODIES FROM SHIP ITSELF.
  - B. CONFIRMED DETERMINE BY PHONE RADM REYKEN'S TRANSIT TRAVEL PLANS AND ARRANGE ONWARD AIR FROM ROTA TO MALTA. USE PATROL PLANE IF NECESSARY.
  - C. COMSERVFOR SIXTHFLT PROVIDE APPROPRIATE ENGINEERING PERSONNEL FOR ASSESSMENT OF REPAIR REQUIREMENTS AND FOLLOW-ON SUPERVISION.
  - D. AMEMB MALTA PLEASE COORDINATE LOCAL U.S. NAVY, ROYAL NAVY, AND NECESSARY MALTAISE OFFICIALS TO ENSURE SOME CONTROL OF SIGHTSEERS AND PRESS AS DOCK IS PUMPED DOWN. IT APPEARS APPROPRIATE TO RIG CANVAS TO BE LOADED OVER SHIP'S SIDE TO COVER HOLE AS DOCK IS PUMPED

STAFF ACT..... 3..... CCJ 3/2/2

TOR 0330Z

NR 293/11

C40... PA.....

PAGE ONE OF TWO  
DECLASSIFIED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 520010

110225Z JUN 67

SECRET

DOWN. THIS COULD BE EXPLAINED AS REASONABLE RESPECT FOR THE DEAD  
WILL BELIEVED TO BE IN COMPARTMENT.  
5. PUBLIC AFFAIRS OFFICERS WILL BE DESIGNATED BY CINCUSNAVEUR AND  
SHOULD ARRIVE MALTA ON MONDAY.  
6. NAVAL SECURITY GROUP AND DIRNSA REPRESENTATIVES FROM NSA EUROPE  
WILL BE SEPARATELY ARRANGED FOR.  
7. CINCUSNAVEUR WILL SEPARATELY MAKE COOPERATIVE ARRANGEMENTS WITH  
ROYAL NAVY IN LONDON.  
8. COMNAVSTA MUST BE SURE RADM PENKEY HAS THIS AS HE PASSES THROUGH  
MOTA.  
9. COMSIXTHFLT DESIGNATE SHIP TO REMAIN MALTA TO PROVIDE COMMUNICA-  
TIONS FOR RADM PENKEY AS LONG AS HE NEEDS IT. INFORM THOSE WHO NEED  
THIS INFO NAME OF SHIP.  
10. FOR ALL: PARTICULARLY IN VIEW OF RECENT PRESS COMMENT, IT IS  
IMPORTANT TO PRESERVE SECURITY OF LIBERTY'S CAPABILITIES AND MISSION.  
SHE IS PROPERLY IDENTIFIED IN PUBLIC AS A COMMUNICATIONS RESEARCH  
SHIP WHICH WAS DIVERTED FROM NEP RESEARCH ASSIGNMENT TO PROVIDE  
IMPROVED COMMUNICATION RELAY LINK WITH THE SEVERAL U.S. EMBASSIES  
AROUND THE EASTERN MEDITERRANEAN DURING THE CURRENT TROUBLES.

OP-4  
BT

FINAL PAGE OF TWO

110225Z JUN 67

**CONFIDENTIAL**

NR NR 07530  
O 110100Z JUN 67  
FM COMNAF  
TO COMSIXFLT  
INFO CINCSNAVEUR  
USS SYLVANIA  
USS SHADWELL  
CTO SIX SEVEN PT TWO  
USS TIDEWATER  
BT

**CONFIDENTIAL**

1. CINCUSNAVEUR 111949Z JUN 67 (TOTAL)  
2. REF A REQUESTOR CITE ARRANGE TRANSPORTATION FOR 1000 KIDD AND  
ONE BOBSON FROM NAPLES TO USS LIBERTY DEPARTING NAPLES  
PORT 111949Z. HAVE APPROPRIATE ILLI/SSOLDA.  
3. IN VIEW DESTINATION AND SNA LIBERTY REQUEST YOU DETERMINE  
APPROPRIATE HELICOPTER OR SURFACE TRANSPORTATION TO DEPART SOUDA  
BY ABOUT 111700Z.  
BT

P. AG AC 3

TOP 0212/11 JUN 67

NR 277/11

CVO *PA* //MIC

11 01 02Z JUN 67

DECLASSIFIED AT 2 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

**CONFIDENTIAL**

XRAJ 442919  
O 122317Z JUN 67  
FM CTS SIX ZERO FT FIVE  
TO RUTRE/CTF SIX ZERO  
INFO RUTRE/AM/CMO  
RUENAAA/CIINFO  
RUQKCF/CI/SIXTHFLT  
RUTRE/CTF SIX THREE  
RUTRE/CTF SIX ZERO FT TWO  
RUTRE/CTF SIX ZERO FT TWO  
RUQKCF/CI/SIXTHFLT MATREP  
RUGKCF/CI/USNAVREP  
RUFFR/CI/CI/CLUR  
RUTIC/AMEMB MALTA  
ZENUS/ LIBERTY  
BT

UNCLAS EX T O  
SITREP T-O SIX  
1. 0405 DR POSIT 15-2012 017-5529 COURSE TRUE SPEED 6.5/1  
2. ADDITIONAL SHORING COMPLETE. WIND 1/4 KNOTS WAVE HEIGHT TWO FEET.  
3. PLANTING REDUCED. WORKING NOISE ALMOST ELIMINATED.  
4. IF WIND FLAT TO CORROU COULD ARRIVE MALTA ABOUT 13220000H. IF  
UNDESIRABLE ARRIVE AT NIGHT AND OR IF SWELL PERUISTS ARRIVING  
FOURTEEN  
5. FOR AMEMB MALTA REQUEST COMMENT ON DESIRABILITY NIGHT ENTRY FROM  
POINT 180 BERTHENS AND ROOM FENKENS DESIRES.

*Liberty*

James M. Ennes, Jr. Research Papers

FLAG ACT.....

TOR 00122/JUN 67

NR 211/13

CNO...*CE*...DCB

12 23 17Z JUN 67



VR 13 23979  
PR 12237Z JUN 67  
FM CINCPAC  
TO RUEKLT/CINCPAC/AVEUR  
RUEKRC/COMSIXTHFLT  
RUEKNA/COMMIDEASTFOR  
RUEKNA/COMINCLANTFLT  
RUEKRC/CIC SIX ZERO PT ONE  
RUEKRC/CIC SIX ZERO PT TWO  
RUEKRY/OTF SIX ONE  
RUEKRE/OTF SIX THREE  
RUEKRC/OTF SIX TWO  
INFO RUEKRI/COMSIXTHFLT  
RUEKRL/COMSEVENTHFLT

*Liberty*

BT  
UNCLAS  
SIXTH FLEET HEADLINE REPORT 12 JUNE 1967  
1. ABC NEWS SUNDAY NIGHT CARRIED FILMED INTERVIEW WITH LIBERTY  
CREW. ONE OF LIBERTY'S CREW MEMBERS SAID THAT BECAUSE THE  
SHIP HAS NO LONG-RANGE RADAR, THEY RECEIVED NO ADVANCE WARNING  
OF THE APPROACHING PLANES UNTIL THEY WERE ATTACKED. ABC ALSO  
CARRIED FILM OF LIBERTY'S DAMAGE TAKEN FROM A HELICOPTER  
CIRCUMCIRcling THE SHIP.  
2. JAMES KILPATRICK WRITING IN THE SATURDAY EVENING STAR  
DESCRIBED AN EXPERIENCE HE HAD WHILE FLYING OVER THE MEDITERRANEAN  
SEVERAL MONTHS AGO... THE PILOT OF THE AIRCRAFT BANKED  
SHARPLY AND ANNOUNCED THAT ANY AMERICANS ABOARD COULD LOOK BELOW  
AND SEE THE SIXTH FLEET. KILPATRICK DESCRIBED WHAT HE WAS AND  
SAID IT WOULD HAVE BEEN A POOR AMERICAN WHO DID NOT FEEL HIS  
HEART LEAF UP AT THE SIGHT. THE WRITER GOES ON TO TALK ABOUT THE  
FLEET'S FUNCTION AND HER POWER AND CONCLUDES THAT THE SIXTH  
FLEET CAN HANDLE WHATEVER COMES. OF THE CREW WHICH HE DESCRIBES  
AS FIRST CLASS, HE SAYS THEY SERVE WORK DAYS THAT WOULD HORRIFY  
A BRITISH BOSS AND THAT THEY LIVE IN QUARTERS THAT NO SELF  
RESPECTING JAIL INSPECTOR WOULD APPROVE. KILPATRICK RECALLS THE  
SOVIET UNION'S PERIODIC COMPLAINT ABOUT THE FLEET IN THE  
MID... HE SAYS THAT HER PRESENCE THERE IS STRONG AND IT WOULD  
BE A REMARKABLY STUPID DECISION IN THE KREMLIN FOR THE COMMUNIST  
BUREAU TO START A WAR AT SEA.  
3. THE EXTENSIVE COVERAGE OF MIDDLE EAST NEWS CONTINUES BY ALL  
MEDIA. VERY FEW NEWS CONCERN SIXTH FLEET.

FLAG ACT ....13.....

TOR 24432/13 JUN 67

VR 289/13

CWO ...*PA*... //NIC

12 22 37Z JUN 67

CONFIDENTIAL

*Liberty*

M

XRAJ NR 2921  
O 122200Z JUN 67  
FM COMDESRON TWELVE  
TO COMSIXTHFLT

CONFIDENTIAL  
LIBERTY SEAVORTHNESS

1. YOUR 122045Z MY 121910Z  
2. ADDITIONAL INFO. FOLLOWING ADDED SHORING ALMOST COMPLETE  
WIND DOWN TO ELEVEN KNOTS AND SEAS TWO FEET. FLEXING NOISE  
AND NOISE ELIMINATED. SPEED NOW 6.9. SPEED DEPENDS UPON SEA  
STATE. AND RESULTS OF FINAL SHORING. AM NOT CONCERNED OVER  
SEAVORTHNESS AT SLOW SPEEDS BARRING HEAVY SEAS. INTEND USE  
SPEEDS SHORT OF THOSE PRODUCING INCREASED FLEXING AND OR GRATING  
NOISE.  
3. WILL REPORT EVERY TWO HOURS.

GP-4  
BT

FLIP ACT.....<sup>3</sup>.....

TUR 0103/15 JUN 67

MSG NR 224/13

CVO.....*all*.....MAL

121920Z JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 3200.10

CONFIDENTIAL

James M. Ennes, Jr. Research Papers

CONFIDENTIAL

LFBVVV . URC140VV APH825MAB362ZCYMC618

PP RUTPRC  
DE RUEHAAA2413 1632118  
ZNY CCCC  
P 122118ZJUN 67  
FM CND  
TO RUCNCF/USS LIBERTY  
INFO RUCBY/JCSINCEUR  
RUDLKD/CINCPUSNAVEUR  
RUTERS/COMSIXTHFLT

ZEN/CHINFO  
ZM/PANSTIC  
RUCIJRANTSC

BT  
CONFIDENTIAL

ATTACK PHOTOGRAPH (U)  
A. USS LIBERTY 331715Z  
1. FORWARD PHOTOGRAPHY TO CG, NAVALACCOMMODATIONS AND TECHNICAL  
SUPPORT CENTER, 4301 SUTLAND ROAD, WASHINGTON, D.C. 20393 BY FASTEST  
POSSIBLE MEANS.  
2. FORWARD PROJECTILES TO INC NAVAL SCIENTIFIC AND TECHNICAL  
INTELLIGENCE CENTER, BLDG 92 U.S. NAVAL OBSERVATORY, WASHINGTON, XV  
D.C. 20390.

GP-4  
BT

FLAB ACT 2

TOR 22512/12 JUNE 67

# 754/12

CWO UR

CND 122118Z JUNE 67

*Return to 12*

DECLASSIFIED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

CONFIDENTIAL

VV PPN03741A3114 WQAS62VV KCB157  
RR RUTPRC  
DE RUQXRM 014DLV 164209 8

ZNR UUUUU  
R 122003Z JUN 67  
FM USS LIBERTY  
TO ZEN/COMDESTROY ONE TWO  
ZEV USS DAVIS  
INFO RUTPRC/COM SIXTHFLT

BT

UNCLAS

A. COMDESTROY ONE 121002Z JUN 67 (NOTAL)

1. LEAD PARTY JOHN AND ALL DAVIS PERSONNEL WILL BE RETURNED ON ARRIVAL MALTA.

2. THE OUTSTANDING ASSISTANCE, MANY LONG HOURS OF HARD WORK AND WONDERFUL ATTITUDE OF OFFICERS AND ENLISTED PERSONNEL OF YOUR COMMANDS IS VERY GRATIFYING. MEN WERE CONSTANTLY SEEKING THINGS

TO DO, NOT JUST ESSENTIAL WORK, BUT ITEMS THAT COULD EASILY BE ACCOMPLISHED BY LIBERTY PERSONNEL. IT IS FELT THAT LIBERTY COULD NOT HAVE MADE IT THROUGH THE SECOND DAY WITHOUT THE ASSISTANCE OF DAVIS EXPERIENCE PERSONNEL. EVERY MAN, SEAMAN THROUGH OFFICER IS TO BE COMMENDED FOR THEIR OUTSTANDING PERFORMANCE OF THEIR JOB IN LIBERTY.

3. WITH THE ABOVE TEAM WORK, IT IS UNDERSTANDABLE WHY DAVIS IS FIRST TEAM MEMBER OF SIXTHFLT.

4. DAVIS WILL BE REMEMBERED IN THE HEARTS OF LIBERTY PERSONNEL AND THE ASSISTANCE WE GAVE WHEN SHE CAME STEAMING INTO VIEW TO OUR ASSISTANCE WILL NEVER BE FORGOTTEN. MY SINCERE APPRECIATION AND THANKS TO ALL

BT

FLAG ACT ... 3 ...

TOR 1845Z/ JUN 67

OR 631/13

CWO ... PA ...

///NIC

12 20 00Z JUN 67

CONFIDENTIAL

*Liberty*

XRAJ NR 2989  
O 121938Z JUN 67  
FM CTG SIX ZERO FT FIVE  
TO RUIKRE/CTF SIX ZERO  
DIFO RUENAAA/CRO  
RUGYCF/COMSIXTHFLT  
RUENAAA/CHINFO  
RUBR/CINCUSNAVEUR  
RUFFBY/USCINCPAC  
RUTIC/ADMNS MALTA  
RUIPRE/CTF SIX THREE  
RUIPRN/CTG SIX ZERO FT TWO  
ZEN/USS LIBERTY

CONFIDENTIAL (RELEASABLE TO US)

SITREP TWO FIVE

1. NY 102000Z POSIT 35-16N 010-21E7.
2. SOA STILL FIVE KNOTS. HD RUMBLING BETWEEN SECOND AND THIRD DECKS FLEXES SEVEN INCHES IN EIGHT FOOT SPAN. WELDS LOOK SOLID BUT PAINTING IS CAUSING PAINT TO FLAKE. WIND 100 KTS AND SEA HT ABOUT THREE FEET. LIBERTY PITCHING SLIGHTLY. WIND SPEED DICTATES MAX SPEED FIVE KNOTS. WILL INCREASE AS SITUATION CHANGES. EVEN IF SEVEN KNOTS (AVERAGE) OVERALL ETA MALTA IS 13 JUNE 67.
3. FOR CTF CS: WIRE RUSH OVER HOLE NO. 10 BY SINKER DYS 101700Z JUN 67 HDW LOCKS LINE DIFFICULT TACK DUE SIZE HOLE. ADVISE OTHER SHIPS TO INSTALL TESH OVER DRY DOCK DRAINS TO PREVENT PUMPING MATERIAL INTO HARBOR.

UP-4 FOR US ADEES  
BT

BULKHEAD IS FLEXING

PAGE ACT..... 3 .....

JUN 2227Z/12 JUN 67

NR 743/12

CWO... *all* ...//6EY//

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

12 19 38Z JUN 67

CONFIDENTIAL

NR 12 05 67  
P 121516Z JSK 67  
FM COMBACOM/COMLANT DEY NAPLES  
TO RUTFP/COMDESRON ONE TWO  
INFO ZEN/COMFAIRMED  
RUENCO/AMEMB VALLETTA MALTA  
RUTFP/COMSIXTHFLT

**CONFIDENTIAL**

BT  
**CONFIDENTIAL**

PASS TO RADM KIDD IN USS LIBERTY  
A. YOUR 121106Z JUN 67 NOTAL  
1. PHO WISE AND PHO ALLEN AND MALTA 12 JUN ORDERED TO RPT TO  
CAPT CASTILLO AS DIR BY COMSIXTHFLT. BOTH CLEARED TOP SECRET.  
2. IF THIS NOT ADEQUATE CAN PROVIDE ADDL PHOTOS.

CS-4  
BT

FLASACT ..... 3 .....

NR 1623Z/12 JUN 67 NR 591/12 CVO ... PA ... /MIC

12 15 16 Z JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 530010

**CONFIDENTIAL**

W PPNG098  
R 121456Z JUN 67  
FM CINCUSNAVEUR  
TO RUTPRC/CONSIXTHFLT  
INFO RUTPP/COMDESRON TWELVE  
RUTPP/RUCIC/USS LIBERTY

BT  
CONFIDENTIAL  
USS LIBERTY AWARDS (U)

1. WHEN TIME PERMITS ASSEMBLING THE APPROPRIATE INFORMATION, CINCUSNAVEUR WOULD BE VERY PLEASED TO FORWARD RECOMMENDATIONS FOR AWARDS FOR THOSE OFFICERS AND MEN OF LIBERTY WHOSE PERFORMANCE IN AND SUBSEQUENT TO THE RECENT ACTION APPEARS TO MERIT RECOGNITION.

2. CERTAIN OF THE RECOMMENDATIONS SHOULD, OF COURSE, BE INITIATED BY THE COMMANDING OFFICER OF LI 656. IT MAY DEVELOP THAT OTHERS MIGHT PROPERLY BE INITIATED EITHER BY COMDESRON TWELVE OR CONSIXTHFLT.

BT  
G-4

CORRECTED COPY  
NO. 2

FLAG ACT. 13.....

TOR 12 15 19Z JUNE 67

NR 552/12.

C/O. *PA*.....CAP

12 14 55Z JUNE 67

DOWNGRADED AT 8 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 620010

401691UV BMS84UV 12408

PP RIIERC  
DE RUCKRO 408 1631450  
ZNY EEEEE  
P 121332Z JUN 67  
FM COMSERVFOR SIXFLT  
TO RIIERC/COMSIXTHFLT  
INFO RIIERK/COMSERVANT  
RUFRE/COMSERVFOR SIXTHFLT  
RUDLKO/CINCLANTW EUR  
RUEDDPA/COMCRUIDESLANT  
RUEDB/COMSHIPSYSCOM HQ  
ZNY USS ILSWATER  
RUFPP/US DAVIS  
RUFPP/COMDESRON ONE TWO

LIBERTY

BT

UNCLAS E F T O  
USS LIBERTY DAMAGE  
NYO 120700Z JUN 67  
IN FILE REF 1, LIBERTY M49 COMPLETELY DESTROYED BY FIRE RESULTING FROM  
ATTACK. REMAINS OF M49 LOST AT SEA.  
BT

FLAG CT ..... 3 .....

TOR 16132/12 JUN 67 NR 514/ 12

CWO ... PA ... //MIC

12 13 32 Z JUN 67

James M. Ennes, Jr. Research Papers



*C. L. Carpenter*

NR NR 08593  
P 121246Z JUNE 67  
FM NAVCOMSTA ASIARA  
TO COMSIXTHFLT

Z D G .....

ATA 11157Z JUNE 67  
C. RUT WRC 252 1500917 O P 080917Z JUNE 67  
1. INFO REQ BY REF A CONTAINED REF B.  
2. REPLYING INFO CONTAINED REF B. REF C WAS RECEIVED THIS STA  
3. REPLYING INFO FROM KUQE. MSG ZDG USS LIBERTY AS UR 122443  
31510Z ZPT HMA166 FROM KUQE. MSG ZDG USS LIBERTY AS UR 122443  
R 081525Z.  
3. IN HOUSE TIME OF 15 MIN NOT CONSIDERED EXCESSIVE DUP HMA166 PREC  
BACKLOG.  
BT

NOTE ZDG MEANS CORRECTED COPY TO FOLLOW

FLAG ACT.....

TCR 12 17 20 JUNE 67

NR 602/12

CVO. *P.A.* CAP

12 12 46Z JUNE 67

ADMIRAL

James M. Ennes, Jr. Research Papers

1 8  
NNNN VV URC070VV QACB IEVV WQAG15VV KCB088  
OO RUIPAC  
DE HQKRN 0130LV 1631046  
ZNI20CCJC  
O 121046743 7. 670C

FM CILSIX ZERO PI FIVE

TO RUIKRE/CIF SIX ZERO  
INFO RUSJAAA771,9

473,---/CRINFO

RUJKA2/6,3,17,-1SUR

RUFPUX/USCINCEUR

RUIPHE/CL

F SIX THREE

RUIPRA/CIG SIX ZERO PI TWO

RUIPAC/CONSIXTHFLMK

HFC

C I Y J F I D E N T I A L

SIIRP TWENTY-THREE

1. 12120001JKRPOSII 55-1582 19-3922

2. FOR CONSIXTHFLI, MAIN KIDJ REQUESTS  
ABOUT FIFTEEN COPIES EACH OF ANY PHOTOGRAPHS TAKEN BY LIBERTY  
WHICH SHOW ENEMY FORCES 57 990 9293-1 2-13, 70 19.7-2 55-

923,6 5--93 59 1873426.

3. FOR CTF 65 REQUEST FORWARD TO LIBERTY 750/2 PERSONAL CLAIM FORMS

NAVEXOS 2662A6

GP-4

BT

NNHREVENZ

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10

*Handwritten:* 7/11/72  
*Watermark:* James M. Ennes, Jr. Research Papers



COMMUNICATIONS CAPABILITY AND PROVED IT BY BEING ABLE TO RIG A VOICE TRANSMITTER TO CALL FOR HELP AFTER THE ATTACK AND WIPED OUT ALL HER ANTENNAS. AS TO LIBERTY'S CAPABILITIES OUTSIDE OF BEING VERY CAPABLE RADIO GUARD FOR EVACUATION OPERATIONS, I TOLD THEM THE SHIP WORKS ON A NUMBER OF PROJECTS, SUCH AS MAGNETIC WAVE PROJECTIONS WHICH ARE OF A RESEARCH AND DEVELOPMENT NATURE ABOUT WHICH I HAD NO INFORMATION IN GENERAL QUESTIONING. I ACKNOWLEDGE THAT I HAD ORDERED AIRCRAFT AIRBORNE CREST TO PROTECT AND ONLY TO PROTECT USS LIBERTY AS SOON AS I WAS ADVISED THAT A U.S. SHIP WAS REALLY UNDER ATTACK, AND CALLED BACK THE AIRCRAFT WHEN I BECAME AWARE THAT THEY WERE NOT REQUIRED. U.S. NOTE: THE PRESS WAS ALSO INFORMED THAT SENIOR COMMANDERS HAD BEEN FULLY INFORMED OF MY ACTIONS AND RECEIVED COPIES OF ALL MY MESSAGES. UNCLAS.

3. (U) PRESS RELEASE OF ANSWER TO INQUIRIES ON COURT OF INQUIRY. ADMIRAL JOHN S. MCCAIN, JR., COMMANDER IN CHIEF, ALLIED FORCES EUROPE, HAS CONVENED A COURT OF INQUIRY TO DETERMINE THE CIRCUMSTANCES SURROUNDING THE ATTACK ON USS LIBERTY IN THE EASTERN MEDITERRANEAN JUNE 8, THE COURSE OF WHICH HAD BEEN INVESTIGATED BY ADMIRAL KIDD, JR., IS PRESIDENT, MET BRIEFLY AT NAPLES, ITALY, ON JUNE 10. IN CHIEF, U.S. NAVAL FORCES EUROPE, SOUTHERN EUROPE AND DEPARTMENT OF THE ARMY. IT IS EXPECTED TO BOARD LIBERTY AT NAPLES, ITALY, ON JUNE 15. ITS INQUIRY AT NAPLES LATER THIS WEEK. ADMIRAL KIDD IS EXPECTED TO ARRIVE AT NAPLES AT APPROXIMATELY 10:00 AM ON JUNE 15. A COURT OF INQUIRY IS A FACT-FINDING BODY WHICH TAKES TESTIMONY UNDER OATH. THE COURT WILL PRESENT ITS FINDING OF FACT TO ADMIRAL MCCAIN, THE CONVENING AUTHORITY. THIS IS NOT A DISCIPLINARY BODY. CONVENING OF SUCH AN INQUIRY IS A NORMAL PROCEDURE, COMMONLY EMPLOYED AFTER SERIOUS ACCIDENT OR INCIDENT RESULTING IN SUBSTANTIAL LOSSES OF LIFE OR MAJOR DAMAGE TO A SHIP. ITS CONVENING DOES NOT, OF ITSELF, INDICATE AN ASSUMPTION THAT ANY INDIVIDUAL IS AT FAULT. ADMIRAL KIDD IS ASSISTANT CHIEF OF STAFF FOR LOGISTICS ON THE STAFF OF THE COMMANDER IN CHIEF, ALLIED FORCES SOUTHERN EUROPE, AT NAPLES. HE HAS BEEN RELIEVED OF THIS ASSIGNMENT TEMPORARILY IN ORDER TO SERVE AS PRESIDENT OF THE COURT. OTHER MEMBERS OF THE COURT ARE CAPTAIN BERNARD J. LAUFF, USN, PROSPECTIVE COMMANDING OFFICER FLEET OPERATIONAL CONTROL CENTER NAVAL FORCES EUROPE, AND CAPTAIN BERT M. ATKINSON, JR., USN, STAFF CINCUSNAVEUR. CAPTAIN WARD BOSTON, JR., LEGAL OFFICER ON THE STAFF OF COMMANDER FLEET AIR, MEDITERRANEAN, AT NAPLES, IS COUNSEL FOR THE COURT, AND LIEUTENANT COMMANDER ALLEN FEINGERSCH, USN, STAFF CINCUSNAVEUR, IS ASSISTANT COUNSEL FOR TECHNICAL MATTERS.

ANSWERS TO ADDITIONAL INQUIRIES:

- (1) WILL COURT SESSIONS BE OPEN TO PUBLIC? NO.
- (2) WHY NOT? USS LIBERTY WAS OPERATING IN THE EASTERN MEDITERRANEAN IN SUPPORT OF COMMUNICATION REQUIREMENTS. AS SUCH, SHE WAS PART OF THE OVERALL UNITED STATES COMMAND AND CONTROL SYSTEM, WHICH CANNOT BE DISCUSSED IN ANY DETAIL ON AN UNCLASSIFIED BASIS. SO MUCH EVEN OF PURELY ROUTINE NATURE WHICH THE COURT WILL HAVE TO GO INTO WILL BE CLASSIFIED THAT IT WOULD BE IMPRACTICABLE TO ATTEMPT TO HOLD AN OPEN HEARING.
- (3) WILL THE COURT'S FINDINGS BE MADE PUBLIC? AFTER NORMAL REVIEW BY THE CONVENING AUTHORITY AND HIS NAVAL SUPERIORS, IT IS LIKELY THAT ANY UNCLASSIFIED FINDINGS WILL BE RELEASED.

PAGE 2 OF 3

12 29 602 JUN 67

CONFIDENTIAL

(4) WILL THE CONVENING ORDER BE MADE PUBLIC? IT IS RELEASABLE.  
(5) IS THE COMMANDING OFFICER GOING TO BE AVAILABLE FOR INTERVIEW AT MILT? ARE OTHER MEMBERS OF THE CREW? NOT AT THIS TIME.

(6) WHY NOT? ALL MEMBERS OF THE CREW ARE POTENTIAL WITNESSES BEFORE THE COURT. IT IS THE DESIRE OF THE CONVENING AUTHORITY AND THE PRESIDENT OF THE COURT THAT THEIR RECOLLECTIONS REMAIN AS FRESH AS POSSIBLE AND NOT BE INFLUENCED IN ANY WAY BY QUESTIONS PUT TO THEM OUTSIDE THE COURT OR BY ANSWERS OF OTHER MEN BEING INTERVIEWED.

(7) CAN THEY BE INTERVIEWED ON UNCLASSIFIED MATTERS, AFTER THE COURT HAS COMPLETED ITS WORK? YEE, IF THEY WISH TO.

(8) WHAT ARE THE ASSIGNMENTS OF THE COURT MEMBERS? CAPTAIN STEINER IS THE SURFACE OPERATIONS OFFICER, AND LCDR FELDMAN IS A COMMUNICATIONS OFFICER ON THE STAFF OF CINCUSNAVSTA.

OP-1  
BT

PAGE 3 OF 3

1 2 0 9 5 0 Z JUN 67

CONFIDENTIAL

**CONFIDENTIAL**

XRAJ NR2829  
O 120546Z JUN 67  
FM CTG SIX ZERO PT FIVE  
TO RUJYCF/CTF SIX ZERO  
INFO RUGKCF/COMSIXTHFLT  
RUEN114/CFO  
RUEN114/CHINFO  
RUQKCF/COMCINCPACFLT  
RUFPEW/USCINCPAC  
RUTPRE/CTF SIX THREE  
RUQVCF/CTG SIX ZERO PT TWO  
RBTIC/COMSIXTHFLT  
BT

N A T O RESTRICTED  
SITREP TWENTY TWO

1. 120700Z L.R. POSIT 34-0775 20-20EA
  2. RACH KIDD LIBERTY 351438/6
  3. MAKING ALL SPEED POSSIBLE BUT LOST TIME DUE WST ATTEMPT  
YESTERDAY AND OTHER NECESSARY SHORT STOPS SUCH AS PERSONNEL  
TRANSFER TO MY CREW. NOW ARRIVE ABOUT 1000H. WILL NOTIFY AND CONFIRM  
ETA AFTER EVENING STARS.
- BT

*ADmiral KIDD  
ARRIVES LIBERTY  
12/0600B*

FLAG 001.....

TCR 0242/JUN 67

MSG NR 338/12

CWO...*P.H.*...DCB

12 05 46Z JUN 67

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3 CONFIDENTIAL 3

GTWV 0742478 0AC75670A593VV I..KC3282  
PP RUTPRO  
DE WUSKHH 0135TB 1639525  
ZNY CCCCC  
P 100418Z JUN 67  
FM USS FRD T BERRY  
TO RUFFRO, CONSINTFLT  
INFO ZEN/CONDESTON TWELVE  
BT

*Liberty*

CONFIDENTIAL

1. YOUR 100418Z JUN 67  
2. RUFFRO AND PARTY TRANSFERRED TO LIBERTY 100430Z  
3. PROCEEDING IAW REF A.  
BT

3  
PLAS ACT.....

100 1002/12 JUN 67

MSG NR 412712

CNO.....*CE*.....NAL

12 24 10Z JUN 67

DECLASSIFIED AT 8 YEAR INTERVALS  
UNLESS INDICATED OTHERWISE  
CLASSIFIED AFTER 12 YEARS  
DOD LTR 320010

CONFIDENTIAL

*James M. Ennes, Jr. Research Papers*  
*K107*  
*ARRIVES*  
*12/0430Z*  
*(12/0630Z)*

RRHHVV PPI398CNDK3331002  
PP RUTPRC  
DE RUDLKD 1002 1630020  
ZNY EEEEE  
P 1200120Z JUN 67  
FM CINCUSMAVEUR  
TO RUTPRC/CONSIXTHFLT  
BT

UNCLAS E F T O

WIRE NOTE FOR CDR CONEY

A. CONSIXTHFLT 112201Z

IS AN INFORMAL RESPONSE TO REF A, PROPOSED RESPONSES TO QUERIES CONCERNING THE INVESTIGATION OF USS LIBERTY INCIDENT HAS BEEN PREPARED BUT IS STILL SUBJECT TO FINAL APPROVAL BY USCINCEUR. ASSUMING USCINCEUR APPROVES OUR PROPOSAL, I THINK MESSAGE CONTAINING RESPONSE SHOULD GET TO YOU EARLY PM MONDAY. REGARDS MCILVAINE.

James M. Ennes, Jr. Research Papers

CONEY - OF  
MESSAGE SHOWS HOW  
WAS CONTROLLED,  
COONEY WAS EVERYWHERE!  
FIRST CINCUSMAVEUR  
THEN CINCANTFLT  
LATER CINCINFO  
AND EVEN THEN ADMIRAL  
WAS KEEPING THE LID ON  
THE LIBERTY STAFF!

COONEY  
NOT COONEY

Liberty File  
Bleed  
Research Papers  
B

12 JUN 67



W PPN0483  
P R 132234Z JUN 67  
FM CHINFO  
TO RUDLKJ/C NCUSNAVEUR  
RUTPRC/COMS XTHFLT  
RUCPH/A/COMHIDEASTFOR  
RUEDNA/CINCLANTFLT  
RUTPRE/CTG SIX ZERO PT ONE  
RUTPRP/CTC SIX ZERO PT TWO  
RUCQRI/CTF SIX ONE  
RUCQRM/CTF SIX TWO  
RUTPRE/CTF SIX THREE  
COMFC FUKHER/CINCPACFLT  
RUMSUL/COMS VENTHFLT

AMERICA WAS SO RELAXED  
EARLY AMERICA WAS SO RELAXED  
BUT AMERICA RELAXED EARLY  
THEY COULD NOT RESPOND TO LIBERTY'S CALL FOR HELP

BT

INCLAS

SIXTH FLEET HEADLINE REPORT 13 JUNE 1967

1. CHICAGO TRIBUNE AND BALTIMORE SUN CARRY ARTICLE DATED LONDON SAYING THAT AMERICAN NAVAL HEADQUARTERS IN LONDON ANNOUNCED THE CONVENING OF A COURT OF INQUIRY INTO THE ISRAELI ATTACK LAST WEEK ON THE NAVY SHIP LIBERTY. THE COURT CONVENED BY ADM MCGATH MET BRIEFLY IN LONDON DURING THE WEEKEND AND MEMBERS WERE EXPECTED TO BOARD LIBERTY AT SEA. NAVAL SPOKESMAN IS QUOTED AS SAYING THAT THE INQUIRY IS NORMAL PROC DURE AFTER SERIOUS INCIDENTS, RESULTING IN HEAVY LOSS OF LIFE.

2. WASHINGTON LOCAL TV STATION WTTG LAST NIGHT IN NEWS HAD FILM COVERAGE FROM ABOARD AMERICA OF MEMORIAL SERVICES FOR NAVY PERSONNEL LOST ON LIBERTY. FILM ALSO SHOWED SOME OF THE WOUNDED ATTENDING THE SERVICES.

3. RETIRED MAJ GEN GENERAL MAX JOHNSON, WRITING IN CURRENT ISSUE (19 JUNE) OF U.S. NEWS & WORLD REPORT DISCUSSED THE US STAKE IN THE MIDDLE EAST. HE DESCRIBES THE MEDITERRANEAN AS BEING AN "AMERICAN LAKE." HE GOES ON TO SAY THAT COMMANDERS ALONG THE ENTIRE SOUTHERN FLANK OF NATO ARE VERY MUCH CONCERNED ABOUT THE INCREASING PRESENCE OF SOVIET FORCES IN, UNDER AND OVER THE MEDITERRANEAN, AND THAT THIS PRESENCE CONTINUES TO GROW WITH THE ADDITION OF NEW SOVIET NAVAL VESSELS. THE GENERAL CONCLUDES THAT THERE IS ONE IMPORTANT POINT TO BEAR IN MIND... THAT ANY INCREASED THREAT TO THE U.S. SIXTH FLEET OR TO US SUBMARINE OPERATION IN THE MEDITERRANEAN REPRESENTS SOME REDUCTION OF THE U.S. NUCLEAR COUNTER THREAT TO RUSSIA.

4. TIME MAGAZINE PRESS SECTION THIS WEEK IS DEVOTED TO DIFFICULTIES ENCOUNTERED BY MEDIA REPRESENTATIVES IN COVERING THE MIDDLE EAST WAR. DESPITE BEATINGS, CENSORSHIP AND GENERAL CONFUSION, NEWSPAPERS AND TV SUPPLIED ONE OF THE MOST COMPREHENSIVE AND INTELLIGIBLE ACCOUNT OF A CRISIS THAT HAS EVER BEEN DELIVERED. THE STORY POINTS OUT THAT ARABS JAILED AND REPORTED CORRESPONDENTS AND ISRAELIS WERE SAID TO HAVE BEATEN AND JAILED HOME, HOWEVER, ACCORDING TO TIMES FOREIGN EDITOR SEYMOUR HERSH. THE STRICTEST CENSORSHIP DURING THE WAR WAS IMPOSED BY THE SIXTH FLEET, WHICH PREVENTED NEWSMEN FROM REPORTING THAT THE CARRIERS WYATKIN AND AMERICA HAD BEEN IN A ADVANCED STATE OF ALERT THROUGHOUT THE INCIDENT.

5. EVENING STAR (12 JUNE) HAD FRONT PAGE PICTURE OF FIRST ISRAELI SHIP, A FREIGHTER, PASSING THROUGH THE STRAIT OF FIRAN SINCE EGYPT CLOSED THE WATERWAY THREE WEEKS AGO.

6. ALL MEDIA CONTINUED WIDE COVERAGE OF THE MIDDLE EAST SITUATION

PLAC 1ST... 2.....  
TOR 1: 13 22 34Z JUNE 67  
PAGE ONE OF TWO

NR 268/14

SVO... PA... CAP  
13 22 34Z JUNE 67

NOW THAT THE CEASE FIRE IS IN EFFECT. COMMENTATOR EJIC SEVAREID OF CBS-TV EVENING NEWS (12 JUNE) OBSERVED THAT THE PRIME MINISTER OF VICTORIOUS ISRAEL HAS NOW PUT WHAT HE CALLS THE INTERNATIONAL COMMUNITY ON NOTICE THAT ISRAEL AND NOBODY ELSE WILL DECIDE WHAT ISRAEL'S FUTURE BOUNDARIES ARE TO BE.

7. ALL NEWS MAGAZINES THIS WEEK ATTRIBUTE ISRAEL'S SMASHING VICTORY TO HER PREDAWN AIR STRIKES WHICH ERASED AN EXPENSIVE DECIDE OF RUSSIAN MILITARY AID OF THE ARAB WORLD. ACCORDING TO TIME MAGAZINE, HISTORIANS MAY ARGUE FOR YEARS WHO FIRED THE FIRST SHOT... BUT THE FACT THAT SO MANY ARAB PLANES WERE TRAPPED IN THEIR PARKING AREA SUGGESTED THAT ISRAEL MUCH HAVE STRUCK THE FIRST BLOW. NEWSWEEK ARTICLE SAID THAT IT CAME AS NO SURPRISE THAT ISRAEL MET NO OPPOSITION TO THEIR ATTACKS... BECAUSE SEVERAL TIMES IN THE PAST MONTHS EGYPTIAN RADAR PICKED UP HIGH FLYING ISRAELI SPY PLANES. BUT THE EGYPTIANS RARELY GOT THEIR SOVIET BUILT JETS AROUND IN LESS THAN 26 MINUTES.. US NEWS AND WORLD REPORT DESCRIBES THE ATTACK AS HISTORIC'S MOST OUTSTANDING AIR BATTLE AFTER WHICH ISRAEL WAS QUANTIFIED CERTAIN VICTORY.

CONFIDENTIAL  
DECLASSIFIED

0 13' 2 JUN 67  
FM CTF SIXTY FT FIVE  
TO CTF SIX ZERO  
INFO CNO  
CHINFO

CTF SIXTY FIVE  
CTF ONE ZERO ZERO  
CTF SIX THREE

CTC SIX ZERO PT TWO  
CIRCUSNAVEUR  
USCINCEUR

BT  
N A T O R E S T R I C T E D

SITREP THIRTY

1. 13160341 DR POSIT 3536N7 015-51E. COURSE 285/6 SPD SIX KNOTS.
2. WIND SEVEN KNOTS SEA HEIGHT ONE FOOT. LIBERTY RIDING VELL. ETA MALTA 0817/6.
3. RUSSIAN AGI 43 AGAIN IN COMPANY. REMAINING ON LIBERTY QUARTER AND CLEAR OF WAKE.

BT

A--PARAPHRASE NOT REQUIRED EXCEPT PRIOR TO CATEGORY B ENCRYPTION  
PHYSICALLY REMOVE ALL INTERNAL REFS BY DTG PRIOR TO DECLASSIFICATION.

FLAG ACT.....2.....

TOR 2/14

DECLASSIFIED

CONFIDENTIAL

CVO.....// BEN

13 2 JUN 67

NAVAL MESSAGE  
NAVYCOMM 011076 (NAVY 0-00)  
EL 0-10-010-000

CLASSIFICATION CONFIDENTIAL

RELEASED BY 001	DATE 13 JUNE 1967	CLASSIFICATION CONFIDENTIAL	RECEIVED BY 659
MESSAGE NUMBER 043	DATE TIME GROUP (DTG) 13 12 35Z	PLANS ACCOM E.O.	REMARKS E.O.

FROM: COMSIXTHFLT

TO: CIRCUSNAVECM

INFO:

CONFIDENTIAL

- A. CIRCUSNAVECM 121452Z
- B. SIGNAVINOT 1650.10

1. AS AN INTERIM RESPONSE TO REF A, RECOMMENDATION IS MADE THAT AN EARLY DETERMINATION BE MADE IF ISRAELI ATTACHEES ARE CONSIDERED CROSSING ARMED FORCES IN THE SENSE OF PARA 221 REF B, IN ORDER TO ESTABLISH ELIGIBILITY OF WOUNDED FOR PURPLE HEART. IF LIBERTY PERSONNEL ELIGIBLE, CONSIDER IT IN THE BEST INTEREST OF ALCON THAT AWARDS BE MADE AS SOON AS POSSIBLE. THIS WOULD SERVE AS A POSITIVE ASSURANCE TO A VALIANT GROUP OF MEN THAT THEY ARE FULLY APPRECIATED BY THE NAVY AND THE NATION. AN EARLY PRESENTATION WOULD ALSO AVOID REINTRODUCTION OF THIS ENTIRE AFFAIR INTO THE PRESS AT A LATER DATE.

GP-4

DOWNGRADED AT 5 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.8

*James M. Ennes, Jr.*  
305  
CNR  
117519  
13

DISTRIBUTION:

CONFIDENTIAL

CONFIDENTIAL

18 180931Z  
FM CTF ONE ZERO ZERO  
TO CINCUSNAVEUR  
INFO AKEYS MALTA  
COMSIXTHFLT  
COMPAIRMED  
USCINCEUR  
CINCLANTFLT  
CNO  
USS LIBERTY  
COMDESRONTWELVE  
COMSERVANT  
COMSERVON EIGHT

A-PARAPHRASE NOT REQUIRED EXCEPT PRIOR  
TO CATEGORY B ENCRYPTION PHYSICALLY  
ALL INTERNAL REFS BY DTG PRIOR TO DE  
CLASSIFICATION NO INTERNAL REFEREN-  
CES IF DTG IS QUOTED.

ASO(PA)  
ACEX  
BT

N A T O C O N F I D E N T I A L USS LIBERTY DRY DOCKING MALTA(U)

A. CINCUSNAVEUR 110229Z NOTAL  
B. CINCUSNAVEUR 110512Z NOTAL

1. IF INFO TO AID CTO DESIGNATIONS COMPLETE REF B:

- A. 100.1 MEDICAL, R.V. BROOKS, MD, USN
- B. 100.2 DOCKING AND REPAIR, CAPTAIN R.L. ARTHUR, USN
- C. 100.3 PUBLIC AFFAIRS, CAPTAIN E.L. CASTILLO, USN
- D. 100.4 SECURITY, CAPTAIN C.M. SMITH, USN
- E. 100.5 SUPPLY, LCDR E.A. WINDERHILL, SC, USN
- F. 100.6 COMMUNICATIONS, CAPTAIN M.G. LEAHY, COMDESRON TWELVE
- G. 100.7 USS LIBERTY, CDR J.L. MCGONAGLE, USN
- H. 100.8 ADMINISTRATION/COORDINATION, CAPTAIN F.L. HORNE USN

2. SITREP ONE.

- A. CONFERRED WITH US CORPS, AID AKEYS OFFICIALS AT MALTA 0700 TO 1000 THIS MORNING. COMPLETED PLANS FOR DOCKING OPERATIONS TO COMMENCE ON ARRIVAL LIBERTY ABOUT 2300 LOCAL TONIGHT. ESTIMATE TEN HOURS TO COMPLETE DOCKING AND INSPECTIONS.
- B. PAO PLANS TO MEET LOCAL AND OUT OF TOWN NEWSPEREN THIS MORNING TO ADVISE THEM OF SHIPS APPROXIMATE TEA, DOCKING PLANS, AND COVERAGE GROUND RULES.

3. NEXT SITREP ABOUT 141200Z  
OP-4 (U.S. ONLY)

BT

LAG ACT.....3

TOR 13/1234Z

NR 457/13

CVO...PA...DSV

DTG 130934Z JUN 67

DOWNGRADED AT 9 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DDI DIA 50018

CONFIDENTIAL

REFB CHINFO 142142Z

0 142142Z JUN 67.  
FM CHINFO  
TO RUTKRE/USN AMERICA  
INFO RUTPRC/COMSIXTHFLT  
RDLKD/CINCSNAVEUR  
RUTKRE/CTF SIX ZERO  
RUTPP/USN LIBERTY

**C O N F I D E N T I A L**  
PUBLIC AFFAIRS INTERVIEW OF LIBERTY CREWMEN (U)  
A. USS AMERICA 112005Z JUN 67  
REQUEST BY FASH OF MEANS COPY OF TAPE OF SUBJECT INTERVIEW AND ANY OTHER INTERVIEWS ON THE USS LIBERTY INCIDENT.  
CP-4  
BN

MORE  
PRETS  
CONTROL

FLAG ACT .....

TOR 14 22 05Z JUN 67

NR 716/14

CVO.....

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 13 YEARS  
DOR DIR 520010

14 21 42Z JUN 67

James M. Ennes, Jr. Research Papers

PERNOTIC  
P 141737Z JUN 67  
FM CINCPAC/SECDEF  
TO RUEAIIA/CNO  
RUCINCPAC/CNO  
INFO RUTPRC/CMSIXTHFLT  
RUFPAW/USCINCPAC  
RUCIJFA/9/PERS

CONFIDENTIAL

ELIGIBILITY OF USS LIBERTY CASUALTIES FOR PURPLE HEART AND OTHER AWARDS (C)

- 1. SUPERS 1219722 (TOTAL)
- 2. SECNAVINST P1657.1C

1. PAR 2 REF A STATES QUOTE ALL CASUALTIES USS LIBERTY BEING CARRIED AS DEAD VICE KILLED IN ACTION UNQUOTE. THE STATEMENT, ALTHOUGH RECOGNIZED AS NOT DETERMINATIVE, MAY RAISE SOME QUESTION WHETHER ISRAELI ATTACKERS ARE TO BE CONSIDERED QUOTE OPPOSING ARMED FORCES UNQUOTE FOR PURPOSES OF PAR 231-5 AND 231-12 OF REF B GOVERNING ELIGIBILITY OF LIBERTY PERSONNEL FOR AWARD OF PURPLE HEART.

2. EVEN THOUGH ACTIONS OF ISRAELI FORCES MAY HAVE RESULTED FROM SOME ERROR INTERNAL TO THE US IT IS EXPLICITLY CLEAR THAT, SO FAR AS LIBERTY WAS CONCERNED, SHE WAS ENGAGED IN ACTION WITH OPPOSING ARMED FORCE OF A FOREIGN COUNTRY. THESE OPPOSING FORCES WERE, BY DEFINITION, HOSTILE. LIBERTY'S CASUALTIES WERE THEREFORE KILLED OR WOUNDED EITHER:

- (A) IN AN ACTION WITH AN OPPOSING ARMED FORCE OF A FOREIGN COUNTRY IN WHICH THE ARMED FORCES OF THE UNITED STATES WERE THEN ENGAGED (PAR 231-12(2), REF B);
- OR
- (B) AS THE RESULT OF AN ACT OF ANY SUCH OPPOSING ARMED FORCE (PAR 231-12(4), REF B); OR
- (C) AS THE RESULT OF AN ACT OF ANY HOSTILE FOREIGN FORCE (PAR 231-12(5), REF B).

3. SINCE AWARD OF PURPLE HEART IS MADE BY CWP OR CMC UNDER AUTHORITY DELEGATED BY SECNAV, REQUEST CONCLUSION OF PAR 2 ABOVE BE CONFIRMED TO PERMIT EARLIEST POSSIBLE INITIATION OF RECOMMENDATIONS FOR AWARDS IN APPROPRIATE CASES.

4. SUGGEST THAT FAILURE TO AWARD PURPLE HEARTS COULD LATER BECOME KNOWN TO PRESS AND COULD GENERATE UNWELCOME PUBLIC DISCUSSION OF PROCEDURES WHICH COULD BE INTERPRETED AS DISCRIMINATING NOT ONLY AGAINST THE DEAD AND WOUNDED BUT AGAINST CASES OF INQUESTIONED HEROISM IN ACTION WHICH ARE ONLY NOW BEGINNING TO BECOME KNOWN.

6-4  
BT

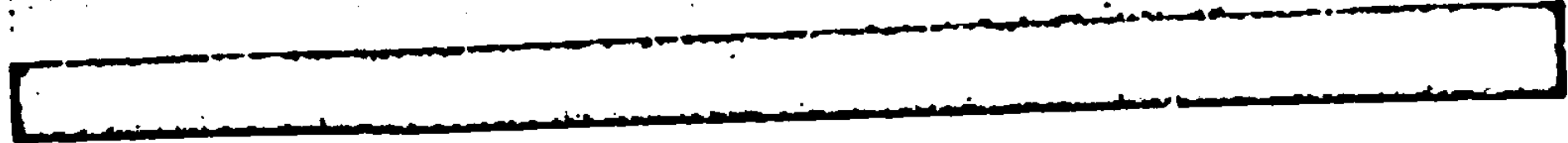
FLAG ACT.....

13  
DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 13 YEARS  
DOD DIR 53008

TOP: 2133/14 JUN 67

NR1676/14

CNO..... LS



KDPF02  
PP RUTPRC  
DE RUDLKD 1029 1651020  
ZNY CCCCC  
P 141020Z JUN 67  
FM CINCUSNAVEUR  
TO RUTPRC/CONSIXTHFLT  
BT

**C O N F I D E N T I A L**

VOICE RADIO LOG

A. YOJR 130720Z JUN 67

1. FOLLOWING IS EXTRACT OF PERTINENT INFO FROM CIRCUIT E04.04 FOR DAYS 8 AND 9 JUNE. COMPLETE LOGS FORWARDED VIA AIR MAIL.

8 JUNE

1308 BELMONT (91) THIS IS CACTUS PETE (CP)  
FOLLOWING RECEIVED FROM SCHEMATIC (SC) GEN  
ROCK STAR (RS) WE ARE HIT BY TORPEDO  
STARBOARD SIDE LISTING SIGHT REQUEST  
ASSISTANCE IMMEDIATELY BT

CP	CP DE 91	RGR AR
1406	91 DE CP	RS QSL YOUR 081340Z K
	CP DE 91	RGR AR
1411	CP DE FA-FARE (FF)	I PASS FROM AS-CHARGER (FC) TO RS INT
		ATTACKING BOATS K
	FF DE CP	RGR ZUJ AR (CP PASSED FOLLOWING TO RS)
	RS DE CP	I PASS FROM FC IN POSIT K
1439	91 DE CP	PASS FROM USS LIBERTY REQ ASSISTANCE

TORPEDO HIT STARBOARD MIDSHIP RUNNING RAMP  
WAS NOT TO 5 APPROX 4 DEAD 3 SERIOUSLY  
WOUNDED 50 WOUNDED RADAR FATHOMETER AND  
GYRO INOPERATIVE REQUIRE OF NAVAL AID  
CONSIST OF SEA AND AIR RESCUE POSITION  
TIME 1405Z 3135.5N 5329E BT ALSO AUTH  
UNABLE DUE TO EMERG DESTRUCTION K

1448	CP DE 91	RGR AR
	SC DE FC	ASSISTANCE IS ON THE WAY K
	FC DE SC	RGR AR
1505	91 DE CP	RS ADVISES ASSISTANCE HAS ARRIVED K
	CP DE 91	RGR AR
1507	CP DE 91	INT FORM OF ASSISTANCE ARRIVED TO RS K
	91 DE CP	I PASS FROM SM (SCHEMATIC) PASS FROM RS
		ASSISTANCE HAS NOT ARRIVED K
	CP DE 91	RGR AR
1532	91 DE CP	I PASS FROM RS THERE ARE UNIDENTIFIED
		AIRCRAFT APPROACHING RS K
	CP DE 91	RGR AR
1535	FC DE CP	UNDERSTAND ESCORT ASSIST DAMAGE AND IF

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS

FLAG ACT. 5.....

DOD DIR 320010

TOR 1235Z/14

NR 441/14

CVO.....//BEN

PAGE ONE OF FOUR

141020Z JUN 67

**CHIEF OF STAFF**



POSSIBLE CONTINUE COURSE 340 MAX SPEED  
 UNTIL 100 MILES FROM PRESENT POSIT THEN  
 TURN 270  
 REQ U PASS TO FC INT SPEED OF ESCORTS TO RS K  
 RGR AR  
 1548 CP DE 84  
 EN DE CP  
 1557 54 DE NAVY 141021 (N1021) REFUR LAST TO FC ESCORTS PROCEEDING  
 AT MAX SPEED K  
 RGR AR  
 1601 1121 DE 84  
 94 DE CP  
 I PASS FROM FC STATIONS BIG DIPPER AND  
 MATADOR PROCEEDING TO ASSISTANT RS K  
 RGR AR  
 1613 CP DE 84  
 94 DE CP  
 I PASS FROM RS TIME 1800 QTH 31 DEGREES 39  
 1125 NORTH 33 DEGREE 32 MINS EAST 3  
 NORTHWEST AT 10 KNOTS K  
 RGR AR  
 1618 CP DE 84  
 14 DE CP  
 I PASS FROM FC ETA RS 0700Z ETA TO RS K  
 RGR AR  
 1626 CP DE 84  
 14 DE CP  
 REQ U PASS TO FC VERIFY MSG 0701Z ETA TO RS K  
 RGR AR  
 1634 14 DE CP  
 I PASS FROM FC CONFIRMATION WILL BE SENT  
 VIA ANOTHER CIRCUIT  
 RGR AR  
 1645 CP DE 84  
 CP DE RS  
 MY COMM SPACES HAVE BEEN DESTROYED AND  
 CANNOT OANY FILES I DO NOT QSL JCS  
 MSG K  
 RGR AR  
 I TO  
 1753 RS DE CP  
 RS SENT IMMEDIATE MSG TO CP  
 1753 RS COMPLETED MSG BUT WAS UNABLE TO COPY DUE TO THIS BARELY  
 READABLE CP ADVISES HE WILL RELAY MSG VIA OTHER MEANS  
 1816 RS DE FC  
 FC DE RS  
 RS DE FC  
 INT U FLYING COLORS AT TIME OF ATTACK K  
 RGR AR  
 1920 54 (CICHER ATTIC) DE RS WE ARE 300 HAO WE HAVE NO FACILITIES  
 AVAIL FOR POSITS K  
 RGR AR  
 1948 RS DE 54  
 CP DE 54  
 INT U RELAYED RS 081715 VIA ANY OTHER MEANS  
 TO 84 YET K  
 IN PROCESS OF SENDING NOW K  
 RGR AR  
 1956 84 DE 84 (PAN466)  
 I PASS FROM DR (DERAIL) WHO PASS FROM FC  
 THAT RS BELIEVES THAT HE CAN QSY FREES BUT  
 IF QSO NOT ESTABLISHED HE WILL RETURN TO  
 THIS FREQ K  
 RGR PASS TO DR INT RS KNOW FREQ FOR 48 K  
 ZJJ AR  
 20 DE 84  
 31 DE 84

1957 DR DE 54 INT C RS DOES KNOW THE FREQ FOR 4B X  
 BI DE DR RS DOES KNOW THE FREQ FOR 4B X  
 DI DE 54 RGR AR  
 1965 CP DE 54 PASS TO RS TO QSY TO 4B X  
 BI DE CP R AR  
 1980 NOTE SEEN 8 LINE RS HAS LOST QSO WITH EVERYONE  
 1910 CP DE 54 INT QSO RS X  
 BI DE CP ZUG X  
 1910 FI DE 54 INT QSO RS X  
 BI DE FF ZUG ZGV FOR 10 MINS X  
 FI DE 54 RGR PASS TO BC (BLUE CAT) TO QAF FOR RS ON  
 BI DE FF 1B IS QSO LET U KNOW TO LET ME KNOW ASAP X  
 1920 BI DE FF RGR AR

1920 RGR X FM BC HE HAS ESTABLISHED QSO WITH RS  
 ON 4B  
 1920 Q NETWORK (OW) DE BI QSY TO 4B REQ ALL STAS QSO RELAY SAME AR  
 2031 PASSING VARIOUS TR BETWEEN RS AND TH VIA L/L (LAND LINE)  
 2350 FI DE 54 PASS TO RS INT HE KNOW FREQ FOR 4C X  
 BI DE FC FC RGR AR  
 BI DE FC NP ZUG X  
 I DE 54 RGR AR

109 UHS  
 0310 HND QSY TO 4C  
 0500 CI WAS TOLD THAT HE DIDN'T HAVE TO RGR NET BECAUSE OF TAKING  
 RS TRAFFIC AND HOLD RDO CHKS EVERY TEN MINS  
 WITH RS BUT TO LISTEN UP BEFORE PMIT  
 HND  
 0640 CI DE 54 REQ U HOLD 1/4 HRLY RDO CHKS WITH BTG AND  
 RS AND REPORT THETA RESULTS INCLUDING  
 SIG STR AND READ X  
 (CALL TIME 011)

0720 BI DE CP QSO RS W/R HE QSOZE G/R X  
 CF DE 54 RGR AR  
 0811 BI DE CP QSO RS W/R HE QSO HE G/R X  
 CF DE 54 RGR AR  
 0930 BI DE CP QSO RS L/C BOTH WAYS X  
 CF DE 54 RGR AR  
 0921 BI DE CP QSO RS L/C X  
 CF DE 54 RGR AR  
 1000 BI DE CP ... I QSO RS L C ...UR  
 CF DE 54 RGR AR  
 1041 BI DE CP UNIN QSO RS X  
 CF DE 54 ZUG AR  
 1050 BI DE CP ZGV RS I HAVE GOLF TIME GOLF CRESTIES X  
 CF DE 54 RGR ZUG AR

PA DE 54 GIVE RS AND GTG A CALL FOR ME X  
 BI DE PN RGR AR  
 1051 CF HEARS BTG ANSWERING PN I HAVE CONTACT WITH GTG L C BOTH WAYS X  
 BI DE CP RGR HAVE GTF VIE RS A CALL THIS FREQ AND  
 DE 111

PAGE THREE OF FOUR

141020Z JUN 67

CHIEF OF STAFF

1958 DE CP  
04 DE CP

1859 DE BN  
04 DE CP

DE BN

1114 IS DE CP

1118 IN DE CP

1120 LE BN  
04 DE CP

130 LE BN RGR  
04 DE CP

END OF PERTINENT PORTIONS OF VOICE RECORD  
USS LIBERTY  
P-4  
BT

INFORM ME IF HE OSD N  
RGR AR  
I HAVE GTG BUT ZGN RS ALSO GTG HAS ZGN  
WITH RX N  
RGR UNDERSTAND IS GTG IN COMPANY WITH RS N  
ZUJ WILL CHECK AR  
GTG ADVISES THAT HE HAS VISUAL CONTACT WITH  
RS N  
RGR HAVE GTG PASS TORS TO ARK THIS PREG ANT  
LISTEN FOR HIM IF HE IS ZUH REQ TO KNOW WHAT N  
REQ U ADVISE BY VISUAL MEANS THRU GTG VISA  
U ARE NOT ABLE TO ANSWER UP THIS CKT AT  
I PASS FM GTG RS IS PRESENTLY MAINTAINING  
NITH ON OLLA U/F WITH DR K  
RGR FIND OUT WHAT KIND CKT THAT IS N  
ZUH REQ U CK A EX CHARLIE OF 10'S FOR  
THAT CKT N  
RGR REQ TO KNOW WHAT TIME RS ON THIS NET N  
I PASS FM GTG S ZUJ THIS CKT AIRW 294INS  
AGO AND GTG HAS HIS ZKP N

James M. Ennes, Jr. Research Papers

C

K9 NR 10892  
O 19 19 01Z JUNE 67  
FM USS AMERICA  
TO COMPAIRMED  
BASE OPS ATHENS  
INFO COMSIXTHFLT  
CINCUSNAVEUR  
CTD SIX ZERO  
NALCOEURREP NAPLES  
NAVSUPACT NAPLES  
USS LIBERTY  
CTG ONE ZERO ZERO PT THREE  
CTG SIX SEVEN PT TWO  
BT

C O N F I D E N T I A L

LIBERTY HOUIDED (U)

1. COMSIXTHFLT 150735Z JUNE 67

2. CINCUSNAVEUR 151132Z JUNE 67

1. REF D APPROVED PROPOSAL CONTAINED REF A FOR INCREMENTAL AIRLIFT LIBERTY PERSONNEL FROM AMERICA.

2. IN INTEREST OF REDUCING FLYING TIME IN C1 TYPE AIRCRAFT SUGGEST COO LIFE OF LIBERTY PERSONNEL TO SOUDHA BAY VICE ATHENS FOR FURTHER TRANSFER TO NAVSUPACTNAPLES IN MALTA VIA NALCO FLIGHT. MODIFICATION TO PREVENT NALCO FLIGHTS INTO SOUDHA BAY WOULD BE REQUIRED.

3. COCS CAN COMMENCE SHUTTLE AMERICA TO SOUDHA BAY AT 1132Z 07 JUNE FOR FIRST HOODSENT OF 24 PERSONNEL. INTEND USE MA COCS VR-24 ATHENS AND AMERICA CARRIER COO LIFT.

4. BASE OPS ATHENS - KNASS TO SENAV VR-24 DDT ATHENS. INCREMENTAL LIFTS ARE CONTAINED NY 142111Z JUNE 67 PASEP. FISST LIFT WILL REQUIRE TWO CAS RIGGED WITH LITTER K 150

GP-4

BT

NOT RECLASSIFIED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
EODR DUE 520010

PLAG ACT... 13

TCR 15/1642Z

NR 511/15

CWO. 217 DSW

DTG 15 15 01Z JUNE 67

**CONFIDENTIAL**

KR NR 10819  
O 151527Z JUNE 67  
FM NALCOEURREP NAPLES  
TO COMSIXTHFLT  
INFO COMPAIRVED  
NASOPS ATHENS  
USS AMERICA  
CTO ONE ZERO ZERO PT THREE  
CTO SIX SEVEN PT TWO  
BT

**CONFIDENTIAL**  
NASOPS ATHENS PASS TO SENAV VR-24 DET ATHENS  
LIBERTY WOUNDED FAX

- A. YOUR 150730Z JUNE 67 (NOTAL PASEP)
- 1. CAN PROVIDE C-13 ACFT SOUDHA BAY OR ATHENS 16 JUNE FOR LIFT PARA FIVE ACFT AND (2) SUGGEST SOUDHA BAY IN ORDER TO MAKE MAXIMUM USE CGO SHUTTLE AMERICA/SOUDHA BAY. REQ ADVISE.
- 2. ADDITIONALLY REQ THAT SENAV VR-24 DET ATHENS BE INCLUDED AS ADDEE FOR PLANNING CGO SHUTTLE.

P-4  
BT

DECLASSIFIED AT 5 YEAR INTERVALS  
EXCLASSIFIED AFTER 12 YEARS  
DOL DLS 52001Q

FLAG ACT.....13.....

TOR 15 17 17Z JUNE 67

NR 529/15

CVO.....PA.....1-9

15 15 27Z JUNE 67

**CONFIDENTIAL**

DECLASSIFIED

151130Z JUNE 67  
FM USDAO TEL AVIV  
TO WHITE HOUSE  
OSD  
CNO  
DEPT STATE  
OINSIXTHFLT  
CINCSTRINE  
CINCUSNAVEIR  
JCS  
INFO DIA

DECLASSIFIED  
By DIA OIA of  
14 MAY 1982

USUN  
CINCEUR/USEUCOM  
CTG SIX ZERO FT TWO  
USAFB  
CINCUSNAVEIR  
CTG SIX ZERO  
BT

CONFIDENTIAL 14892 JUNE 67.  
ICF DAO TEL AVIV PERS JUNE 67. SUBJECT LIBERTY INCIDENT.  
1. COMMODORE SCHOLOMO ERELL, COMMANDER IN CHIEF IDF NAVY, ASKED  
ALUSNA TO CALL UPON HIM EARLY EVENING 14 JUNE. COMMODORE  
PRESENTED APOLOGIES AND EXPRESSIONS OF REGRET IN REGARD LIBERTY  
INCIDENT TO THE U. S. NAVY ON BEHALF OF ISRAELI NAVY AND SAID HE  
WAS PREPARING LETTER TO CNO USN. HE SAID INCIDENT WAS GREAT  
MISTAKE; THAT IDF NAVY PERSONNEL INVOLVED FEEL QUOTE YEPRIPE  
UNQUOTE AND THAT THE INCIDENT IN FACT SPOLE: ALL FEELING OF  
VICTORY FOR IDF NAVY IN RECENT HOSTILITIES.  
2. ERELL STATED HE DID NOT WANT TO COMMENT ON ELEMENTS OF  
INCIDENT UNTIL THE ISRAELI COURT OF ENQUIRY HAD RENDERED FINDINGS.  
WHEN ASKED IF THOSE FINDINGS WOULD BE TRANSMITTED TO THE UNITED  
STATES THE COMMODORE SAID HE PRESUMED THEY WOULD BE.  
3. AS IN EVERY CASE WHEN ISRAELI OFFICERS MENTIONS THE INCIDENT  
COMMODORE ERELL REMARKED ON HOW CLOSE LIBERTY WAS TO SHORE LINE.  
ALUSNA REPLIED THAT LIBERTY WAS IN INTERNATIONAL WATERS.  
4. COMMENT A. COMMODORE ERELL WAS OBVIOUSLY VERY DISCOMFORTED  
BY NEED FOR AND FACT OF MEETING WITH ALUSNA WHICH MIGHT BE PART  
OF EXPLANATION WHY THERE WAS SO LONG A DELAY BETWEEN EVENT AND  
FIRST OFFICIAL IDF NAVY PRESENTATION OF APOLOGIES.  
5. THE U. S. AMBASSADOR HAS BEEN INFORMED ON OTHER CHANNELS  
THAT ISRAELI COURT OF ENQUIRY WILL PROBABLY COMPLETE ITS ACTIONS  
ON 16 JUNE.  
6. COORDINATED WITH EMBASSY.

Group 3  
Downgraded at 12 year  
intervals; not  
automatically declassified

PLAS ACT...3...

TOR 13/1525Z JUNE 67

NR 435/19

CNO. P.A. DSV

DTG 151130Z JUNE 67

DECLASSIFIED CONFIDENTIAL

V PPN6939 APH732C...AA23EZCYHC395  
PP RUTPRC  
DE RUENAAA2934 1661988  
ZNR UUUUU  
P R 151821Z JUN 67  
R CHINFO  
TO RUDLKD/CINCUSNAVEUR  
RIGPAAA/COMII-EASTFOR  
RITKRE/CTG SIX ZERO PT ONE  
RICKER/CTF SIX ONE  
RIPPE/CTF SIX TIFEE  
RITPAC/COMSITFLT  
RIEDNA/CINCLANTFLT  
RIPAN/CTG SIX ZLRO PT TWO  
RICKER/CTF SIX TWO  
INFO RUFFERA/CINCPACFLT  
RIMCUL/COMSEVENTHFLT

BY  
UNCLAS

SIXTH FLEET HEADLINE REPORT 15 JUNE 1967

1. ALL MEDIA COVERED YESTERDAY'S ARRIVAL OF LIBERTY IN THE PORT OF VALETTA, MALTA. WASHINGTON POST STORY INCLUDED PICTURE OF THE SHIP WITH THE CAPTION POINTING OUT THE HOLES IN HER SIDE. WITH ANOTHER PICTURE SHOWING LIBERTY'S CO ON THE BRIDGE. ANOTHER ARTICLE IN CHICAGO TRIBUNE AND A FILM REPORT ON CBS TV EVENING NEWS SAID THAT STRICT SECURITY MEASURES WERE BEING IMPOSED UNTIL AN INVESTIGATION OF THE INCIDENT HAS BEEN CONDUCTED.
2. CONSIDERABLE MEDIA COVERAGE CONTINUES ON AFTERMATH OF THE MIDDLE EAST WAR. CHICAGO TRIBUNE FRONT PAGE ARTICLE SAYS UN SECURITY COUNCIL TURNED DOWN A RUSSIAN RESOLUTION CONDEMNING ISRAEL FOR AGGRESSION AND DEMANDING IMMEDIATE WITHDRAWAL OF ITS FORCES TO THE POSITIONS HELD ON 4 JUNE.
3. WASHINGTON DAILY NEWS ARTICLE (14 JUNE) SAYS THAT THE MIDDLE EAST WAR AGAIN PROVES THE NEED FOR A NUCLEAR FLEET...AND WHILE THE MIDDLE EAST CRISIS ENDED WITH A CEASE-FIRE THERE WILL BE NO SUCH CONCLUSION TO THE BATTLE TO GET A NUCLEAR NAVY. ARTICLE GOES ON TO SAY THAT THE MIDDLE EAST SITUATION HAS INCREASED THE PRESSURE ON THE SECRETARY OF DEFENSE TO ABANDON HIS STUBBORN RESISTANCE TO CONGRESS ON THIS MATTER.
4. NEW YORK TIMES ARTICLE REPORTS THAT THE LEVEL OF FUTURE SOVIET MILITARY ASSISTANCE TO THE ARABS IS NOT CLEAR FOLLOWING A MEETING BETWEEN OFFICIALS OF BOTH NATIONS. PHILADELPHIA INQUIRER REPORTS THAT THE SOVIETS ARE IN NO HURRY TO REPLACE WEAPONS ARAB FORCES WERE UNABLE TO MASTER.
5. CBS-TV EVENING NEWS HAD FILMED INTERVIEW FROM LONDON WITH CAPTAIN CASTELLO CONCERNING LIBERTY INCIDENT. INTERVIEW DEALT MAINLY WITH DAMAGE TO THE SHIP.

FLAG ACT...13...

TOR 15/1943

NR 632/15

CV0...<sup>PA</sup>...JHD

15 18 02Z JUL 67

RUC 497V QAC697V VUAT167V  
RR RUTPRC  
DE RUCXRM #051801 1662045  
ZNY CCCCC  
R 192045Z JUN 67  
FM USS LIBERTY  
TO CINCPACFLT  
INFO COMSIXTHFLT  
COMDESRON TWELVE

CONFIDENTIAL

*Liberty*

CONFIDENTIAL  
USS LIBERTY AWARDS (U)

NUR 121456Z JUNE 67  
/ IN AS MUCH LIBERTY SUBJECT TO ARMED ATTACK IN HOSTILE ENVIRONMENT  
LET APPEARANT QUOTE ENEMY UNQUOTE DETARE WHO REQUEST ADVISE IF  
APPROPRIATE TO RECOMMEND COMBAT AWARDS.  
ICF A PERTAINS,  
CP-4  
BT

DOWNGRADED AT 5 YEAR INTERVALS  
DECLASSIFIED AFTER 10 YEARS  
E.O. 11652

FLAG ATZ.....

TO: 1357Z NRI 4P2/16 CVO.../RDM//151Z

15 20 45Z JUN 67

CONFIDENTIAL



NAVAL MESSAGE  
NAVY/USCIB/NAVY (NAVY) (NAVY)  
FL 011-011-7-00

CLASSIFICATION

CONFIDENTIAL

RELEASED BY 01/ <i>Colm Smith</i>	DATE 16 JUNE 1967	FOR/FRS 0215Z 15 Jun	ROUTE APC	FILE NO. 669	CLASS BY
MESSAGE NUMBER 023	DATE TIME GROUP (DTG) 15 01 35	PRECEDENCE ACOM	PLACE	CLASS	ROUTE

FROM: CINCPACFLT  
TO: CINCSAVETK

INFO: USIA AMEMB/OTES/NAVYSPACE NAPLES/OTYADMED / UNSECURED NAPLES  
LIBERTY / CTG 100.3 / CTG 67.2  
CONFIDENTIAL

1. <sup>Forty Two</sup> A LIBERTY WOUNDED NOW REGARD AMERICA BE SUFFICIENTLY RECOVERED TO BE TRANSFERRED TO FACILITIES ASIDE. <sup>asylum to duty</sup> RECOMMEND EARLY EVACUATION TO FREE BED SPACE IN AMERICA'S SICK BAY FOR CONTINGENCY.
2. IN VIEW REQUIREMENT THAT SURVIVORS NOT BE INTERVIEWED BY PRESS UNTIL CONCLUSION COURT OF INQUIRY. CONSIDER STATION HOSPITAL NAPLES WHERE SUPPORT OF NSA AND USIA PERSONNEL IS AVAILABLE TO HANDLE AMERICAN AND FOREIGN MEDIA REFS AND MEDIA WOUNDED CAN BE MADE AVAILABLE TO COURT WITH RELATIVE EASE, TO BE BEST LOCATION ASHORE.

~~3. ...~~ *press control*

4. EVACUEES WILL RECEIVE BRIEFING FROM DLEST PNO PRIOR TO THEIR DEPARTURE.

4. SUBJ YOUR CONCURRENCE ARRANGEMENTS FOR TRANSFER AS OUTLINED BELOW.

*MIC / 497  
AW / 15 Jun 67*

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 18 YEARS  
DDI DMR 030018

DISTRIBUTION:

5. PUI COMPANIED/ASA NAVY: IF CIRCUMSTANCES OCCUR IN TRANSFER, DISPOSITION OF PATIENTS IN FOLLOWING INCREMENTS PROPOSED:

A. FIRST INCREMENT

(1) FIFTEEN PAT FOR FURTHER HOSPITALIZATION AS FOLLOWS: FOUR <sup>FOLLOWS:</sup> <sup>LETTER</sup> ~~LETTERS~~ FOUR ON CRUTCHES AND SEVEN AMBULATORY. REQUIRES ONE MEDICAL ATTENDANT AND PRESSURIZED CABIN OR LESS THAN 5,000 FT <sup>AMFCUT</sup> ALTITUDE FOR T.O. LITTER PATIENTS.

(2) NINE RETURN TO DUTY.

B. SECOND INCREMENT:

(1) TWO PATIENTS FOR FURTHER HOSPITALIZATION, ONE LITTER, ONE AMBULATORY.

(2) FOUR RETURN TO DUTY. 6-1-7

C. THIRD INCREMENT

(1) SIX PATIENTS FOR FURTHER HOSPITALIZATION, TWO LITTER, TWO ON CRUTCHES, TWO AMBULATORY. REQUIRE ONE MEDICAL ATTENDANT AND PRESSURIZED CABIN OR LESS THAN 5,000 FT <sup>THE</sup> ALTITUDE FOR <sup>THE</sup> PATIENTS.

(2) SIX RETURN TO DUTY.

6. PROPOSED FIRST INCREMENT <sup>JUNE</sup> TRANSFER ON 16 JULY, SECOND INCREMENT 17 <sup>JUNE</sup> JULY, THIRD INCREMENT 19 <sup>JUNE</sup> JULY

7. <sup>FOR AMERICA:</sup> ~~REPORT BY NAME~~ FURNISHED ALONG, AS PATIENTS ARE TRANSFERRED.

8. PUI COMPANIED: ARRANGE TRANSPORTATION PAPERS TO: ALTA <sup>FFT LIBERTY</sup> ~~NO~~ FOR PATIENTS RETURNING TO DUTY.

9. DETAILED COMPANIED AID & SERICIA FOR FLIGHT ARRANGEMENTS.

*Handwritten:* 13

KR NR 29523  
O 150200Z JUNE 67  
FM CTG ONE ZERO ZERO  
TO CINCUSNAVEUR  
INFO COMB MALTA  
COMSIXTHFLT  
COMSERVFOR SIXTHFLT  
USCINCEUR  
COMFAIRNED  
CNO  
ASD (PA)  
CINCLANTFLT  
COMSERVLANT  
COMSERVROM EIGHT  
USS LIBERTY

**CONFIDENTIAL  
DECLASSIFIED**

BT  
RATOC ON F I D E N T I A L  
USS LIBERTY DRYDOCKING AT MALTA SITREP FOUR  
1. SHIP ENTERED DRYDOCK AT 1400A. AT 1530 CANVAS UP IN PLACE AND  
COMMENCED PUMPING OUT. DRYDOCK DRY AT 1915. SEVERAL DELAYS.  
BUT NO MAJOR DIFFICULTIES WERE ENCOUNTERED. MODERATE AMOUNT OF  
FLOATING MATERIAL, SOME OF WHICH WAS CLASSIFIED, WAS RECOVERED IN  
DOCK BY US NAVY SWIMMERS AND RAFT WATCH.  
2. TORPEDO DAMAGE AS FOLLOWS:  
A. SHELL DAMAGE: HOLE CENTERED AT FR 68 AND EXTENDING 24 FT DOWNWARD  
FROM JUST BELOW SECOND DECK AND LONGITUDINALLY FROM FRAME 53 TO FRAME  
66 (39 FEET). HOLE REARDROP IN SHAPE LARGER .....  
B. INTERIOR STRUCTURAL DAMAGES: FORWARD 1 1/2 FEET OF FIRST PLATFORM,  
AND ASSOCIATED STRUCTURE BADLY DAMAGED. LESSER DAMAGE TO SECOND  
PLATFORM DECK (TANK TOP), SECOND DECK AND FRAMES BUCKLED FROM FRAME  
59 FRAME 62 AND EXTENDING INBOARD 18 FEET.  
C. MAJOR DAMAGE TO ALL INTERIOR JOINTER BULKHEADS BELOW SECOND DECK,  
FRAME 52 TO 78 ENTIRE WIDTH OF SHIP.  
D. KEEL STRAIGHT AND APPARENTLY NOT DAMAGED.  
3. MISSING MEN. SEARCH AND REMOVAL OF BODIES COMMENCED AT 1830.  
SEARCH EXTREMELY DIFFICULT DUE TO MASSES OF DERRIS THROUGHOUT FLOODED  
AREAS. AS OF 2200 TWELVE BODIES ACCOUNTED FOR AND ENCASED AND WILL BE  
DELIVERED TO NAPLES TONIGHT FOR FINAL IDENTIFICATION AND PREPARATION.  
SEARCH CONTINUES FOR REMAINING THIRTEEN BODIES. BEST ESTIMATE FOR  
FINAL ACCOUNTING AND AIR SHIPMENT TO NAPLES IS 0800 19 JUNE.

4. PUBLIC RELATIONS  
A. STILL AND MOPIX OF LIBERTY ENTERING PORT. PREPARATIONS FOR  
DRYDOCKING TOPSIDE EXTERNAL DAMAGE, AND COMMANDING OFFICER POINTING  
OUT DAMAGE ON BRIDGE AND IN STATEROOMS HAS BEEN FORWARDED .....  
BY COURIER. DELIVERY EXPECTED APPROX MIDNIGHT (LOCALS) WED /

FOR 15 07 40Z JUNE 67

PAGE ONE OF TWO

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 18 YEARS

DD FORM 1300

NR 328/15

CVO. ....1111

15 02 00Z JUNE 67

A--PARAPHRASE NOT REQUIRED EXCEPT PRIOR TO CATEGORY 9 ENCRYPTION  
PHYSICALLY REMOVE ALL INTERNAL REFS BY DTG PRIOR TO DECLASSIFICATION.

**CONFIDENTIAL**

B. ONE ROLL 35 MM BLACK AND WHITE CONTAINING ABOUT SIX STILL'S OF COMMANDING OFFICER AS ABOVE WAS DELIVERED UNDEVELOPED TO ASSOCIATED PRESS MALTA AT 141400Z FOR POOL TO ALL.

C. NBC AND CBS HAVE SHIPPED OWN EXTERNAL DISTANT PHOTOGRAPHY TO LONDON FOR SATELLITE TRANSMISSION. IF PAO DID SHORT INTERVIEW AT REQUEST OF CBS.

D. PAO PROVIDING EMBASSY FREQUENT PROGRESS REPORTS FOR USE IN ANSWERING LOCAL INQUIRES. CHIEF QUESTIONS, HOWEVER, ARE: WHEN CAN WE INTERVIEW CAPTAIN; WHEN CAN WE VISIT SHIP; AND HOW MANY BODIES ARE ABOARD. NONE OF WHICH CAN BE ANSWERED AT THIS TIME.

E. EXISTENCE OF IF 100 HAS NOT ATTRACTED PUBLIC NOTICE. DO NOT RPT NOT INTEND TO MENTION PRESENCE OF RADH RENKEN UNLESS DIRECTLY QUESTIONED.

F. AS WRAP-UP, PRESENTLY INTEND TOMORROW MORNING INVITE NEWSMEN INCLUDING PHOTOGRAPHERS, FOR RIGIDLY CONTROLLED TOUR TOMORROW AFTERNOON OF TOP SIDE AREAS PLUS ONE OR TWO COMPARTMENTS ON LOWER DECKS, GEAR POINT OF DECK, FROM WHICH ALL CLASSIFIED EQUIPMENT HAS BEEN REMOVED.

PLAN TO PERMIT PHOTOGRAPHS OF EXTERIOR DAMAGE AND INTERIOR SHOWING AT THIS TIME, BUT EXTERIOR HOLE IN HULL WOULD BE COVERED BY CANVAS. COMMANDING OFFICER WOULD BE PHOTOGRAPHED AND BE PHOTOGRAPHED, BUT ASIDE FROM PAYING TRIBUTE TO CREW HE WOULD MAKE NO RPT NO COMMENTS ON INCIDENT AND WOULD NOT RPT NOT ANSWER QUESTIONS REGARDING IT. BELIEVE THAT IF NEWSMEN KNOW CAPTAIN WILL CONTINUE TO BE UNAVAILABLE FOR SOME TIME, THIS TOUR WILL CLOSE OUT STORY HERE AND OUT OF TOWN NEWSMEN WILL DEPART.

G. BY WORKING THROUGH THE NIGHT EXPECT TO CLEAR THE DAMAGED AREA OF ALL REMAINS AND CLASSIFIED EQUIPMENT BY 151100Z.

H. IN SUMMARY, THE USS LIBERTY PERFORMED EFFICIENTLY, COMMANDING OFFICER TO SAMAN, FROM ARRIVAL IN EASTERN MED OPERATING AREA, THROUGHOUT THE ATTRA RS IN IL SAFELY DRYDOCK TODAY. WITHOUT SUCH PERFORMANCE THE SHIP MIGHT EASILY HAVE BEEN LOST IN RELATIVELY SHALLOW WATER.

I. ANTICIPATE NEXT AND FINAL SITREP BY 151200Z. UNODIR PLAN DISSOLVE IF 100 AND DEPART 151500Z IN P3A AIRCRAFT WITH CAPTAIN SMITH, CDR PLATZEN, LCDR BRYD, PT LEVESQUE, CVO WICKHAM, LT LEE, AND LT EDMISTEY. THE FOLLOWING WILL STAY WITH SHIP FOR PURPOSE INDICATED: CAPT ARTHUR ABOUT 3 WEEKS TO SUPERVISE MALLA RAND CNSH PLACERS AND DESIGNERS WHO ARRIVED TODAY.

CAPT ARTHUR ABOUT 3 WEEKS TO SUPERVISE MALLA RAND CNSH PLACERS AND DESIGNERS WHO ARRIVED TODAY.

CAPT HONE SEVERAL DAYS FOR ADMIC.

CAPT CASTELLO ONE TO TWO DAYS TO WIND UP PA.

CDR KAUEK AND LCDR UNDERHILL FOR SEVERAL DAYS FOR SUPPLY MATTERS.

COMM ON 12 UNTIL 29 JUNE FOR COMMUNICATIONS.

FOR USS. ADDEES ONLY

PAGE TWO ( TWO

NR NR 12013  
PR 16 2141Z JUN 67  
FM CHINFO  
TO CINCUSNAVEUR  
COM IDESTFOR  
CTG 511  
CTF 61  
CTF 63  
COM SIXTHFLT  
CINCLANTFLT  
CTG 68.9  
CTF 64  
INFO CINCPACFLT  
COM SIXTHFLT

BT  
INCLAS

SIXTHFLT HEADLINE REPORT 16 JUNE 1967

1. SEVERAL PAPERS CONTINUE REPORTS ON LIBERTY INCIDENT. DEBY HEARSON IN THE WASHINGTON POST SAYS OF THE ATTACK THAT EITHER THE AMERICAN COMMANDER OF LIBERTY WAS NEGLIGENT OR THE ISRAELI MILITARY GOT HEADSTRONG AND ATTACKED THE SHIP REGARDLESS OF ITS FLAG. OR BOTH. THE COLUMN ADVANCES ANOTHER THEORY THAT LIBERTY, WITH A NAVY CREW, WAS UNDER THE COMMAND OF THE CIA...

AND THE CIA IS RESPONSIBLE FOR FAILING TO NOTIFY THE ISRAELIS OF HER POSITION. ST. LOUIS DISPATCH ARTICLE SAYS LIBERTY IS ONE OF MANY INTELLIGENCE GATHERING SHIPS OPERATED BY THE NAVY FOR THE NATIONAL SECURITY AGENCY. BALTIMORE SUN ARTICLE SAYS NEWS BLACKOUT VEILS ISRAELI ATTACK WHICH KILLED 34. AND ATTRIBUTES SILENCE TO INVESTIGATION OF INCIDENT WHICH WILL TAKE ABOUT A WEEK.

2. WASHINGTON DAILY NEWS (15 JUNE) CARRIED AN ITEM WHICH IMPLIES THAT RUSSIA IS BEEFING UP HER SEA FORCES IN THE MID EAST. REPORT SAYS THAT THREE MORE SOVIET NAVY SHIPS WILL PASS THROUGH THE GARDANELLES THIS WEEK ENOUGH TO THE MEDITERRANEAN.

3. SEVERAL PAPERS HAVE REPORTS THAT THE LIBYAN GOVERNMENT HAS ASKED THE UNITED STATES AND BRITAIN TO LIQUIDATE THEIR BASES IN LIBYA AND WITHDRAW THEIR FORCES AT THE EARLIEST POSSIBLE CONVENIENCE.

4. ALL MEDIA GIVING HEADLINE TREATMENT TO ANNOUNCEMENT THAT SOVIET PREMIER KOSYGIN IS TO VISIT THE UNITED STATES TO REPRESENT THE SOVIETS AT THE UN IN CONNECTION WITH MIDEAST DEBATES. ALL REPORTS SAY KOSYGIN IS STOPPING IN PARIS TO CONFER WITH DE GAULLE. AND TRP MAY PROMOTE A SUMMIT MEETING.

5. DUE TO LACK OF NEWS ITEMS CONCERNING SIXTHFLT, THIS REPORT IS BEING DISCONTINUED. IN THE FUTURE, SIMILAR REPORTS WILL BE SENT WHENEVER SIXTHFLT UNITS RECEIVE MAJOR INTERNATIONAL NEWS COVERAGE.

LAG ACT.....

TOR 0326/17

NR 332/17

CV0.....//BEN

16 21 41Z JUN 67

W KDPNS  
RRUTFC  
DE RDLKD 1867 16R1458  
ZNY CCCCC  
R 171458Z JUN 67  
FM CINCUSNAVEUR  
TO USS LIBERTY  
INFO COMSIXTHFLT  
COMDESRON TWELVE

CONFIDENTIAL  
COMBAT AWARDS (U)

A USS LIBERTY 192145Z JUN 67  
1. QUESTION OF ELIGIBILITY OF USS LIBERTY CASUALTIES  
FOR PURPLE HEART AND OTHER AWARDS HAS BEEN POSED  
TO HIGHER AUTHORITY. PENDING RESOLUTION OF POLICY  
SUGGEST YOU BEGIN PREPARATION RECOMMENDATIONS  
FOR COMBAT AWARDS AND WHEN COMPLETE FORWARD VIA  
COMSIXTHFLT AND ORIGINATOR.

BT-4  
BT

DOWNGRADED AT 5 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5300.1

PLAD ACT... 07.....

TOR 171212Z JUN 67

NR 533/17

CVO. *Ch...* DRB

171458Z JUN 67

NAR .R 12876  
P 181105Z JUN 67  
FM CINCUSNAVEUR  
TO RUTPRG/USS LIBERTY  
INFO RUFFBK/USCINCEUR  
RUDYCR  
PP RUTPRG  
DE RUDLKD 1023 101105  
ZNY CCCCC  
P 181105Z JUN 67  
FM CINCUSNAVEUR  
TO RUTPRG/USS LIBERTY  
INFO RUFFBK/USCINCEUR  
RUDYCR/ANEMB VELLETTA MALTA  
RUENAKA/ASD PA  
RUTPRG/CONSIXTHFLT  
BT

**C O N F I D E N T I A L**

1. ASSOCIATED PRESS STORY FILED 17 JUNE FROM MALTA BY COLIN FROST STATES QUOTE SENIOR CREWMEN OF THE U.S. NAVY SHIP LIBERTY ARE CONVINCED THAT ISRAEL'S AIR AND TORPEDO ATTACK ON THEIR SHIP, WHICH COST 34 AMERICAN LIVES, WAS DELIBERATE. A RESPONSIBLE SOURCE SAID FRIDAY IN VALLETTA. THEY HAVE TESTIFIED TO THIS EFFECT TO THE NAVY INQUIRY COURT NOW IN SECRET SESSION ABOARD THE SHIP. THEIR BELIEF WAS BASED ON THE FACT THAT THE ISRAELIS HAD ENOUGH TIME TO IDENTIFY THE SHIP AND ON THE INTENSITY OF THE ATTACK UNQUOTE.

DOWNGRADED AT 5 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 520010

PAGE 2 RUDLKD 1023 C O N F I D E N T I A L

2. STORY LATER STATES QUOTE OFFICIALLY, LIBERTY'S TASK WAS TO MAINTAIN COMMUNICATION WITH AMERICAN EMBASSIES IN THE WAR TORN MIDEAST THAT WERE PLANNING AN EVACUATION OF AMERICAN CITIZENS FROM THEIR AREAS. BUT ALL MILITARY MEN IN THIS FORTRESS ISLAND LONG VERSED IN THE WAYS OF WAR TAKE IT FOR GRANTED THAT THE LIBERTY WAS ALSO UNDER ORDERS TO INTERCEPT AND EVALUATE RADIO COMMUNICATIONS OF FIGHTING ISRAELI AND ARAB FORCES. FOR FOUR HOURS BEFORE THE ATTACK THE SHIP HAD BEEN UNDER CONSTANT SURVEILLANCE FROM ISRAELI PLANES CIRCLING OVERHEAD AND INHER QUOTE WE WERE FLYING OLD GLORY AND IT'S ABSOLUTELY IMPOSSIBLE THAT THEY SHOULDN'T KNOW WHO WE WERE, END INHER QUOTE ONE SURVIVOR SAID UNQUOTE.  
3. WHILE SOME OTHER MATERIAL IN STORY WAS RELEASED BY OFFICIAL SPOKESMEN, THE ABOVE QUOTES APPEAR TO BE BASED EITHER ON AUTHORIZED INTERVIEWS OR THE REPORTER'S CONJECTURE. SINCE HE EXPRESSED A STRONG BELIEF THAT THE ATTACK COULD NOT HAVE BEEN ACCIDENTAL TO THE IF 130 PAD BEFORE LIBERTY ARRIVED AT MALTA,

PAGE 3 RUDLKD 1023 C O N F I D E N T I A L  
THE LATTER POSSIBILITY IS NOT UNLIKELY. AT THE SAME TIME, THERE IS REASON TO BELIEVE HE ATTEMPTED TO CONVERSE ON THIS SUBJECT WITH LIBERTY CREWMEN ABOARD. BECAUSE OTHER REPORTERS MAY ATTEMPT TO FOLLOW UP, YOU MAY FEEL IT APPROPRIATE TO REPEAT PREVIOUS ADMONITION TO YOUR FINE CREW TO REFRAIN FROM SPEAKING ABOUT MATTERS UNDER INVESTIGATION UNTIL FINDINGS OF COURT OF INQUIRY HAVE BEEN ANNOUNCED.

GP-4

BT

*Do we have this!*

*F.A. 13*

*James Earl Ray Jr. Research Papers*

NR NR 13369  
P 191612Z JUN 67  
FM CINCUSNAVEUR  
TO CNO  
CNC  
NF COMSIXTHFLT  
USCINCEUR  
SUPERS  
BT

**C O N F I D E N T I A L**

**ELIGIBILITY OF USS LIBERTY PERSONNEL FOR HOSTILE FIRE ENTITLEMENT  
FOR HOSTILE FIRE PAY AND INCOME TAX DEDUCT (C)**

**A. CINCUSNAVEUR 141731Z JUN 1967**

**B. CNO 176112Z JUN 1967**

1. REFS A AND B DISCUSSED DETERMINATION AS TO ELIGIBILITY OF USS  
LIBERTY CASUALTIES FOR PURPLE HEART AND OTHER AWARDS. REF B  
ADVISED THAT DECISION WOULD BE DELAYED UNTIL REPORT OF COURT OF INQ-  
URY HAS BEEN RECEIVED AND REVIEWED.

2. IN ADDITION TO DETERMINING ELIGIBILITY OF USS LIBERTY CASUALTIES  
FOR PURPLE HEART AND OTHER AWARDS, IT IS REQUESTED THAT A DECISION  
BE OBTAINED AS TO THE ELIGIBILITY OF USS LIBERTY FOR ENTITLEMENT  
OF HOSTILE FIRE PAY AND INCOME TAX DEDUCTION FOR BEING IN HOSTILE  
FIRE AREA. A FAVORABLE DETERMINATION WOULD BE FINANCIAL BENEFIT,  
A BOOST TO THEIR MORALE AND TANGIBLE RECOGNITION OF THE HEROIC DEEDS AND  
AND SACRIFICES OF THE OFFICERS AND MEN OF THE USS LIBERTY.

GP-4  
BT

PLA/ACT/.....13.....

TO: 14512/19

NR 588/19

INFO/.....CA.....BLB

19 16 10Z JUN 67

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 5200.10



Rec'd by phone from [unclear]  
1030 B 29 June

Liberty  
file

FOR CDR COONEY FROM LCDR SIMS  
REF CHINFO 281930Z JUN 67  
AT ADM KIDD'S REQUEST I CALLED  
TO USS LIBERTY THIS MORNING  
AND ADVISED HIM THAT TO  
USS LIBERTY SHOULD AVOID  
ANY QUESTIONS FROM AIRSQUAD  
UNTIL HE RECEIVED POSITIVE  
GUIDANCE FROM JICMIL  
AUTHORITY AND UNTIL SIXTH  
FLEET PUBLIC AFFAIRS OFFICER  
WAS AVAILABLE IN AREA  
TO ASSIST ~~TO~~ LIBERTY HAS  
NOT RECEIVED TEXT NOR SUMMARY  
OF LAD PRESS RELEASE.

James M. Ennos, Jr. Research Papers  
V.R.  
[Signature]

NAVAL MESSAGE  
NAVY FORM 1117 (REV. 6-60)  
11 62-118-010  
RELEASED BY *[Signature]*

RELEASED

CLASSIFICATION

EPTO

DATE 21 JUN 61

MESSAGE NUMBER

077

TORQUES

14014

GROUP

JUU

6-7

PROG  
DEVS  
ACTS  
DVA

PROG FILE NO

195

GROUP

NEW

CLASS.

PRIORITY

ROUTE

X X X

SHYRKA

ALYRKA

FROM: CONSISTELT

TO: NAICOURREP NAPLES

INFO: CONFIRMED, TERRY, CINCUSIAEUR / *[Signature]* CAMGRUBAN DE NAPLES

UCLAS EPTO

AIRLIFT REQUIREMENT

1. HAVE REQUIREMENT TO AIRLIFT CPT D R COOPER S. IN CONSISTELT AFRY.  
30 JUN 61  
NAPLES TO N. L. L. DEPARTING NAPLES 12:00 PM JUN 29 DEPARTING MALTA 12:00 PM JUN 30  
30 JUN 61 AND FLT 30143003 JUN.  
NO EARLIER THAN

2. REQUEST CONFIRM

*COOPER (13)  
STILL MOVING  
AROUND TO  
CONTROL TIME  
START!*

*216 / 116  
14014 / 18*

DISTRIBUTION:

CLASSIFICATION UCLAS EPTO

*151341  
DTG JUN 17*

APM5017045317ZCPM454R  
FM HUPF 077 18021P1  
ZNY EEESE  
PR 252101Z JUN 67  
FM HUPF/NAACP NAPLES  
TO RADM CINCPACFLT  
INFO RADM C/COMSIXTHFLT  
RADM/USCINCPACFLT

File  
Slitz!

UNCLAS  
INFO RELEASE ON USS LIFEITY  
ON 06/29/67 LT MCILWAIN, CDR SIPS 29 JUN  
RE REQUEST FROM IRVING P. LEVINE, NBC NEWS, FOR INTERVIEWS  
WITH RADM LIFEITY AND RADM KIDD CONCERNING USS LIFEITY  
IN INCIDENT REPORT. INTERVIEWS DESIRED IN ROOM 10 NAPLES,  
IN EARLY AFTERNOON.  
RADM LEVINE REQUEST LEVINE SAID THAT IF USS LIFEITY IS NOT  
AVAILABLE IN ROOM 10 NAPLES, HE DESIRES TO KNOW HOW LONG HE WILL  
BE AWAY WITH VIEW TOWARD SENDING CREW THERE TO FOR INTERVIEW.  
RADM LEVINE ADVISED RADM THAT RESPONSIBILITY OF INTERVIEWS WILL BE  
UPON RADM LEVINE'S PROVIDER REQUEST.  
RADM KIDD AWARE OF ABOVE REQUEST AND SUGGESTS RADM LEVINE  
CONTACT RADM KIDD TO SAID RADM TO PREVIOUSLY RELEASED RADM  
RADM KIDD REQUEST FOR INTERVIEW ROOM 10 NAPLES.  
RADM LEVINE ADVISED.

James M. Ennes, Jr. Research Papers

KIDD KILLS  
NBC REQUEST  
FROM IRVING P. LEVINE  
NBC TO RADM  
MCILWAIN -  
MORE CONTACT  
OK THAT  
NEWS

R. AS ACT..... 12  
TOR 214 2729  
R 581/29  
25 21 11Z JUN 67

URC 989  
P 292234Z JUN 67  
FM CHINFO  
TO RUDLK DAC INCUSNAVEUR  
INFO RUFPRK/USCINCEUR  
RUTPRC/COMSIXTHFLT  
RUEONKA/COMSERVANT  
RUTPRM/USC LIBERTY  
RUENG/ANMMA MALTA  
RUEDDJA/COMONE  
RUEPJS/OASD(PA)  
BT

UNCLAS  
LIBERTY INTERVIEW REQUEST

A. CHINFO 17:387Z JUN 67

B. SECDEF 252157Z JUN 67

1. REF A REQUESTED TELEPHONE INTERVIEWS BE ARRANGED WITH

LIBERTY C.O. AND CREWMEN FROM BOSTON AREA. MR. ED MCGRATH,

BOSTON GLIPE. REF B AUTHORIZES INTERVIEWS IF CREWMEN DESIRE.

REQUEST ADVISE CHINFO PROPOSED TIME AND DATE FOR INTERVIEW,

COMMERCIAL TELEPHONE NUMBER TO BE USED, AND ANY RECOMMENDATIONS

ON THE CONDUCT OF SUCH INTERVIEWS. SOURCE RULED TO BE LAW REF B.

BT

FLAG ACT.....

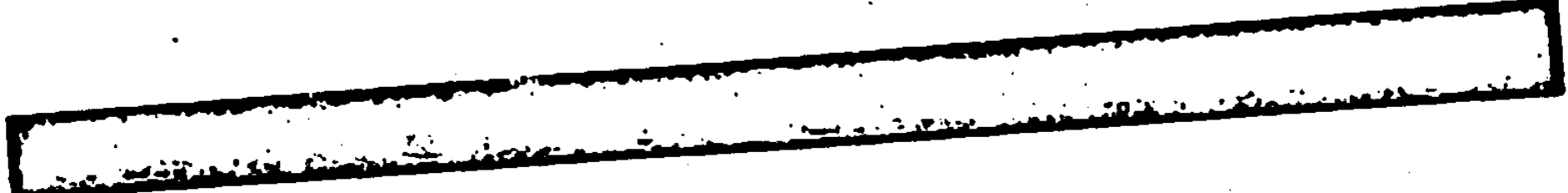
TORL 0500Z JUN 67

NR 253/37

MCS... *al* ..... BU

*File  
Liberty*

*James M. Ennes, Jr. Research Papers*



DE CTE 1700 10 0000

UU PPHG 618 APM 05Z CHA 099Z CYNB 318

PP RUT PRG  
DE RUEUAAA4783 170 1980  
ZNY EEEEE ZDK RUEAAA  
P 231930Z JUN 67

FM CHINFO  
TO RIDLIO/CINCSKAVEUR  
RUT PRG/CONSIXT HFLT  
RURF/NEA NAFILES  
RUEUAAA/CINCLANTFLT  
RUEUAAA/COMSERVLANT  
RUEUAAA/USSLIBERTY  
RUEUAAA/CONFIVE

BT  
UNCLAS E F T O

1. PRESS RELEASE ON USS LIBERTY  
2. IT IS ANTICIPATED THAT A PRESS RELEASE CONSISTING OF A NARRATIVE  
ACCOUNT OF THE COURT OF ENQUIRY AND STATEMENT BY C. O., USS LIBERTY,  
WILL BE RELEASED TO THE PRESS BY OAS (PA) TODAY.  
3. WHEN THIS MATERIAL IS RELEASED, ANY FOLLOW-UP JOURNALISTIC QUESTIONS  
WILL BE REFERRED TO OAS (PA). COMMANDS ARE REQUESTED TO SEC THAT  
ALL CONCERNED ARE SO ADVISED.  
4. FOR NEA NAFILES, REQUEST HAS ADVISE RANX RDD AT CINCSOUTH.  
BT

3/KH  
13

James M. Ennes, Jr. Research Papers

CONFIDENTIAL

*File  
Liberty*

FP8347  
R 272217Z JUNE 67  
FM CNO  
TO CINCPACNAV  
INFO CMC

CCSIXTYFIVE  
LCCINCEUR  
RUPERS

CONFIDENTIAL

ELIGIBILITY OF USS LIBERTY PERSONNEL FOR HOSTILE FIRE PAY  
AND INCOME TAX EXCLUSION (C)

A. YOUR 191612Z

B. NY 171611Z

C. EXECUTIVE ORDER 11216 SUBJ COMBAT ZONE TAX EXCLUSION  
FOR REFERENCE A REQUESTED DETERMINATION ELIGIBILITY USS  
LIBERTY PERSONNEL FOR ENTITLEMENT TO HOSTILE FIRE PAY

AND INCOME TAX EXCLUSION.

2. DETERMINATION OF ELIGIBILITY FOR ENTITLEMENT TO  
HOSTILE FIRE PAY WITHHOLD PENDING COMPLETION AND REVIEW  
OF COURT OF INQUIRY PER REFERENCE B.

3. RECRET NO INCOME TAX EXCLUSION AUTHORIZED. REFERENCE  
C ONLY APPLICABLE TO VIETNAM AND WATERS ADJACENT THERETO.

G-4  
H

DECLASSIFIED AT 3 YEAR INTERVALS  
OR DECLASSIFIED AFTER 12 YEARS  
DDI DIR 320010

James M. Ennis, Jr. Research Papers

FLAG ACT...002...

TOR 28/0719Z JUNE 67

NR 323/28

CVO...PA...DSV

DTG 2 7 2 2 1 7Z JUNE 67

CONFIDENTIAL

PPNG389  
O 272241Z JUN 67  
FM SEC DEF  
TO RUEPBCZ USCINCEUR  
RJJDL D C IN USNAVEUR  
RJJPRC COMSIXTHFLT

BT  
UICLAS DEF 899Z USCINCEUR ATTN GENERAL BURCHINAL FROM ASD(PA)  
S3D GOULDING

I HAVE SENT TO YOU BY COURIER A COPY OF PRESS STATEMENT TO BE  
RELEASED HERE SUMMARIZING THE COURT OF INQUIRY PROCEEDINGS ON THE  
USS LIBERTY. THIS IS FOR YOUR PERSONAL USE ONLY. WHEN THE  
MATERIAL IS RELEASED IN WASHINGTON, ALL SUBSTANTIVE QUESTIONS WILL  
BE ANSWERED HERE. COPY OF THE QUESTIONS AND ANSWERS WILL BE  
PROVIDED TO YOU AS RAPIDLY AS POSSIBLE. NO REPEAT NO SUBSTANTIVE  
QUESTIONS SHOULD BE ANSWERED BY ANYONE OTHER THAN ASD (PA).  
BT

MORE  
PRESS  
CONTROL

FLAG ACT.....13.....

TOR #031/23 JUN 67

MSGNR 219/28

MCS.....MAL

27 22 41Z JUN 67

NAVAL MESSAGE  
NAVY/USCIB (110/4) (INT. 0-00)  
DL 00-100-100

231106Z

CLASSIFICATION

CONFIDENTIAL

File  
Liberty

RELEASED BY

049 3 Kaitu

PREPARED BY

151 Wilson

DATE

23 JUN 1967

YOUR FILE

11372

CLASSIFIED BY

RB

MESSAGE NUMBER

049

DATE TIME GROUP (GMT)

231125

JUN

67

PERCE

DELIC

ADAM

INFO

NAME

EDDY

FRUITS

ROCK

Y003

X007

FROM: COMSIXTHFLT

TO: COMJES LIBERTY/CINCUSNAVEUR

INFO: U.KINCEUR/CTF60/CTG80.2/USC AMERICA/USC SANTIAGO (AEM) MALTA/USC PAPIGO/  
COMFAIRBID

CONFIDENTIAL

LIBERTY PRESS CONFERENCE

A. CITE 221516Z JUN

1. LAW REF ALFA

WILL BE AVAILABLE TO ASSIST AT CJRJ INTERVIEW.

2. ETA TO BE FT

APPROXIMATELY.

GP-4

DOWNGRADED AT 5 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DDO DUE 8/2000

COONEY ON  
GUARD AGAIN

1876  
KH/11372

DISTRIBUTION:



NR4J NR4112  
O P 210910Z JUN 67  
FM USDAO TEL AVIV ISRAEL  
TO RUEPWW/WHITE HOUSE  
RUEPJS/OSD  
RUEHAAA/CNO  
RUEHC/DEF STATE  
RUEKCF/CCMSIX/NFLT  
RUEBPSA/CINCSST/IE  
RUEIDL/CINCPAC/AF  
RUEYDA/JCS  
RUEFO/RUEFJS/DIA  
RUEHPT/USUN  
RUEPFRN/CINCEUR- USSUCOIN  
RUEPFRN/CTG SIX ZERO FT TWO  
RUEPFRN/USAF  
RUEPFRN/CINCSUR/AF  
RUEPFRN/CTG SIX ZERO  
RUEPFRN/USDAO LONDON  
RUEPFRN/USDAO PARIS  
RUEPFRN/USDAO MOSCOW

DECLASSIFIED  
By DIA Otr.  
of 14 May 1982

GROUP 8  
Downgraded to Secret  
Intervals 1-3  
Substantially declassified

File  
Liberty  
James M. ... Jr. Research Papers

CONFIDENTIAL 0948 JUN 67  
SUBJECT: COURT OF INQUIRY IN USS LIBERTY INCIDENT.  
REF: USDAO CONFIDENTIAL 0928 JUN 67.

1. ALUSIA CALLED TO FLO LATE EVENING 29 JUN. LT COL FLOCH  
PRESENTED FOLLOWING OFFICIAL STATEMENT WHICH IS BEING RELEASED TO  
ISRAELI PUBLIC. QUOTE: "THE COURT OF INQUIRY NOMINATED BY THE CHIEF  
OF THE GENERAL STAFF IN CONSEQUENCE OF THE TRAGIC INCIDENT WITH THE  
USS LIBERTY HAS PRESENTED ITS REPORT WHICH WAS TRANSMITTED TO THE  
MILITARY ADVOCATE GENERAL. AFTER EXAMINING THE EVIDENCE, THE

LATTER HAS DECIDED ON THE HOLDING OF A PRELIMINARY JUDICIAL INQUIRY  
BY A MILITARY OFFICER, LEGALLY QUALIFIED, WHO IS EMPLOYED BY LAW  
TO DECIDE ON THE COMMITMENT FOR TRIAL OF ANY PERSON. THE PRESIDENT  
OF THE APPEAL COURT MARTIAL (SIC) HAS NOMINATED LT COL ISRAH  
JERUSHALIM, ONE OF THE LEGALLY QUALIFIED JUDGES OF THE APPEAL  
COURT MARTIAL TO HOLD THE INQUIRY UNQUOTE.

2. LT COL FLOCH AND LT COL LEVIN (SENIOR FLO) MADE FOLLOWING  
ADDITIONAL COMMENTS: THE COS HAS RECEIVED THE FINDINGS OF THE  
COURT OF INQUIRY (COL RON) APPOINTED BY HIM (COS FORWARDED THE  
FINDINGS TO JAG COL SHINGAR. AFTER EXAMINING THE EVIDENCE JAG  
RECOMMENDED THAT A PRELIMINARY JUDICIAL INQUIRY BE HELD. AS A

...

12  
R40 ACT.....  
TOR 104627 JUN 57 NR 325/23 CNO.....DCB  
21 09 10Z JUN 67  
PAGE ONE OF TWO

RESULT THE PRESIDENT OF THE HIGHEST IDF MILITARY COURT, THAT IS, THE APPEAL COURT-MARTIAL APPOINTED AS THE PRELIMINARY JUDICIAL INQUIRY, A PERMANENT MEMBER OF THE APPEAL COURT-MARTIAL, LT COL ISAIAH HERUSHALMI WHO IS A QUALIFIED LAWYER AND FORMER JAG OF THE NAVY AND OF THE AIR FORCE. THIS INQUIRY WILL DETERMINE IF THERE IS ANY INDIVIDUAL OR INDIVIDUALS AGAINST WHOM ANY CHARGES COULD BE BROUGHT.

3. LT COL BLOCH FURTHER STATED THAT THE IDF AGREES (SIC) TO HEAR TESTIMONY OR WITNESS THE USN OR USJ IS INTERESTED IN PROVIDING IN THIS CASE.

4. COMMENT: LT COL BLOCH SAID THAT GENL GEVA, THE ISRAELI MILITARY ATTACHE TO WASH DC, WILL PRESENT THE ANNOUNCEMENT IN PARA 1 TO THE USJ. GP-3.

B

NHYKLV URC 918AGDVV KDX 154  
RR RUTPRC  
DE RUDLKD 1858 1711525  
ZNR UUUUU  
R 201525Z JUN 67  
FM CINCUSNAVEUR  
INFO RUTKRE/CTF SIX ZERO  
RUTPRC/COMSIXTHFLT  
RUTPP/USS LIBERTY  
RDTG/AHEMB VALLETTA  
O 201043Z JUN 67  
FM CINCUSNAVEUR

INFO RUEHAAA/CHD  
RUEHC/SECNAV  
RUTPBK/USCINCEUR  
R 191022Z JUN 67  
FM USDAO ROME  
TO CINCUSNAVEUR  
BT

UNCLAS 74 JUN 67  
ARTICLE FROM ROME DAILY AMERICAN EDITION ON SUNDAY 19 JUNE  
HEAD LINED QUOTE LIBERTY CREWMAN SAYS ATTACK WAS DELIBERATE  
UNQUOTE DATED LINED VALLETTA, MALTA JNS CARRIED BY AP FOLLOWS:  
QUOTE VALLETTA, MALTA (AP) -- SIX OR SEVEN OF THE STRICKEN U.S.  
NAVY SHIP LIBERTY ARE CONVINCED THAT ISRAEL'S AIR AND TORPEDO  
ATTACK WHICH COST 34 AMERICAN LIVES WAS DELIBERATE, A RESPONSIBLE  
SOURCE SAID IN VALLETTA SATURDAY.  
THEY HAVE TESTIFIED TO THIS EFFECT TO THE NAVY INQUIREY  
COURT NOW IN SECRET SESSION ABOARD THE SHIP AS SHE UNDERGOES  
EMERGENCY REPAIR IN A MALTA DRYDOCK.

THEIR BELIEF WAS BASED ON THE FACT THAT THE ISRAELIS HAD  
AMPLE TIME TO IDENTIFY HER AND ON THE INTENSITY OF THE ATTACK.  
LIBERTY WAS STRUCK JUN 5 AS SHE LAY 15 MILES OFF THE  
ISRAELI COAST. SHE IS A FORMER FRIGHTER CONVERTED THREE YEARS  
AGO TO A COMMUNICATIONS AND RESEARCH SHIP.

EXCEPT FOR HER ARRAY OF AERIALS SHE HAS THE CONTOURS OF A  
MERCHANT SHIP AND SHE CARRIED 4.5 MACHINEGUNS AS HER ONLY  
ARMAMENT.

SHE SAILED INTO THE MEDITERRANEAN FROM HER BASE AT NORFOLK,  
VA., IN THE FIRST WEEK OF JUNE AND HAD BEEN IN POSITION OFF THE  
ISRAELI COAST ONLY 24 HOURS WHEN THE ATTACK CAME.

OFFICIALLY, HER TASK WAS TO MAINTAIN COMMUNICATION WITH  
AMERICAN EMBASSIES IN THE FAR EAST THEN PLANNING AN  
EVACUATION OF AMERICAN CITIZENS.

FLAG ACT/...2.....

TOR 1835Z/20 NR 912/20  
PAGE ONE OF TWO  
CITE LOGED

CV0/....P.A.... ELS

19 10 22Z JUN 67

1. William Gill, American Broadcasting Co, American
2. Charles Rapallo, American Broadcasting Co, American
3. Robert Cirace, American Broadcasting Co, American
4. Robert Gorski, National Broadcasting Co, American
5. Peter Sturken, National Broadcasting Co, American
6. Alberto Pasquini, Columbia Broadcasting System, Italian
7. Vincenzo Mariani, Columbia Broadcasting System, Italian
8. William Ray, Life Magazine, American
9. Neil Sheehan, New York Times, American
10. Robert Hurton, Associated Press, American
11. Harry Stathos, United Press International, American
12. Ronald Payne, London Sunday Telegraph, English
13. Albert Blanchard, Detroit News, American
14. Marvin Zim, Time/Life, American
15. J. A. Gregg, BBC, English
16. E. G. Hartins, BBC, English
17. T. C. Mangold, BBC, English
18. James Allan, London Daily Telegraph
19. Helmut Sorge, Der Spiegel, German

File  
Sullivan  
Liberty & Justice

IMMEDIATE  
NO DTG  
FM CINCUSNAVEUR  
TO COMSIXTHFLT  
BT

UNCLAS E F T O  
WIRE NOTE FOR COMMANDER COONEY, STAFF PAO, PLEASE DELIVER ASAP  
UPON RECEIPT IN COMSIXTHFLT COMCENTER.

1. SECDEF HSB TWO EIGHT TWO ZERO FIVE ONE ZULU JUNE CANCELS  
SECDEF TWO SEVEN TWO TWO FOUR ONE ZULU WHICH ADDRESSED ITSELF  
TO COURIER-DELIVERED COPIES OF THE DOD RELEASE AND FURTHERMORE  
STATES THAT PORTIONS CONTAINED IN RELEASE ARE THE ONLY  
DECLASSIFIED PORTIONS OF COURT OF INQUIRY. ADMIRAL MCCAIN VERIFIED  
WHICH CHINFO THAT RELEASE RECEIVED HERE AND BY VICE ADMIRAL MARTIN  
IS UNCLASSIFIED AND YOU MAY REPRODUCE COPIES FOR LIBERTY, WEDS  
MALTA, REAR ADMIRAL KIDD, AND USE AS SOURCE OF INFORMATION IN  
RESPONSE TO INQUIRIES. DISTRIBUTION OF COPIES TO THE PRESS  
ALSO OK.
2. ADMIRAL MCCAIN WANTS TO TALK TO YOU BY TELEPHONE TOMORROW.  
SUGGEST YOU BE AVAILABLE IN BO' SIYS' OFFICE AT TWELVE HUNDRED  
NAPLES TIME. I WILL PUT THROUGH A CALL TO YOU WHEN ADMIRAL IS  
FREE. REGARDS, OVERBY.  
BT

James M. Ennes, Jr. Research Papers

COONEY OVERSEAS  
RELEASE OF  
SANITIZED  
VERSION OF  
COURT OF INQUIRY (COVER-UP)

*Liberty file*

MEMPHIS  
TO THE COMMANDER  
USSC LIBERTY  
INFO CMC  
CINCPACFLT

RE: PERFORMANCE OF USS LIBERTY PERSONNEL.  
DURING THE OPPORTUNITY TO REVIEW COMPLETELY THE ACTION  
TAKING YOUR COMMAND R-14 JUNE, I DESIRE TO EXPRESS MY DEEP  
APPRECIATION FOR THE OUTSTANDING PERFORMANCE OF THE OFFICERS AND CREW  
OF LIBERTY. THE MANNER IN WHICH YOUR CREW PERFORMED WHILE  
UNDER ATTACK AND IN RETURNING YOUR DAMAGED SHIP TO PORT IS A LASTING  
TRIBUTE TO THEIR TRAINING AND YOUR LEADERSHIP. AND A GREAT  
EXAMPLE TO FOLLOW A CAREER AT SEA. IT IS CLEARLY EVIDENT THE  
WAS THE MAJOR FACTOR IN KEEPING LIBERTY AFLOAT AND OPERATING UNTIL  
ASSISTANCE ARRIVED.  
IT WOULD HAVE BEEN GOOD TO HAVE LIBERTY IN THE EUROPEAN  
THE PERFORMANCE OF LIBERTY PERSONNEL HAS BEEN IN KEEPING WITH THE  
HIGHEST STANDARDS OF THE US ARMED FORCES.  
LUTHER L. LEWITZEL, GENERAL, USA

James M. Ennes Research Papers

13

TOP SECRET

MSG NR 436/67

CONFIDENTIAL

17 167 JUL 67

[REDACTED]

TO NY 2711  
P 131044 JUL 67  
FM CTF 62.05  
TO CINCUSNAVEUR  
FM RUTPRC/CONSIXTHFLT  
BT

CINCUSNAVEUR  
IS NOT  
IMPRESSED

*Lilaty*

CONFIDENTIAL

A. NY 871718Z  
B. CONSIXTHFLT 128225Z

1. SPEAKING FIRST ON SUBJECT OFFICER. MY INITIAL CONTACT WAS ON BOARDING UPON OUR ARRIVAL. HE WAS SOMEWHAT STUNNED BY EVENTS WHICH HAD TAKEN PLACE AND WAS EXHAUSTED HAVING BEEN UP SOME TWENTY FOUR HOURS AND UNDER STRESS FOR SOME EIGHTEEN HOURS. HIS WOUND WAS A FLESH WOUND WHICH BLED PROFUSELY BUT FINGER PROBE SHOWED NO SHRAPNEL IN LEG AND ONLY TISSUE DAMAGE. WHILE DISCUSSING SITUATION WITH ME HE WAS PERFECTLY ABLE TO MOVE AROUND THOUGH WITH PAIN. THIS PHASE DOES NOT SEEM TO FIT STATED DEFINITION OF RED HONOR NOR WHAT I HAVE SEEN IN DAMAGED SHIPS WITHIN THE KOREA.

2. RELATIVE TO DAMAGE CONTROL. FIREFIGHTING APPEARED TO BE THE OUTSTANDING ACTION BY CREW. ALSO ACTION MEDICAL TEAMS REPAIRED OUTSTANDING AND UNOCCUPIED SAVED LIVES. FLOODING CONTROL WAS ROUTINE IN THAT PERMANENT WATER TIGHT BOUNDARIES PREVENTED FURTHER FLOODING RATHER THAN ANY MEASURE THAT WAS OR COULD HAVE BEEN TAKEN. EVALUATION OF STABILITY WAS NOT MADE NOR LIQUID SHIFT MADE TO CORRECT LIST UNTIL DONE BY ASSIST PARTY. FAILURE TO DO SO COULD HAVE HAD VARIOUS CONSEQUENCES IN HEAVY WEATHER. FAILURE TO RESTORE VENTILATION ALSO CAUSED FIRE HAZARD FROM HEAVY OIL FUMES AND FAILURE ISOLATE AND REPAIR BY SE SELECTED CIRCUITS SUCH AS LIGHTING AND FIRE PUMP CONTRIBUTED TO POTENTIAL DANGER. IN SUMMARY CREW APPEARED TO HAVE UNDERTAKEN SOME ACTION IN AN OUTSTANDING MANNER SOME AVERAGE AND SOME BELOW. SIXTEEN HOUR PERIOD FROM TIME COMPLETION ATTACK UNTIL DAVIS ALONGSIDE DOES NOT SEEM TO HAVE BEEN UTILIZED IN AN EXCEPTIONALLY GOOD MANNER.

GP-4  
BT

DOWNGRADED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DOD DIR 520010

FLAG ACT 13

Z01 0202 NR 239/11 CVO.../RDA/11/83562

DTG: 10 15 '30Z JUL 67

James M. Entress Research Papers

*Liberty file  
Congressional*

URCSB  
P 071712Z JULY 67  
FM CTG SIX ZERO PT FIVE  
TO CINCUSMAVEUR  
INFO COMSIXFLT  
CTF SIX ZERO  
CONSERVFOR:ATHFLT  
BT

COFF COPY NO. 1  
COFF POSITION UNDER  
COFF PER S/C - 15838C/10  
CWO. .... JHS

C O N F I D E N T I A L  
A. CONSIXFLT 070834Z PARA FOUR C  
B. SECNAVINST P 155F.1C  
USS LIBERTY

1. I AM PERMITTED TO CONSIDER THAT MY PRIMARY SUBORDINATES TO GIVE  
IMPRESSIONS IN ADDITION TO MY OWN ARE CDR HILTON COOPER WHOSE SHIP  
GAVE ASSISTANCE AND LCDR PETTY, USN WHO WAS SENT TO LIBERTY TO  
RELIEVE DEAD LINE OFFICERS AND ASSIST INCAPACITATED CO.  
2. ON RECEIPT PER ALL OF US HAVE STUDIED SECTION PER WHICH PERTAINS

TO CONSIDERATION.  
3. BY DEFINITION OF THIS AWARD NONE OF US WERE IN POSITION OR  
SEEM TO GIVE PERTINENT OR VALID IMPRESSIONS.  
4. WE WERE OF COURSE IN POSITION TO SEE RESULTS OF ACTION AND  
RESULTS OF DAMAGE CONTROL MEASURES.  
5. SINCE NO ASKED COMMENT ON PARA FOUR ABOVE W/O FOR  
INITIALS DETAILS, USODIP,  
6. GENERAL OPINION WOULD BE NEGATIVE, THIS WOULD BE BASIS ON  
ABOUT FIFTY PERCENT EFFECTIVE DAMAGE CONTROL. ALL INVOLVED  
PERSONNEL WERE FIGHTING AS LONG AS STAMINA WOULD ALLOW  
AS EXPECTED UNDER EXISTING CONDITIONS.  
7. THIS NOT TO BE CONSIDERED AS ADVERSE TO US. SINCERE ADMIRATION  
BRAVE AND DEDICATED CONDUCT.

CP-4  
BT

REGRADING AT 3 YEAR INTERVALS  
EXCEPT AFTER 12 YEARS  
USC HR 20010

FLAG ACT. 1.3

TOR 07/2321 JULY 67

NR 633/P7

CVC. (u) DSW

DTG P 7 17 1 07 JULY 67



*Liberty file*

W IMC711APP13ICZCMAA96LCRT#217  
RR RUTPRC  
DE RUENAAA975 3 1991600  
ZNY CCCCC  
R 051607Z JUL 67  
FM CNO  
TO RDLKD/CINCUSNAVEUP  
INFO RUCIHOA/CYC  
RUFPBK/USCINCELR  
RUTPRC/COMSIXTYFLY  
RUCIJFA/BUPERS

CONFIDENTIAL

ELIGIBILITY OF USS LIBERTY PERSONNEL FOR PURPLE HEART  
AND OTHER AWARDS (U)

A. CINCUSNAVEUP 141737Z JUN 67

B. CNO 171611Z JUN 67

C. SECNAVINST P1659.1CC

1. IN RESPONSE TO REF A, CINCUSNAVEUP WAS ADVISED BY REF B TO DEFER  
INITIATING RECOMMENDATION FOR AWARDS PENDING NAVY DEPARTMENT REVIEW  
OF THE COURT OF INQUIRY.

2. RECOMMENDATIONS FOR PURPLE HEART, AND OTHER AWARDS AS APPROPRIATE,  
MAY NOW BE INITIATED FOR LIBERTY'S NAVY AND USMC PERSONNEL WHO,  
(IN THE CASE OF PURPLE HEART) WHILE SERVING UNDER COMPETENT AUTHORITY  
IN ANY CAPACITY WITH AN ARMED FORCE OF THE UNITED STATES, HAS BEEN OR  
MAY HEREAFTER BE KILLED OR WOUNDED AS A RESULT OF AN ACT OF ANY HOSTILE  
FOREIGN FORCE." (ART. 231, SUB-PARA 12B(5) OF REF C).

3. WITH RESPECT TO CIVILIANS, WHILE THERE IS NO LEGAL BAR, SECNAV  
POLICY HAS BEEN NOT TO AWARD MILITARY DECORATIONS. STATE DEPARTMENT  
CONSIDERING DEVELOPMENT SEPARATE CIVILIAN MEDAL FOR AWARD UNDER CIRCUM-  
STANCES SIMILAR THOSE PRESCRIBED FOR PURPLE HEART. ACCORDINGLY,  
SUGGEST PURPLE HEART RECOMMENDATIONS FOR CIVILIANS BE SUBMITTED WITH  
UNDERSTANDING AWARD OF THE STATE DEPARTMENT MEDAL, IF DEVELOPED, COULD  
BE CONSIDERED IN EVENT PURPLE HEART NOT APPROVED.

4. CNO CONCURS.

G-4

B.

RESTRICTED AT 3 YEAR INTERVALS  
DECLASSIFIED AFTER 12 YEARS  
DDI DLR 530010

FLAG AC.....

TCO 051915Z JUL 67

N RS 22/00

CNO.....

MOLE

051607Z JUL 67

James M. Jones, Jr. Research Papers

CONFIDENTIAL

*Liberty file*

XRAJ NR 2460  
P 211045Z JUL 67  
FM //SDAO AMEMBASSY TEL AVIV  
TO RUCIJUA/CNO  
RIDLKD/CINCUSNAVEUR  
NINFO RUCXCF/COMSIX//FLT  
RUEPJS DIR

DECLASSIFIED  
By DIA 07  
14 MAY 1982

CONFIDENTIAL 1099 JU. 67  
ISRAELI FOREIGN LIAISON OFFICE REPORTS EXISTENCE OF  
RUBBER LIFE RAFTS POSSIBLY FROM USS LIBERTY ON SINAI  
COAST ABOUT TEN MILES WEST OF EL ARISH. HAVE OFFERED  
TO TRANSPORT ALUSHA TO SITE EARLY MORNING 24 JULY FOR  
PURPOSE OF INSPECTION AND IDENTIFICATION BUT SAY  
DETERIORATION OF DEERIS PROBABLY PRECLUDES REMOVAL FROM  
AREA. IDF IS FORWARDING A CO-2  
BOTTLE OF AMERICAN  
MANUFACTURE TO ALUSHA. REQUEST ANY SPECIAL GUIDANCE  
BY PRIORITY MESSAGE. OPS.  
BT

CLASSIFIED  
Declassify at 10 year  
intervals: Not  
automatically declassified

PLAQ . 07 . 0000 8

NR: 5 07Z NR: 495/21 CNO/ROA//1715Z

DTG: 21 10 45Z JUL 67

CONFIDENTIAL

James M. Ennes, Jr. Research Papers

**CONFIDENTIAL**

*Liberty*

URC877  
R 211634Z JUL 67  
FM CNO  
TO RUDLX D/C INCUSNAVEUR  
INFO RUCINOA/CMC  
RUTPRC/CMSIXTHFLT  
RFPPTX/USCINCEUR  
RUCIJA/BU 'S  
BT

**CONFIDENTIAL**  
ELIGIBILITY OF USS LIBERTY PERSONNEL FOR HOSTILE FIRE PAY (C)

- A. YOUR 191612Z JUN 67
- B. MY 272217Z JUN 67
- C. DOD DIRECTIVE 1348.6 OF 19 NOV 65 SUBJ: HOSTILE FIRE PAY
- D. TABLE 1-1A-1 DODPM

1. IN RESPONSE TO REF A, CINCUSNAVEUR WAS ADVISED BY REF B THAT DETERMINATION OF HOSTILE FIRE PAY FOR LIBERTY PERSONNEL WAS TEMPORARILY WITHHELD.

2. IN ACCORD WITH PROVISIONS REFS C AND D HOSTILE FIRE PAY AUTHORIZED THOSE LIBERTY MEMBERS:

- A. MEMBERS KILLED ENTITLED TO HOSTILE FIRE PAY PROXATED FROM 1 JUN 67 TO AND INCLUDING DATE OF DEATH.
- B. MEMBERS WOUNDED ENTITLED TO HOSTILE FIRE PAY FOR ENTIRE MONTH OF JUN 67.
- C. MEMBERS HOSPITALIZED FOR TREATMENT OF WOUNDS OR INJURIES ENTITLED TO HOSTILE FIRE PAY UNTIL HOSPITALIZATION IS TERMINATED OR UNTIL 30 SEP 67, WHICHEVER IS EARLIER.

3. REGRET STATUTORY LIMITATIONS PROHIBIT GRANTING HOSTILE FIRE PAY TO OTHER VALIANT MEMBERS.

4. CMC CONCURS FOR MARCORPS PERSONNEL.

OP-4  
BT  
DECLASSIFIED AT 3 YEAR INTERVAL  
DECLASSIFIED AFTER 18 YEARS  
DOU DLE 320616

FLAG ACT...*PPZ*.....

TON 2105Z JUL 21

NR 65N/21

HCS...*U*... "5U"

**CONFIDENTIAL**

21 16 34Z JUL 67

PPNG789  
P 282132Z JULY 67  
TO CINCLANTFLT  
TO USS LIBERTY  
INFO COMSERVLANH  
CONSERVRON EIGHT  
CONSECIDFLT  
CINCUSNAVEUR  
COMSIXTHFLT  
BT

UNCLAS E F T O

WELCOME HOME TO LIBERTY  
1. THE COMMANDER IN CHIEF EXTENDS TO THE OFFICERS AND  
MEN OF LIBERTY A WARM WELCOME HOME AND HEARTY  
CONGRATULATIONS FOR A JOB WELL DONE. THE PRIDE THAT  
WE ALL FEEL IN YOUR EXEMPLARY PERFORMANCE OF DUTY  
UNDER MOST DIFFICULT CIRCUMSTANCES IS MIXED WITH SADNESS  
AT THE LOSS OF MANY OF YOUR SHIPMATES. IT WILL BE IN THE  
MINDS OF ALL OF US AS WE WELCOME YOU BACK TO YOUR HOMEPORT  
THAT YOU HAVE SUFFERED GREAT LOSSES. THIS IS NOT TO SAY THAT  
THE CREDIT FOR HEROIC AND EFFECTIVE WORK WILL BE DIMINISHED  
NOR THAT THE ENTHUSIASM FOR THOSE RETURN WILL BE  
RESTRAINED. BUT THIS RETURN DOES HAVE SIGNIFICANCE IN THAT SOME  
SHIPMATES AND LOVED ONES ARE NOT COMING BACK.  
ADMIRAL E.P. HOLMES.  
BT

FLAC 13  
BT.....

NR 2232Z/28 JULY 67

NR 678/28

CVO.....DSV/238JZ

DTG 2 8 2 1 3 2Z JULY 67

NR NR 2073  
O P 301401Z JUN 67  
FM CINCUSNAVEUR  
TO RUIPP/USS LIBERTY  
INFO RUFFBK/USCINCEUR  
RUTPRC/COMSIXTHFLT  
RUFRR/NAVSUPACT NAPLE/  
RUEPJS/SECDEF  
RUEHC/SECSTATE  
RUFHRO/AMEMB MALTA  
RUENAAA/CHINFO  
RUEDMWF/CINCLANT  
RUEDMWF/CINCLANTFLT  
RUEDMWF/CONSERVLANT  
RUEDSPA/CONSERVROM EIGHT  
RUFRC/USDOCOSOUTH  
RUFRR/COMFAIRMED  
BT

UNCLAS E F T O  
SECDEF FOR OASD(PA). USDOCOSOUTH FOR REAR ADMIRAL  
KIDD.

PAGE 2 RUDLKD 1104 UNCLAS E F T O  
USS LIBERTY PRESS QUERIES/INTERVIEWS  
A. USS LIBERTY 291005Z JUN 1967 PASEP  
B. SECDEF 9078 DTG 202051Z JUN 1967 NOTA  
1. COMMANDING OFFICER AND ANY MEMBER OF LIBERTY  
CREW WHO SO DESIRES ARE AUTHORIZED TO RESPOND TO QUERIES  
AND GIVE INTERVIEWS AT MALTA AT TIME CONVENIENT TO  
COMMANDING OFFICER. NARRATIVE AND TESTIMONY  
REFERRED TO IN REF B ARE ONLY PORTIONS OF COURT OF  
INQUIRY THAT HAVE BEEN DECLASSIFIED. NORMAL SECURITY  
PROCEDURES ARE OTHERWISE APPLICABLE. CREW MEMBERS  
ARE LIMITED TO RESPONSES TO QUERIES ABOUT THE ATTACK  
ONLY WITHIN GUIDELINES SET FORTH IN PRESS RELEASE DIS-  
CUSSED REF B. ANY SUBSTANTIVE QUERIES CONCERNING  
ATTACK OR ANY OTHER PHASE OF LIBERTY INCIDENT MUST BE  
REFERRED TO OASD(PA) FOR RESOLUTION, AS DIRECTED PARA  
TWO REF B.  
2. COPIES OF AFOREMENTIONED PRESS RELEASE ARE BEING  
HAND DELIVERED THIS DATE TO COMMANDING OFFICER, USS LIBERTY,  
AND TO AMEMB MALTA.  
3. IRVING J. LEVINE, NBC ROME, HAS REQUESTED INTERVIEW  
WITH LIBERTY COMMANDING OFFICER AND REAR ADMIRAL

PAGE 3 RUDLKD 1104 UNCLAS E F T O  
KIDD. INTERVIEW WITH REAR ADMIRAL KIDD PLANNED PM  
19 JUNE. A COPY OF PRESS RELEASE WILL BE GIVEN TO  
LEVINE TODAY IN ORDER TO DETERMINE IF HE WILL STILL BE  
INTERESTED IN INTERVIEW WITH LIBERTY COMMANDING OFFICER  
AFTER SEEING THE DETAILED ACCOUNT OF ATTACK ON  
LIBERTY WHICH HAS ALREADY BEEN MADE AVAILABLE TO  
THE PRESS. ALL CONCERNED WILL BE ADVISED OF RESULT  
OF THIS DISCUSSION.  
4. IF PRESS INTERVIEW IS REQUIRED, COMMANDER CONNEY,  
COMSIXTHFLT PUBLIC AFFAIRS OFFICER, WILL ASSIST  
AS NECESSARY.  
BT

~~SECRET~~  
Liberty  
FA 13

TOIC TO  
YOU DON'T  
SAY  
ANYTHING

COONEY  
ASSISTING  
COVER-UP  
AS  
USUAL

James M. ...

24

James M. Ennes, Jr. Research Papers

SHIP DAMAGE CLAIMS  
NEGOTIATIONS

---

SOME CORRESPONDENCE  
TO AND FROM ISRAEL  
CONGRESS  
STATE

---

U.S. ASSESSMENTS OF  
SHIP DAMAGE

FOLDER 24

### Hunt for truth on ship attack proves costly

By Mike Kazuba  
Staff Writer

James Miller of Burnsville has developed an expensive preoccupation with the Israeli strafing and torpedo attack on the U.S. ship Liberty that killed 34 Americans 17 years ago.

Miller's curiosity was aroused in 1979 when he read a book about the attack. When it is opened, the Navy intelligence gathering ship was in international waters off the Gaza Strip during the 1967 Middle East war.

His interest in the attack, which the Israelis have described as a case of mistaken identity, led him to file a Freedom of Information request with the State Department asking for any government documents relating to the incident and any cases that showed the attack was not deliberate.

"I got hooked and a little bit indignant," said Miller, who knew no one aboard the Liberty. "I was fascinated... it's kind of how it happened."

Now Miller is facing a \$18,000 legal bill. It began mounting in June 1983 when he sued the State Department after it sent him only seven documents during 11 months.

Last month a federal judge in St. Paul said that Miller, who has obtained 336 more documents since taking the government to court, is not entitled to have his legal fees paid by the government. Judge Robert Renner said Miller did not meet the guidelines for being paid



Staff Photo by Steven G. Gerner

James Miller of Burnsville has collected more than 300 documents on the strafing of the U.S. ship Liberty through Freedom of Information Act requests.

the fees of a lawyer to prove that the State Department responded to his request only after he filed his lawsuit.

Government lawyers flew from Washington to attend three hearings on the case in Minneapolis, and State Department officials used five affidavits to explain why

bureaucratic problems caused delays in providing the documents. In only a handful of cases did the government contend that national security prevented the release of certain documents.

The episode has left Miller, an amateur historian who's considering writing a book on the Liberty, em-

bittered about having to spend his own money to force the government to release documents the State Department later agreed he was entitled to anyway.

Miller is a 35-year-old auditor with two children. His wife does not work outside the home. His decision to push ahead with an appeal

that will cost an estimated \$3,000 hinges on being able to raise still more money that he may never recover. Miller spent last week trying to obtain a credit union loan and has written 70 letters appealing for money from organizations ranging from the American Civil Liberties Union to the Moral Majority.

The odds are against him. A Justice Department report of the Freedom of Information cases that were resolved in court in 1983 showed that of 61 cases where legal fees and costs were at issue the award was made to the plaintiff only 18 times. It is even more rare to be awarded legal fees on appeal.

His other problem is at home, where Miller also faces the dilemma of trying to balance his family budget with his private and costly legal war with the government. Judy, his wife of eight years, has never been enthusiastic about waging that war and he admits there have been arguments.

"I've lost my idealism," Judy Miller said after Renner issued his ruling on July 11. "I can't take the uncertainty. It's real hard to be in debt that much money... you don't buy the new carpet, you don't look at the new cars. We certainly aren't starving. You don't buy any of the luxuries."

But late last week, as her husband raced a Sept. 11 deadline to appeal his case, Judy Miller said she had reluctantly agreed to continue. She said she has thought about getting a job or operating a child-care ser-

Liberty continued on page 6B



## LIBERTY: Man seeks funds to continue legal war

Continued from page 1B

vice in her home to help with the bills. "I don't really want to do it," she said.

"I guess I didn't count on how really important this is to him," she said. "I respect him. It's more of a principle thing for him... he has a real well-developed sense of responsibility between right and wrong."

Carol Southward, a family friend who went to junior high with Judy Miller in south Minneapolis, said she sympathizes with Jim Miller and has tried to get his wife to understand. "There have been times in the past — not to this extent by any means — when he felt there was an injustice. Jim wouldn't let that slide by. I admire him. I think it's the fault of our system that (the Millers are) in the situation they're in."

For both the American and Israeli governments, the Liberty attack has faded into history. "We haven't talked about the Liberty in a long time," said Lt. Cmdr. Mark Neubart, a Navy public affairs spokesman in Washington, D.C.

The Israeli government, which paid \$6.7 million to the surviving crewmen and families of the dead sailors by 1969, paid the last installment of a \$8 million settlement to the United States in 1983 for damages to the ship. An Israeli court of inquiry and a separate U.S. Navy investigation concluded that the attack, which left 171 crewmen injured, was a mistake.

"We believed the Liberty was an Egyptian vessel at the time," said Gabby Levy, a spokesman for the Israeli consulate in Chicago. "Friendship with the United States is the cornerstone of Israeli foreign policy."

But Miller and most of the surviving Liberty crewmen, who held their first reunion in 1982 and whom Miller has kept abreast of his case, believe the evidence says otherwise. At least four of the survivors live in Minnesota.



The U.S.S. Liberty, a Navy intelligence-gathering ship.



... crew members  
... reconnaissance plane  
... passed over the  
... of at least eight hours  
... attack. Crew members  
... that their plane re-  
... the rec-  
... as they realized  
... that the Liberty was  
... ship.

The air attack, which preceded a torpedo boat attack, came in a clear afternoon while the Liberty was flying a 5-by-8-foot American flag and was identifiable by markings on its bow as it sat 13 miles off the Gaza Strip. The El Quseir, the Egyptian supply ship that the Israelis later said they mistook the Liberty for, had about one-fourth the displacement and was docked in an Egyptian port when the attack occurred.

James Ennes Jr., the officer of the deck the day of the attack, said he believes the Israelis attacked because the Liberty was able to gather intelligence on Israeli troop move-

... on the Liberty. "There was a war. ... here our government was trying to cool it and here they were sending troops for the Golan Heights."

Miller and his attorney, Gary Weisman of Minneapolis, admit that the government documents they have obtained contain few major revelations about the attack or the reasons for it. But Miller did obtain a report made by a State Department legal adviser three months after the attack that, according to Ennes and others, has some significance.

The report calls the Israeli explanation that it confused the Liberty with the El Quseir "unbelievable" and says that the Israelis should have

... documents his chair... will ac-  
... the State Department of with-  
... holding will prove as valuable.

"It is a curiosity why (Miller) could do something like that," said Steve White, a South Dakota and president of the U.S. Liberty Veterans Association. "He's doing whatever he would like to do ... he doesn't have the time or the resources."

James M. Ennes, Jr. Research Papers

DEPARTMENT OF DEFENSE  
APPROPRIATIONS FOR 1969

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

SECOND SESSION

SUBCOMMITTEE ON DEPARTMENT OF DEFENSE

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*Staff Assistants*

PART 4

OPERATION AND MAINTENANCE

Printed for the use of the Committee on Appropriations



U.S. GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1968

96-289 0

MONDAY, APRIL 8, 1968.

## DEFENSE COMMUNICATIONS AGENCY

## WITNESSES

LT. GEN. R. P. KLOCKE, U.S. AIR FORCE, DIRECTOR, DEFENSE COMMUNICATIONS AGENCY  
 T. D. MORAN, JR., COMPTROLLER, DEFENSE COMMUNICATIONS AGENCY  
 B. E. MORRIS, ASSISTANT DEPUTY DIRECTOR, NATIONAL MILITARY COMMAND SYSTEM TECHNICAL SUPPORT  
 LT. COL. E. ELLS, U.S. ARMY, BUDGET OFFICER, DEFENSE COMMUNICATIONS AGENCY  
 RON SOLIS HORWITZ, ASSISTANT SECRETARY OF DEFENSE (ADMINISTRATION), DEPARTMENT OF DEFENSE  
 LT. GEN. HAROLD W. GRANT, U.S. AIR FORCE (RETIRED), DIRECTOR FOR TELECOMMUNICATIONS POLICY, OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE (I. & L.)  
 DAVID L. SOLOMON, TECHNICAL ADVISER, OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE (ADMINISTRATION)

Mr. SIKES. We are ready to consider the request of the Defense Communications Agency for fiscal year 1969. The total of the request is \$83,281,000. Of this amount, \$42,969,000 is for operation and maintenance; \$11,812,000 is for procurement; and \$28,500,000 is for R.D.T. & E.

At this point in the record we shall insert certain pages from the justification book for these appropriation requests.  
 (Pages referred to follow:)

OPERATION AND MAINTENANCE, DEFENSE AGENCIES, FISCAL YEAR 1969, BUDGET ACTIVITY: 4300 DEFENSE COMMUNICATIONS AGENCY

## PURPOSE AND SCOPE

The mission of the Defense Communications Agency, as stated in Department of Defense Directive 5105.10, is to insure that the Defense Communications System will be so established, improved and operated as to meet the long haul, point-to-point telecommunications requirements of the Department of Defense and other Government agencies as directed.

In fiscal year 1963, this mission was expanded by the Secretary of Defense to include systems engineering and technical supervision of the implementation of technical support of the National Military Command System and of such related systems as may be further assigned. The Secretary of Defense also assigned to the Agency the responsibility for the continuing integration of the space and ground elements of the Defense Communications Satellite Systems to meet Department of Defense requirements.

In fiscal year 1964, the Secretary of Defense designated the Agency as responsible for implementation of worldwide Defense Communications System automatic switched networks: the automatic voice network (AUTOVON) and the automatic digital network (AUTODIN). This responsibility is defined to include: overall system engineering including determination of system configuration; preparation of technical specification for the procurement of equipment for switching centers, interconnecting transmission media as appropriate, and subscriber terminals; monitoring the procurement to insure a resultant, satisfactory, and compatible single system; development of test and acceptance criteria; and technical management of fabrication, installation, and checkout.

Also, in fiscal year 1964, following the designation of the Secretary of Defense as executive agent for the national communications system, the Director of the Defense Communications Agency was designated to serve also as manager of the

go and make a report. We will question whatever costs we think may be improper; but we will not suspend them.

Then they go to work and have a negotiation and out of that comes the decision about which will be paid and which will not.

Mr. SLACK. Do you feel that 95 percent is a pretty high percentage?

Mr. PERRY. A rather unusually high percentage, I would say.

Mr. SLACK. Mr. Lipscomb, do you have questions?

## TRAINING PROGRAM AT DEFENSE CONTRACT AUDIT INSTITUTE

Mr. LIPSCOMB. You mentioned in your opening remarks that you have at least 900 of the auditors who had taken some type of training. Could you, for the record, give us the length of time they are trained?

Mr. PERRY. You mean training time, number of hours or days of training?

Mr. LIPSCOMB. Yes.

Mr. PERRY. Yes, sir.

Mr. LIPSCOMB. How much time was spent by these 900 men and women in training?

Mr. PERRY. I think we have some figures which we can give you in training man-days for training. We will be glad to provide it for the record.

Mr. LIPSCOMB. Then you mentioned that fiscal year 1969 you have plans for a greater number of auditors.

Would you put also the estimate in the record for the number you plan to have in training in fiscal year 1969 and the number of man-years?

Mr. PERRY. We have here the number of student hours planned for fiscal year 1968 - 90,200-plus.

I think we had better put it on the basis of training days.

Let us provide this for both 1969 and 1968.

Mr. LIPSCOMB. All right.

(Information requested follows:)

## TRAINING AT CONTRACT AUDIT INSTITUTE FISCAL YEAR 1968 (PROJECTED), FISCAL YEAR 1969 (ESTIMATED)

Course title	Grade level	Fiscal year 1968		Fiscal year 1969	
		Number of students	Student-days	Number of students	Student-days
Auditor intern	5-7	248	3,770	196	1,392
Intermediate auditor	9-11	275	1,125	196	864
Intermediate auditor (INDOC)	9-12	210	2,100	196	1,856
Agent of ADPS	11-14	32	2,320	224	2,704
Improvement course programs	9-14	45	775	168	864
Graphic/computerized analysis	9-14	172	660	168	672
Statistical sampling	9-14	88	440	140	700
Supervisory technical management of audits	12-13	90	450	224	1,120
Total		1,410	11,790	1,512	10,668

Note: Average days per auditor, 1968, 3.6; 1969, 3.4.

Mr. SLACK. Thank you, gentlemen, for your appearance.

General KROCKO. The only one I can think of is, I would say, some relatively minor upgrading of some of the ground terminals in the communications system.

Mr. SIKES. Is there a field for this kind of study?

General KROCKO. Yes, sir. We are looking all the time as much as we can. There are several things. One is the upgrading of the ground terminals in the communications satellite program. Another one is being able to get more information through a given size of transmission path. This is a continuing development where we get sophisticated and improved gear and can actually get more information jammed through the pipe which is available to us, the same size pipe that we now have, in the vicinity of 2 or 3 times as much in some cases.

Also, in some of the switch networks, by putting in a relatively small component we can get several magnitudes of improvement in the capacity of the system, such as in the AUTODIN system we have two data processors, and by adding a third we can considerably enhance or increase the capacity of the system as a whole.

Also, by programming techniques which were mentioned earlier, we have almost tripled the capacity of the AUTODIN system simply through the software programs.

This type of exercise is going on all the time. This is a part of the engineering services which is included in the 1969 budget.

Mr. SIKES. This is highly desirable. Can you not, through this kind of activity, eliminate some of the requirements for additional equipment in this budget?

General KROCKO. Unfortunately, sir, the requirements always predate the hardware by about 2 years.

For instance, the phase 3 of the IWCS in Southeast Asia, which is just coming into being now, just being finished and will actually be all in place by this fall, is satisfaction of a requirement which was originally validated by CINCPAC and JCS in August 1966. By the time the program is completed is almost 2 years past the requirement. So, the equipment we are getting on board today in some cases has been overtaken even before it comes on site, by the increased requirements of the forces.

We certainly keep a continuing look at the equipment and the expenditures that we have on the books, and are trying to cut down in every way we can.

One point I might make is that we are not too far off in our increase from the commercial world. I have a few figures here, trying to analyze for myself are we going in the right direction. I find, looking at A.T. & T., which is the largest communicator in the United States, they have a revenue now, we will use this to measure their capital investment as well as their intake—of \$5 billion in 1965. They are estimating conservatively \$15 billion by 1980, which is about a 13-percent increase each year in the Bell System.

On the other hand, we are increasing for the Defense Communications System alone between 1967 and 1968, 16 percent. This was the initial large year of the new switch network. Between 1968 and 1969 we are increasing only 10 percent, which is 3 percent under the Bell System.

So, we are not necessarily out of line with the United States as a whole in communications personnel.

Mr. ANDREWS. You are on a par with A.T. & T., 16 percent in 1 year and 10 another, which makes 17 percent each year. Will your expense needs be met by the end of those 2 years?

General KROCKO. We would hope the majority.

Mr. ANDREWS. In 1980, what would your percentage of increase be?

General KROCKO. We have not projected that far out yet.

Mr. ANDREWS. You see the end in 2 years?

General KROCKO. Yes, sir; it will keep increasing, not at this rate, for I would guess until about 1975 or so, which is as far as we have looked.

Mr. SIKES. Mr. Lipscomb?

Mr. LIPSCOMB. No questions.

Mr. SIKES. Could you eliminate some of the messages which appear to be clutter messages and tighten up on message handling procedures and some of the expenditures that have been programmed?

General KROCKO. I am not sure that cutting out the messages is exactly ours to control. I do not think, unless you cut out very sizable numbers of terminals and customers, that you would have an impact. The message volume, of course, has an impact upon the configuration of the system, but there is a certain basic system that you need if you have communications between two points. Cutting down a relatively small percentage of the message traffic, which is the part you could get in a controlled environment, would not really cut down much of the expenditure for equipment in the system as a whole.

Mr. SIKES. It seems to me you are telling me our argument is at a higher level and not with you.

General KROCKO. Thank you, sir.

Mr. SIKES. Mr. Andrews?

Mr. ANDREWS. No questions.

Mr. SIKES. Mr. Rhodes?

#### USS LIBERTY INCIDENT

Mr. RHODES. General, I shall ask some questions on a study by the staff of the Appropriations Committee on the effectiveness of the worldwide communications system, with particular reference to the U.S.S. *Liberty* incident. I do not have very many questions on it. I think mainly the questions posed by the staff study answer themselves.

However, I am very much disturbed over the fact that apparently on orders of the Joint Chiefs of Staff the investigators were not furnished the messages which came in to the U.S.S. *Little Rock*, the flagship of the 6th Fleet, on June 8, 1967, so the committee staff could determine for itself whether or not the message to the *Liberty* was properly handled.

Do you know why this ruling was made? First, did you have anything to do with it?

General KROCKO. No, sir; this is completely outside my bailiwick. I have not seen any of the messages. They would ordinarily not come into the DCA. They are under the release purview of the Joint Chiefs of Staff, sir.

Mr. RHODES. Mr. Secretary, have you any light to shed on this?

Mr. HORWITZ. I have no light to throw on that.

Mr. RHOADS. This study is full of instances in which, on the orders of the Joint Chiefs of Staff, the investigating staff were denied access to messages which occurred on that day. I assume that all members of the investigative staff were cleared for the receipt of classified material, classified at least to the point of the messages which are involved here.

I really feel, Mr. Chairman, that the committee should ask for some sort of explanation of why these messages were not made available to the committee staff. The record speaks for itself as far as the handling of this message to the U.S.S. *Liberty*. It is a comedy of errors. You could not have written it any better if you were writing a musical comedy.

It would be funny if it were not so tragic. Here we are, with the most sophisticated communications system ever known to mankind, and maybe it is so sophisticated we do not know how to operate it. To me, there definitely should be a statement requested from the Joint Chiefs of Staff, 1, as to why these messages and the data requested were refused to the staff of this committee and, 2, some sort of justification, if there is any, as to why this message was kicked around the whole world, as it was, and finally delivered after the attack had occurred. (The information requested follows:)

#### JCS STATEMENTS REGARDING THE U.S.S. "LIBERTY" INCIDENT

##### QUESTION 1

With regard to question 1, the Joint Chiefs of Staff advised the commanders of the unified and specified commands that the proper channels for requesting release of messages of the Joint Chiefs of Staff by an external agency was to the Joint Chiefs of Staff through the Secretary of Defense.

Additionally, to insure that members of the House Appropriations Committee Investigation Team were fully informed, on 21 September 1967 they were briefed on the series of personnel errors which caused misrouting of (a) U.S.S. *Liberty's* information copy of JCS message 080110Z, June 1967; (b) COMSIXTHFLT message 080017Z, June 1967, which was action to the U.S.S. *Liberty*.

A letter from the Secretary of Defense to the chairman of the House Appropriations Committee, dated 11 August 1967, contained as attachment 1, a summary of significant messages transmitted by the U.S.S. *Liberty*, and as attachment 2 the details of significant messages sent to the U.S.S. *Liberty*.

JCS message 080110Z, June 1967, and COMSIXTHFLT message 080017Z, June 1967, were released to the Investigation Team of the House Appropriations Committee in September 1967. In addition copies of JCS message 011545Z, June 1967, and JCS message 072230Z, June 1967, are attached.

(Clerk's Note: Information provided the committee indicates that the Joint Chiefs of Staff did not fully cooperate with the committee or its investigating staff in the review of the U.S.S. *Liberty* incident. For instance, the two messages attached to the answer to question 1, namely, 011545Z and 072230Z, June 1967, were not heretofore made available to the committee or its investigative staff.)

Also, during its inquiry the investigative staff was denied access to pertinent studies directly related to the *Liberty* incident and it was not permitted to review messages transmitted and received on the day prior to and the day of the attack on the *Liberty*. Information recently made available to the committee disclosed that, in addition to the messages discussed in the committee's investigative staff report, two other equally important operational messages pertinent to the *Liberty's* assignment in the Mediterranean were sent to, but not received by, the *Liberty*.)

##### QUESTION 2

Concerning question 2, in summary, the U.S.S. *Liberty's* information copy of JCS message 080110Z, June 1967, was not routed by personnel in the Army Communications Center, Pentagon, to the Naval Communications Station, Philippines. The Naval Communications Station, Philippines returned the message to the Army Communication Station, Pentagon. There, a second personnel error misrouted the message to the National Security Agency, Fort Meade, Md., where it was filed. This information copy of JCS message 080110Z was never delivered to the U.S.S. *Liberty*.

##### SEND TO END MESSAGE THROUGH CHANNELS

Mr. RHOADS. In the event of a requirement to move the position of a ship out 100 miles from the shore, why is it necessary to send a message through channels, then to a naval communications station, and then to the ship? Why is it not possible, if indeed it is an urgent matter, and assume that it was to send a message directly to the ship? The ship does not have to answer, does not have to break radio silence, and just move out 100 miles from the shore. That does not tell where they are going. Instead of having to go through all these channels, you can certainly pick up the command channel by informational copy. You can keep the commander who is responsible notified as to the whereabouts of the ship by copies later on. Why was it necessary to go through all this rigmarole to move that ship?

General KLOCKO. I will give you the communications answer to the question directly which you have asked, sir. There were two messages sent to the U.S.S. *Liberty*. The original message which was sent to CINCEUR was also sent information to the U.S.S. *Liberty*. This was the message which miscarried. If it had not miscarried and been sent to the Pacific this was the personnel error that you mentioned, and it was personnel error it would have arrived within a matter of minutes of the original dispatch of the message.

(The following additional information was provided:)

At the time of transmission of JCS message 080110Z June 1967, there was nothing to indicate hostile action would be taken against the *Liberty* by any country. The repositioning of the *Liberty* was taken as a matter of prudence to insure conformance with instructions to other Sixth Fleet ships in the area. Had there been reason to anticipate actual danger to the *Liberty*, the command and control communications channels would have been used to pass emergency instructions directly to the ship within minutes.

Mr. ANDREWS. Will you discuss a little fuller the personnel failure, did you say?

General KLOCKO. Error. The message was sent to the Pacific instead of to the Atlantic.

Mr. ANDREWS. By whom?

General KLOCKO. By the

Mr. ANDREWS. By an operator somewhere?

General KLOCKO. By an operator.

Mr. ANDREWS. Was it his error?

General KLOCKO. Yes, sir.

Mr. ANDREWS. Not the man who delivered the message, but the man who put it on the wire?

General KLOCKO. The message was never delivered to the U.S.S. *Liberty*, sir.

Mr. RHOADS. There were also some errors aboard the U.S.S. *Little Rock*, apparently.

General KLOCKO. This was the second message.

Mr. RHODES. That was the second message. The message was received there, as I recall, at 0110 - I think that is wrong. I believe it was received at 04-something, and relayed approximately 5 hours later.

General KLOCKO. I have been told this, yes, sir.

Mr. RHODES. It is in the study here.

Mr. ANDREWS. What page?

Mr. RHODES. Page 43 of the study. It says:

Commander U.S. 6th Fleet officials refused to state why it took from 0415 to 0417, June 8, to draft and release an action message to the U.S.S. *Liberty*. The officials did state that 4 hours and 32 minutes was an abnormal amount of time to take action on a message of this nature. The routing clerk aboard the flagship U.S.S. *Little Rock* failed to detect he had information available indicating the U.S.S. *Liberty* was copying the fleet broadcast from the Naval Communications Station, Asmara. As a result, the message was misrouted to Naval Communications Station, Morocco.

Here was the flagship of the 6th Fleet, and the routing clerk did not even realize which naval communications station the U.S.S. *Liberty*, under the control of the 6th Fleet, was copying for receipt of messages. He failed to route the 6th Fleet message to the proper naval communications station which the U.S.S. *Liberty* was listening to for all its message traffic.

So, the whole thing certainly cries out not only for some kind of personnel action, but also for some means of simplified contact with ships at sea just to say, "Hey, fellow, get out away from the shore." It is almost incomprehensible.

I think that is all, Mr. Chairman, except I do hope that the Joint Chiefs of Staff will take note of the request for information and comply with it.

#### NEED TO REEVALUATE COMMUNICATION EFFECTIVENESS

Mr. LUSCOMB. General and Mr. Secretary: at the opening of the discussion on the report which is before us, made by the surveys and investigations staff, on the effectiveness of worldwide communications, the chairman said:

A general conclusion could be drawn from the staff report that the use and operational capabilities of the Defense Communications System is nothing less than pathetic, and that the management of the system needs to be completely overhauled.

I must say in listening to the answers to the specific questions that have been asked, nothing in this hearing today has changed my mind about the chairman's opening statement.

I hope some thought can be given to a reevaluation and dedicated interest in doing something about our communications system.

You have told us today that you are continually upgrading it, and that you are continuing to look at it. Maybe you are doing it in too many pieces. Maybe we do need an effective, comprehensive study of our communications system.

It has grown like Topsy, and sometimes when things do, it requires an evaluation of this kind.

I understand that you are a little in the dark as to what our report contains, so I do not want to be unfair with my comments, but in view of the answers, the discussion and the questions about policy and who

makes the decision, really, as far as I am concerned, the record shows complete confusion.

General KLOCKO. I might say in the working environment, I do not feel any confusion as to who might be setting the policy that we follow in DCA. Finding out who is giving me the direction, sir, and the various actions that we take, is not one of my major problems.

Mr. LUSCOMB. I understand that, but I have not determined yet who is the boss.

General KLOCKO. The Secretary of Defense is the ultimate boss, and my intermediate boss, for certain elements and for review and evaluation is the Chairman of the Joint Chiefs of Staff. I know to whom I go for what.

Mr. ANDREWS. How often do you communicate with the Chairman of the Joint Chiefs of Staff on communications matters, General?

General KLOCKO. There is a series of papers going on all the time, sir.

Mr. ANDREWS. From the Chief to you?

General KLOCKO. And from us to the Chairman of the Joint Chiefs of Staff, sir, mostly to the Director of the Joint Staff.

Mr. ANDREWS. Your mission is to carry out his orders?

General KLOCKO. Yes, sir.

Mr. LUSCOMB. I cannot see it as a bad suggestion that all the involved powers that be reevaluate their position and see if they cannot take an overall look at the whole system and see where we are going. On this side of the table we have, I think, good reason to feel that there needs to be an overall study of the system, its operation, its rules, and regulations, policy manuals, and everything. Maybe we are looking at this too closely. Maybe we do not understand all the problems.

Nobody has suggested from your side of the table that this could be done or maybe should be done. It appears to me that you know you have some problems, but you do not think they are great. I feel that you have a lot of problems and that they are great.

General KLOCKO. I hope I did not give the impression that we have no problems. I said we have recognized or identified our problems. I know what they are, I believe. As soon as we discover or identify them, we set ourselves about to do something constructively about them.

I think the study which was recently made by Mr. Horwitz's office and the Defense Communications Agency and which was the preamble, as has been mentioned earlier, to Mr. Nitze's letter of September 18, was in fact a rather broad gaged look at the Defense Communications Agency, and called for subsequent evaluations of the manpower and the effectiveness of the organization over the next 18-month period.

I think this was, in fact, the type of study that you are looking for, sir.

Mr. LUSCOMB. We do not know the date it started, the date it was completed, what the recommendations were, or where the recommendations stand now. That all will be put in the record, you said.

General KLOCKO. Yes, sir.

It started January 1, 1968, with 6-month reports, and the first one is due in June. There have been no reports yet.

Mr. LUSCOMB. I did not realize that until this moment.

Mr. Horwitz, Mr. Lipscomb, there are two different studies. One is a study of the USS *Liberty*, and that is the one I talked to before. The second study began in 1965, and finished in 1967. I will provide the exact dates. It referred to a complete order making certain changes in the management of DCA. I can furnish that for the record. (The information follows:)

Summary of Study on Command Arrangements for the Defense Communications System

(\*References: (a) Multiaddressee memorandum from Deputy Secretary of Defense, subject: Command arrangements for the Defense Communications System (DCS), date: September 18, 1967. (b) Study of the Defense Communications System, dated February 1967.)

The DCS study was designed to examine the mission and responsibilities of the facilities of the DCS as operational field activities of the DCA. The proposal would assign these DCS facilities under the command jurisdiction and operational control of the Director DCA. Analyses were to be conducted of the advantages and disadvantages of the command arrangement and if the analysis disclosed substantial disadvantages specific steps should be identified to increase the responsibilities of the Director DCA in requirements development and validation, in engineering, managing the installations, and controlling operations of the DCS. The objectives of these steps were to increase responsiveness and operational effectiveness, compatibility and commonality of equipment, flexibility of employment, cross training of personnel, and overall economy.

The Study Group identified five major problem areas concerned with the management of the DCS:

Inadequacy of controls and procedures for processing and validating communications requirements at all levels in DoD.

Diffusion of responsibility with OJCS, with no focus in OJCS for all matters affecting command, control, and communication.

Lack of lateral coordination among offices and agencies involved in the communications management process in both OSD and the OJCS.

A general lack of understanding by the communications community of the responsibilities and authorities of DCA.

A general lack of aggressive management in the defense communications structure by OSD, OJCS, the CINCs and DCA.

The Study Group's examination of DCS facilities disclosed substantial disadvantages in implementing the proposed command arrangement, since there would be severe interface command problems between DCS and non-DCS activities conducted at the same locations. In addition, the Study Group felt the proposed command arrangement would have an adverse impact on the conduct of combat operations since under the proposal the combat commanders would lose control of a portion of their communications. For these reasons, the study group concluded there was considerable doubt as to the wisdom of establishing the DCS as a field command of DCA, and the proposed command arrangement would not solve the five management problems outlined earlier.

The Study Group's recommendations were:

1. Do not adopt the proposed command arrangement; alternatively place the communications commands of the military departments under the "technical control" of DCA.

2. Institute the following administrative and relatively minor organizational changes to solve the five management problems:

(a) Revise DOD Directive 4630.1, "Processing of telecommunications requirements and program objectives" to clarify and strengthen control over the processing of telecommunications at all levels.

(b) Revise DOD Directive 5105.19, "Defense Communications Agency" to strengthen and clarify DCA's responsibilities and authorities.

(c) Strengthen the telecommunications review capability of the ASD/I & L.

(d) Insure the CINCs participate in the C3 review process.

(e) Double-hat:

(1) The Director DCA as the Director J 6 (JCS).

\*References have been previously furnished to subcommittee staff

(2) J 6s of the overseas unified commands as the local DCA area commanders.

(3) The chief component communications overseas as the commanders of the respective service commands (for field organization).

3. Request the JCS to review existing Joint Staff organizational arrangements as they apply to C3.

4. Request ASD/I & L to initiate a study to determine management procedures for review of telecommunications requirements below the threshold of \$100,000. On September 18, 1967, Mr. Stone made the following decisions with respect to the recommendations of the DCS study:

1. Not adopt the proposed command arrangements for the DCS at that time. Alternatively, OSD and the JCS are to evaluate and report on the performance of DCA under a revised DCA charter every 6 months for an 18 month period beginning January 1, 1968.

Note: The ASD/A is to consolidate these reports above with his own observations for submission to the Deputy Secretary of Defense.

2. The communications commands would not be placed under the "technical control" of DCA.

3. The JCS were requested to evaluate the feasibility of integrating selected technical control facilities into DCA.

Note: JCS have recommended this not be done.

4. Circulate a revised DOD Directive 4630.1, "Processing of major telecommunications requirements," for review and comment.

Note: Directive is in final stages of drafting.

5. A revised and strengthened DOD Directive 5105.19, "Defense Communications Agency" was approved and published.

6. Approved a manpower survey of the Office of Telecommunications Policy, ASD/I & L, to be conducted by ASD/A in coordination with ASD/I & L.

Note: Manpower survey completed. Results are being studied.

7. Approved a management study on programming of telecommunications requirements by ASD/I & L.

Note: Study not completed. No firm date available.

8. Withheld final decision on "double-hatting" the JCS J 6, DCA and the JCS of the overseas unified commands and the DCA area commanders pending the outcome of the evaluation of the DCA and an 18 month test period of double-hatting the EUCOM J 6 and DCA Europe.

Note: ASD/A is to provide recommendations on this item to the Deputy Secretary of Defense at the end of the 18 month period.

9. Modified the recommendation to double hat the overseas component commanders as the commanders of their respective service field communications organizations by leaving the decision to the military departments on an "as appropriate" basis.

10. Requested the JCS to study existing OJCS organizational arrangements on C3.

Note: JCS study due in OSD momentarily.

11. Requested that the PAO insure the CINCs participate in the C3 review.

12. Assigned ASD/I & L, as the OSD staff focal point for DCS telecommunications and other C-3 matters to insure full OSD staffing on these items.

Mr. Lipscomb, I got the feeling, too, during the hearings, that you thought we were just interested in the crises that come along, the U.S.S. *Liberty* and the U.S.S. *Pubelo* and all that. We are interested in the overall effectiveness of our worldwide communications. We have been reacting to crises too much lately.

Thank you, Mr. Chairman.

Mr. Andrews, That is all, gentlemen. Thank you.





OFFICE OF THE PRESIDENT OF ISRAEL

לשכת נשיא המדינה

Jerusalem, June 6, 1983

Mr. Stan White  
USS Liberty Veterans Association  
Route 1, P.O. Box 45A  
Burbank, SD 57010  
U.S.A.

Dear Mr. White,

Thank you for your letter of March 30, to the President, receipt of which is hereby acknowledged.

We have noted your request that a review of "The Attack on the 'Liberty' Incident" be made in Israel.

The President has instructed us to transfer your letter with the attached material to the relevant Government departments for their consideration.

Yours sincerely,

  
Hassia Weiner

Personal Assistant to the President

HW/mb



19 May 1983

Dear Master Chief Petty Officer White,

Thank you most kindly for you and James Ennes' thoughtful and generous personalized gift -- a truly just tribute to the USS Liberty.

With warmest personal regards and best wishes.

Sincerely,

R. H. BARROW  
General, U. S. Marine Corps  
Commandant of the Marine Corps

Master Chief Petty Officer Stan White, USN (Ret)  
President,  
USS Liberty Veterans Association  
Route 1  
P. O. Box 45A  
Burbank, South Dakota 57010

JUNE 6, 1983

USS LIBERTY VETERANS ASSOCIATION  
RT 1 BOX 45A  
SIOUX FALLS, SD 57010

STAN WHITE:

I RECEIVED AN INVITATION FROM M.P. BALIC AMERICA FIRST INCORPORATED FOR JUNE 23, 1983 IN NYC AND AN ATTACHMENT FROM THE BALTIMORE SUN. I DON'T BELIEVE I CAN MAKE IT AND I AM SURE MY WIFE COULDN'T TAKE IT, EVEN AFTER ALL THESE YEARS. HOWEVER, I WANT TO LET YOU PEOPLE KNOW THAT ALL YOUR ENDEAVORS TO RIGHT THIS INJUSTICE ARE APPRECIATED.

MY SON WAS ONLY 21 YEARS OLD AND HAD HIS WHOLE LIFE BEFORE HIM UNTIL THAT FATEFUL DAY. MY WIFE AND HIS FIANCEE WERE HAPPILY ADDRESSING WEDDING INVITATIONS WHEN THE NEWS CAME OVER THE RADIO. FOR US AND MANY OTHERS, THE WHOLE WORLD SHATTERED.

IN SHORT, MY SON WAS TAKEN, HIS FIANCEE WAS DEVASTATED FOR A LONG TIME, AND MY WIFE WOKE UP CRYING EVERY NIGHT FOR OVER SIX MONTHS. MY WIFE DEVELOPED ACUTE ASTHMA AND RESPIRATORY PROBLEMS AFTER THAT FROM WHICH SHE HAS NEVER RECOVERED.

TWO YEARS AFTER THE TRAGIC INCIDENT, MY COMPANY WANTED ME TO LEAVE BECAUSE I WAS NOT AGGRESSIVELY ENOUGH PURSUING MY DUTIES. I REFUSED (WITH TWO SONS IN COLLEGE) AND WAS DEMOTED FOUR CLASSIFICATIONS IN TITLE AND COMPENSATION AND ENDED UP IN A RATHER MENIAL POSITION FOR A COLLEGE GRADUATE. HOWEVER, SINCE THEN I HAVE WORKED MYSELF BACK UP VERY WELL BUT REALIZE I WILL NEVER ACHIEVE WHAT MY POTENTIAL WOULD HAVE BEEN IN THIS COMPANY.

BEING AN EX NAVY MAN, I FOUND IT DIFFICULT TO CONCENTRATE AFTER MY SON WAS LOST SERVING HIS COUNTRY AND ESPECIALLY UNDER CONDITIONS WHERE HE HAD DONE SOMETHING WRONG AND TO KNOW OUR COUNTRY DID NOT CARE ABOUT HIM AND ALL HIS FELLOW CREWMEN BUT ONLY WANTED TO QUIET THE INCIDENT. WHO WAS IN CAHOOTS WITH WHO AND WHY?

IT LET LIKE MY HANDS WERE TIED BECAUSE ONE DIDN'T NEED MUCH INTELLIGENCE TO REALIZE HOW HUSHED UP THE SITUATION WAS, VERY LITTLE NEWS MEDIA, THE SPLITUP OF THE CREW, ETC. NO, I WILL NEVER FORGET THE ATTACK ON THE USS LIBERTY AND THE WAY OUR GOVERNMENT STANDS BEHIND ITS PEOPLE.

I AM THANKFUL JAME ENNIS WROTE HIS AND THAT MANY OF YOU ARE TAKING SUCH AN ACTIVE PART TO RIGHT THIS SITUATION.

YOURS TRULY,

FRANK HORTON  
U.S. REPRESENTATIVE  
34TH DISTRICT OF NEW YORK

COMMITTEE  
GOVERNMENT OPERATIONS  
RANKING MINORITY MEMBER  
DEAN, NEW YORK  
REPUBLICAN DELEGATION

WASHINGTON OFFICE  
222 RAYBURN BUILDING  
WASHINGTON, D.C. 20515  
(202) 225-4016

Congress of the United States  
House of Representatives  
Washington, D.C. 20515

February 24  
1983

DISTRICT OFFICE  
316 KENNETH B. KEATINGE  
FEDERAL BUILDING  
ROCHESTER, NEW YORK 14614  
(716) 583-8279  
FYS-863-4479

WAYNE COUNTY OFFICE BUILDING  
LYONS, NEW YORK 14489

DOLORES M. ST. ONGE  
FEDERAL LIAISON ADMINISTRATOR

MARY PAT FITZGERALD  
COMMUNICATIONS ASSOCIATE

Mr. John M. Hrankowski  
[REDACTED]

Dear Mr. Hrankowski:

Thank you for your letter with reference to your efforts to open Congressional hearings on the USS Liberty.

I note by your address that you reside in the 30th Congressional District. I am, therefore, referring your correspondence to the Congressman who represents you, the Hon. Barber B. Conable, Jr.

By copy of this letter, I am indicating my willingness to be of support and help to him on this matter.

With kindest regards,

Sincerely,

*Frank Horton*  
Frank Horton

FH:dr  
cc: Hon. Barber B. Conable, Jr.  
237 Cannon House Office Bldg.  
Washington, D. C. 20515

Enc.

BARBER B. CONABLE, JR.  
New York, 20th District

COMMITTEES:  
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House of Representatives  
Washington, D.C. 20515

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237 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, D.C. 20515  
(202) 225-3619

DISTRICT OFFICE:  
311 FEDERAL OFFICE BUILDING  
100 STATE STREET  
ROCHESTER, NEW YORK 14616  
(716) 443-3156

P.O. Box 85  
1 ELLIOTT STREET  
ROCHESTER, NEW YORK 14620  
(716) 543-6732

February 22, 1983

MR. John M. Hrankowski  
[REDACTED]

Dear Mr. Hrankowski:

I have your letter which was received here on February 8. I very well recall the incident of the USS Liberty and the outrage that generally attended the attack on the ship. I am interested to know that you have an organization called Veterans of the USS Liberty.

However, I am not sure there is any great public purpose in trying to reopen this incident after 15 years. The incident was thoroughly examined at the time and our government decided to accept the Israeli apology. I understand, as well, settlements have since been reached by Israel with families of those who were killed. Our relations with Israel are strained at best by much more recent events and there has been virtually a complete turn-over of Israel and U.S. government officials since the time of the USS Liberty incident. Members of the House Foreign Affairs Committee tell me the Committee has received requests to hold new hearings on the incident, but they do not plan to do so.

I am willing to meet with you, as you requested, but could not offer you any encouragement that Congress is going to return to this unhappy event after 15 years. There was broad questioning in our country of the Israeli position in this affair, and there is broad agreement now that our national purposes would not be advanced by reopening the dispute.

Very truly yours,

*Barber B. Conable, Jr.*

Barber B. Conable, Jr.

C/ln

ALFONSE M. D'AMATO  
NEW YORK

United States Senate  
WASHINGTON, D.C. 20510

OFFICE OF THE CLERK  
U.S. SENATE  
WASHINGTON, D.C. 20540  
(202) 512-1111

February 17, 1983

John M. Hrankowski  
[REDACTED]

Dear Mr. Hrankowski,

You will be glad to know that I am working on your recent request.

I have contacted appropriate officials in your behalf and will be back in touch as soon as I receive a reply. I appreciate having this chance to try to help.

Sincerely,



Alfonse D'Amato  
United States Senator

AMD/mt

James M. Ennes, Jr. Research Papers



12 April 1983

Dear Master Chief Petty Officer White,

Thank you for your kind words, especially your approval and encouragement as well as generous praise of Brigadier General Hagen.

I am hopeful the results we seek will be achieved. At least corrective measures have been promised.

Your interest in, and support of, the Marine Corps is deeply appreciated.

Warm best wishes,

Sincerely,

R. H. BARROW  
General, U. S. Marine Corps  
Commandant of the Marine Corps

Master Chief Petty Officer Stan White, USN (Ret)  
President, USS Liberty  
Veterans Association  
Route 1  
P. O. Box 45A  
Burbank, SD 57010

U.S.S. LIBERTY VETERANS ASSOCIATION  
Route 1, P.O. Box 45A  
Burbank, SD 57010

March 23, 1983

Commandant, U.S. Marine Corps.  
Gen. Robert H. Barrow  
Commandants House Marine Barracks  
8th & I Streets, SE  
Washington, DC 20390

Dear General Barrow:

We would like to offer our total support for your letter to the Secretary of Defense condemning Israel's actions in Lebanon. We can appreciate your feelings when an "ally" takes dangerous and threatening actions, which are obviously well planned, towards your officers and men serving there in their peace keeping role.

Sixteen years ago Israel, after several hours of close observation, "mistakenly" attacked the U.S.S. Liberty in a (to use your phrase, if I may) "well orchestrated" plane, motor torpedo boat and troop laden helicopter assault. After two hours of rocket, cannon, napalm and torpedos, we were left with thirty-four dead and one hundred seventy-one wounded out of a crew of two hundred-ninety-four. The dead included two Marines, Sgt. Jack L. Raper and Cpt. Edward E. Rehmyer, and the wounded included SSgt. Bryce F. Lockwood (the entire compliment of Marines). Sgt. Lockwood was later awarded the Silver Star for his heroic actions, which in typical Marine Corps. fashion, meant saving the lives of others in the torpedoed spaces without regard for his own life.

For a very accurate account of this "incident" I would like to recommend the reading of "Assault On The Liberty", by James M. Ennes, Jr. Mr. Ennes was officer of the deck when the attack started and was seriously wounded. We would like to send you a copy of this book, should you so desire.

In addition, we would like to take this opportunity to say a few kind words about one of your officers, Brig. Gen. Jerome T. Hagen. Gen. Hagen was present for both our first reunion in June, 1982, and for the new grave stone dedication in honor of six missing or unidentified Liberty crewmen (including Sgt. Jack Raper) at Arlington National Cemetery in October, 1982. Gen. Hagen is an excellent representative for the Marine Corps. and a true officer and gentleman.

Once again we praise your letter and support your position one hundred percent, just as I am sure, do all the United States Armed Forces, the VFW, American Legion, and a vast majority of the American public. Speaking out

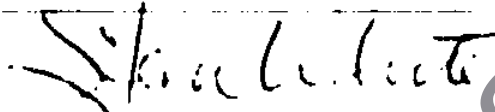
- continued -



Gen. Robert H. Farrow  
March 23, 1983  
Page 2

against this particular "ally" is not a popular, nor easy, thing to do as we have found over and over. Never the less, your letter and the frank statements by Col. James Mead, may draw enough public attention to Israel's attitude to prevent any future Liberty "mistakes", U.S. Marine Captain versus Israel tanks and the day to day confrontations between your troops and the Israeli Defense Forces in Lebanon.

Very respectfully,



Stan White  
MCPO USN (Ret)  
President, US Liberty  
Veterans Association

cc: United States Senator Larry Pressler  
United States Secretary of Defense, Caspar Weinberger  
United States Marine Corps. Colonel James M. Mead  
(Copy enclosed, please forward)

James M. Ennes, Jr. Research Papers

USS LIBERTY VETERANS ASSOCIATION  
Rt. 1, P.O. Box 45A  
Burbank, SD 57010

March 15, 1983

Secretary of State George P. Shultz  
Department of State  
Washington, DC 20520

Dear Mr. Shultz:

The surviving crew members of the USS Liberty have made repeated efforts, both in the United States and Israel, to reopen, or at least review, the June 8, 1967 incident involving the Liberty and Israel.

We have read the U.S. Navy Court of Inquiry and do not believe that the facts presented agree with the conclusion arrived at. We also do not feel that all testimony and evidence were entered into the records nor were all pertinent witnesses called.

We have also read Israel's original investigation report and their most recent report on the subject. This recent report is entitled "The Attack On The "Liberty" Incident", published by the Israel Defense Forces History Department, Research and Instruction Branch. There are many, many points in this report that we disagree with, but more important, this is the second such report issued with Israel not interviewing one single Liberty crewman. In their investigation of the Lebanese massacre, they did take the testimony of other parties involved, arrived at the truth and proved that honor can be maintained through honesty and openness.

We have received little or no response in our contacts with the military and government of both countries, probably through our not going through proper channels. I hope that we are now proceeding correctly in pleading for your assistance and intervention on our behalf with the proper people of both the United States and Israel.

Without attempting to embarrass either country, there are several of us who would like to be involved and testify in the review of this incident by either or both of these great countries. If Israel so agreed, I am sure that transportation could be requested from the U.S. Navy for us to travel there.

I realize that you are extremely busy with world wide problems and that we are merely a sixteen old small part of history, but with all due respect to both the United States and Israel, a great injustice was done to a very heroic crew and Captain in 1967 and every year since. Once again I request

March 15, 1983  
Page 2

your assistance in this matter and I thank you for your valuable time in hearing me out on this subject.

Respectfully,



Stan White  
MCPO USN (Ret)  
President, USS Liberty  
Veterans Association

cc: Israel Ambassador to the United States  
United States Senator Larry Pressler

James M. Ennes, Jr. Research Papers

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CONFIDENTIAL  
Department of State

(258) OUTGOING TELEGRAM (42)  
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NEA/IAS: WBSMITHII  
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L: HJHANSSELL  
L/C: FAKWIATEK  
S/S-O: SGOLDSMITH

*For Libby*  
*WJA*  
*R*

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EXDIS FOR AMBASSADOR FROM ATHERTON  
E. O. 11652: GDS

TAGS: MLI, IS, EG, US  
SUBJECT: SS LIBERTY CASE  
REF: CAIRO 21876 (USDEL CAIRO 0018)

1. PLEASE TAKE EARLY CONVENIENT OPPORTUNITY TO RECALL TO EVRON MY DISCUSSION WITH HIM DECEMBER 11 ABOUT S. S. LIBERTY CASE. YOU SHOULD INFORM HIM THAT WE CONTINUE TO WANT GOI VIEWS ABOUT HOW U. S. AND ISRAEL SHOULD PROCEED IN HANDLING STATUS OF OUTSTANDING U. S. CLAIM FOR DAMAGES TO THE LIBERTY, AND NOTE THAT I RAISED THIS MATTER INFORMALLY IN THE HOPE THAT WE WOULD HAVE SUCH VIEWS PRIOR TO ANY FORMAL APPROACH THAT WE MAY WISH TO MAKE.
2. EVRON SHOULD UNDERSTAND THAT WE OWE A REPLY TO OUTSTANDING CONGRESSIONAL QUERIES ON THE LIBERTY CLAIMS ISSUE, AND THAT WE WILL HAVE TO MAKE A FORMAL APPROACH IN THE NEAR FUTURE, WITH OR WITHOUT GOI VIEWS. WE WOULD THEREFORE APPRECIATE EVRON'S EARLIEST RESPONSE TO THIS MATTER. VANCE

EXD-1511 COPY

JAN 27 1982

EXDIS

CLASS REVIEW

Classification removed:

Classified to C FADRC

Declassify to O FADRC

Classification authority

Declassify to S/S

Classification authority

Declassify to S/S

Reviewed by: *John Brown*

Date: *22 Dec 1978*

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY *L. Kelly* DATE *1/24/83*

RDS  or XDS  EXT. DATE \_\_\_\_\_

TS AUTH. \_\_\_\_\_ REASON(S) \_\_\_\_\_

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PA or FOI EXEMPTIONS \_\_\_\_\_

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CONFIDENTIAL  
Department of State

INCOMING  
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PAGE 01  
ACTION SS-25

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FOR ATHERTON FROM LEWIS

E.O. 11652 GDS  
TAGS MILI. IS. EG. US  
SUBJ SS LIBERTY CASE

REF STATE 07099

I RAISED THIS QUESTION WITH EVRON JANUARY 11 AND  
SUMMARIED POINTS IN REFTEL. HE PROMISED TO PROVIDE  
AN EARLY RESPONSE TO YOUR INQUIRY AND HE UNDERSTANDS  
THAT WE WILL HAVE TO MAKE A FORMAL APPROACH IN THE  
NEAR FUTURE IF WE DO NOT HAVE THEIR VIEWS. I ANTICI-  
PATE HEARING FROM HIM SHORTLY.

LEWIS

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RECEIVED BY <i>N. L. Wood</i>	
<i>Oct 24/78</i>	
FBI - [unclear]	
PA. OR. POC [unclear]	

*1978  
Liberty file*

*NEA*  
*[Handwritten signature]*  
*[Handwritten initials]*

*James M. Emmes, Jr. Research Papers*

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Department of State

TELEGRAM

633694

LIMITED OFFICIAL USE 213

PAGE 01 TEL AV 02159 061245Z

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DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY *John Kelly* DATE *1/21/82*

FORM 1 (REVISED 1-78)

FOR USE OF THE DEPARTMENT OF STATE ONLY

INDEXED  SERIALIZED  FILED

100-557-100 (MERCANTILE)

EXEMPT FROM FOIA EXEMPTIONS

LIMITED OFFICIAL USE TEL AVIV 2159

C O R R E C T E D C O P Y F O R T E X T

SUBJECT: USS LIBERTY CLAIMS

REF: STATE 082020

1. IF WE ASK GOI FOR SUBSTANTIVE REP Y RE SHIP DAMAGE CLAIM I WOULD ANTICIPATE RECEIVING A LEGALISTIC ARGUMENT PROBABLY ALONG LINES OF ORIGINAL NOTE OF AUGUST 5 (TEL AVIV 47981) ENDEAVORING TO DISCLAIM LIABILITY WHICH ACTION WOULD NO DOUBT INITIATE A LONG AND PROBABLY UNSUCCESSFUL NEGOTIATION.

2. CONSEQUENTLY BEFORE DOING SO SUGGEST THE DEPARTMENT CONSIDER. WHILE THERE IS, OF COURSE, NO REPEAT NO QUESTION THAT THE ISRAELIS BEAR RESPONSIBILITY FOR THEIR ERROR IN ATTACKING THE SHIP AND THEY ACKNOWLEDGE SUCH RESPONSIBILITY AND EXPRESSED WILLINGNESS TO PAY SUCH COMPENSATION IN THEIR FIRST COMMUNICATIONS FOLLOWING THE DISASTER, IT IS ALSO A FACT AND PUBLIC KNOWLEDGE THAT WE ISSUED INSTRUCTIONS OF THE VESSEL, WHICH UNFORTUNATELY DID NOT ARRIVE IN TIME TO MOVE OUT OF THE AREA IT WAS THEN OPERATING IN. IT CAN BE ARGUED THAT THIS ACTION ON OUR PART CONFIRMED OUR CONCLUSION THAT THE SITUATION IN THE SHIP'S AREA OF OPERATION INVOLVED UNACCEPTABLE RISK AND THIS RECOGNITION COULD BE CONSTRUED AS ATTENUATING AT LEAST MORALLY IF NOT LEGALLY ISRAELI RESPONSIBILITY. FURTHERMORE WE HAVE ALSO ANNOUNCED PUBLICLY THAT THE NAVY DOES NOT REPEAT NOT INTEND TO REFIT THE LIBERTY WHICH APPARENTLY WILL BE

*Till Nov 2/59*

*6-6-69*

JAN 27 1982

①

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Department of State

TELEGRAM

LIMITED OFFICIAL USE

PAGE 02 TEL AV 02159 061245Z

SCRAPPED. FINALLY THE ISRAELIS HAVE PAID IN FULL OUR CLAIMS FOR DEATHS AND INJURY THUS DISCHARGING TO THE EXTENT COMPENSATION CAN DO SO THE CLAIMS WHICH HAVE A HUMANITARIAN PERSONAL BASIS.

3: IT IS RECOGNIZED THAT THE PRECEDENT INVOLVED IN THIS SHIP CLAIM MAY BE IMPORTANT TO US IN ITSELF IN THAT IF WE ARE UNABLE TO OBTAIN AT LEAST SOME COMPENSATION FOR MATERIAL DAMAGE TO THIS SHIP FROM A COUNTRY WITH FRIENDLY RELATIONS WITH THE US WE MIGHT PREJUDICE OUR ABILITY TO COLLECT SIMILAR CLAIMS INVOLVING LESS FRIENDLY OR UNFRIENDLY STATES.

4. CONSEQUENTLY I SUGGEST THAT WE RECOGNIZE THAT OUR CLAIM IN THIS CASE IS IN FACT ATTENUATED AS SET FORTH ABOVE AND THAT AS A PRACTICAL MATTER WE ARE UNLIKELY TO OBTAIN ANYTHING LIKE FULL DAMAGES FOR THE SHIP CLAIM. AT THE SAME TIME AND IN VIEW OF THE DESIRABILITY OF OBTAINING SOMETHING IN SETTLEMENT I FURTHER SUGGEST THAT I BE AUTHORIZED IN THE FIRST INSTANCE TO SOUND OUT THE ISRAELIS INFORMALLY AS TO THE POSSIBILITY OF NEGOTIATING A SETTLEMENT INVOLVING ONLY SOME TOKEN PAYMENT.

5. DEPARTMENT'S COMMENTS WOULD BE APPRECIATED.  
BARBOUR

JAN 27 1952

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INCOMING TELEGRAM

Department of State

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CONFIDENTIAL KUALA LUMPUR 4697

REF: KL 4694

SUBJ: MIDDLE EAST

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DEPARTMENT OF STATE A/CDC/MR  
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Kuala Lumpur 4697

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1. UNLESS DEPT HAS OBJECTION, I PROPOSE SEND FOLLOWING SELF-EXPLANATORY NOTE TO PRIME MINISTER. REQUEST CONCURRENCE URGENTLY.

"DEAR TUNKU,

DURING OUR DISCUSSION YESTERDAY AFTERNOON I TOLD YOU THAT AIRCRAFT CARRIERS OF THE U.S. SIXTH FLEET WERE SEVERAL HUNDRED MILES FROM THE AREA OF THE FIGHTING BETWEEN ISRAEL AND SOME ARAB STATES. THE PRESS THIS MORNING REPORTS AN ATTACK ON A UNITED STATES NAVY RESEARCH VESSEL IS MILES OFF THE COAST OF THE SINAI PENINSULA. THIS VESSEL THE U.S.S. LIBERTY, IS A CONVERTED CARGO SHIP AND HAS NO OFFENSIVE CAPABILITY. IT WAS IN THE EASTERN MEDITERRANEAN TO ASSURE COMMUNICATIONS BETWEEN U.S. GOVERNMENT POSTS IN THE MIDDLE EAST AND TO ASSIST IN RELAYING INFORMATION CONCERNING THE EVACUATION OF AMERICAN DEPENDENTS AND OTHER AMERICAN CITIZENS IN THE COUNTRIES OF THE MIDDLE EAST."

2. SUGGEST SIMILAR STATEMENT BY DEPT SPOKESMAN, IF NOT ALREADY MADE, WOULD BE USEFUL.

GP-3. RELI.  
BT

DECLASSIFICATION DATE 5/7/76  
PER Burg OFFICE NEA  
EADRC FOI CASE NO. 620039

SEP 29 1982

CONFIDENTIAL

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(Routing Office and Office)

SECRET

DEPARTMENT OF STATE

Approved in S/S  
by Mr. Thompson  
6/9/67

Memorandum of Conversation  
Telephone

DATE: June 8, 1967  
10:15 a.m.  
11:00 a.m.

SUBJECT: USS Liberty

PARTICIPANTS: Mr. Yuri N. Tcherniakov, Soviet Chargé d'Affaires a.i.  
Mr. Foy D. Kohler, Deputy Under Secretary

COPIES TO: S/SEC  
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MCC  
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EUR/SOV  
NEA  
Embassy Moscow  
Embassy Tel Aviv

ORIGINAL/COPY TO EM/R FOR  
RECORDING & DISTRIBUTION

Mr. Kohler informed the Chargé that he had an urgent message for the Soviet Government. An American ship, the USS Liberty, was torpedoed a few hours ago off Port Said. We are not sure of the exact location where the incident took place. It is an auxiliary ship. We are sending eight aircraft from the Carrier Saratoga to investigate. We wanted the Soviet Government to know that this was the purpose and the only purpose of those aircraft approaching in that direction. The Chargé said he assumed these would be military aircraft since they came from the Saratoga, and he repeated his understanding that their purpose was solely to investigate.

Mr. Kohler called the Chargé again at 11:00 a.m. to inform him that we have just received the information that it was the Israelis who attacked the vessel. He emphasized, however, that this did not change the import of the message he had given the Chargé earlier to the effect that our planes are going to the scene of the incident in connection with the vessel and not for any other purpose.

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY *[Signature]* DATE *1/24/83*

SECRET

REASON FOR ADJUDICATION DATE

REASON(S)

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FORM 8-61 DS-1234

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Approved JH G,  
June 9, 1967

DEPARTMENT OF STATE

Memorandum of Conversation  
SECRET

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10033  
FILE  
RS/R

(6)

DATE: June 8, 1967  
12:45 p.m.

SUBJECT: USS LIBERTY Incident (Telephone Conversation)

PARTICIPANTS: Deputy Under Secretary Foy D. Kohler  
A Counselor of the Soviet Embassy in Washington

COPIES TO: S cc EUR cc  
U cc WH cc  
M cc DOD cc  
G cc Embassy MOSCOW cc  
NEA cc

ORIGINAL/COPY TO RM/R FOR  
RECORDING

JAN 27 1982

Mr. Kohler asked to speak to Mr. Tcherniakov but was informed by the Counselor of the Embassy that the Charge was in a meeting. Mr. Kohler asked the Counselor to pass a message to the Charge informing him that the message Mr. Kohler had given him this morning was also sent to Moscow via the "Hot Line." We now have a reply from Chairman Kosygin acknowledging receipt of the telegram and informing us that the information was immediately passed to President Nasser. Mr. Kohler asked the Counselor to thank the Charge for his promptness and cooperation in passing the information to Moscow.

Mr. Kohler also noted that Chairman Kosygin had described the vessel concerned as a Liberty-type ship. In fact, USS LIBERTY was the name of the ship concerned.

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY [Signature] DATE 1/24/83

RDS  or XDS  EXT. DATE \_\_\_\_\_

TG AUTH 22 REASON(S) \_\_\_\_\_

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DEPARTMENT OF STATE

THE LEGAL ADVISER

LC T 0474

Folder (US Israel - USS Liberty)

July 11, 1967

MEMORANDUM FOR THE SECRETARY

THROUGH: S/S

FROM: L - Leonard C. Meeker

SUBJECT: June 8 Attack on U.S.S. Liberty

The United States Navy Court of Inquiry on the attack against the Liberty was convened on June 10, 1967. Following the completion of its proceedings, a summary of them was issued in a Department of Defense press release on June 28. The summary was accompanied by the unclassified transcript of testimony by the Commander of the Liberty. These two documents are attached at TAB A.

NSW 8 1982

An Israeli military investigation of the attack was undertaken in June. Neither a transcript of the proceedings nor a summary of them has been made public or communicated to the United States Government. An Israeli military officer gave some explanations to our naval attaché in Tel Aviv as to how the attack came about through mistake, but these explanations were essentially unrevealing as to what the investigation brought out. It is reported that the Israeli Chief of Staff was dissatisfied with the initial investigation. He thereafter announced that the whole matter had been turned over to a legal officer in the IDF for further examination and to determine whether any court-martial should be held. There has been no indication as to the course of this second Israeli inquiry.

On June 10, 1967 the Israeli Ambassador in Washington delivered a note stating that the Government of Israel is prepared to make amends for the tragic loss of life

The Government of Israel	
DEPARTMENT OF STATE	
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and material damage". On the same day Under Secretary Rostow handed to Ambassador Harman a United States note concerning the attack on the Liberty. This note contained certain errors in stating the times at which the air and torpedo boat attacks took place and the times of reconnaissance flights during the morning. An amended note, correcting these errors and incorporating minor changes of language proposed by Nick Katzenbach and Walt Rostow, is being given to Ambassador Harman this afternoon. A copy of the corrected note is attached at TAB B.

Following the receipt of our initial note of June 10, the Israeli Embassy gave us a further note on June 12. This is attached at TAB C. Under Secretary Katzenbach has suggested to Ambassador Harman that the Israeli Embassy might wish to withdraw or change this note, and we understand that the Israelis are thinking of doing so after they receive our corrected note.

Since June 10, and as a result of examining carefully the full testimony before the United States Naval Court of Inquiry, we have learned a good deal more than we knew earlier about the reconnaissance flights on the morning of June 8. It now appears that there were at least eight such flights, spread over a period of seven and one-half hours between 0515 and 1245, local time. None of the reconnaissance planes was identified by observers on the Liberty; apparently they were not near enough for the markings to be made out. Analysis of the whole situation, including movements of United States aircraft on the morning of June 8, has led the Navy to conclude that the reconnaissance aircraft could only have been Israeli. Tabulation of the reconnaissance flights is attached at TAB D. The times indicated on this tabulation are being given informally to Ambassador Harman this afternoon.

The air attack commenced shortly after 1400 hours, local time, on June 8. The attacking planes made a number of bombing and strafing runs over the ship. Shortly after

NOV 8 1967

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James M. Ennes, Jr. Research Papers

1430 hours three motor torpedo boats closed on the Liberty. Two of them fired torpedoes; one passed astern of the Liberty; the other hit the ship, opened a large hole in the hull, and killed a large number of communications personnel who were by that time at their general quarters station in the communications compartment. Further details about the attack and the events thereafter are given in the summary of proceedings of the Navy Court of Inquiry and in the testimony of the Liberty's Commander.

There appeared in the Washington Star on July 6 an eye witness account of the attacks on June 8 by Micha Limor, a crew member on one of the Israeli torpedo boats. A copy of this story is attached at TAB E.

The Department of State is now assembling data from the Navy and other sources for the presentation of a monetary claim to the Government of Israel. This will include amounts for loss of life, injuries, and damage to the ship and its equipment. The total claim is likely to run into several millions of dollars. It will be presented as soon as we have the necessary information in hand and in shape to go ahead with making the claim.

Attachments:

- TAB A - Defense Press Release and T. script or Testimony by Commander of Liberty.
- TAB B - Corrected Note to be Delivered to Ambassador Harman July 11, 1967.
- TAB C - Israeli Note of June 12, 1967.
- TAB D - Tabulation of Reconnaissance Flights.
- TAB E - Washington Star Article of June 8, 1967.

L:LCMeeker:jstf

~~TOP SECRET~~



THE JOINT STAFF

*discuss w/ Jim*

*my it memo*

THE NATIONAL MILITARY COMMAND CENTER  
WASHINGTON, D.C. 20301

DECLASSIFIED

Authority OSD letter MAY 19 1978

By LS, NARS, Date 8-21-79

8 June 1967  
1530 EDT

MEMORANDUM FOR THE RECORD OF PRELIMINARY INFORMATION

Subject: The USS LIBERTY (AOTR-5) Struck by Torpedo

1. At 080911 EDT June, USSINCKR notified the JMCSC by phone that the USS LIBERTY was under attack, had been hit by a torpedo and was listing to starboard. The ship was operating in the Mediterranean Sea approximately 60-70 miles east-northeast of Port Said.

2. The oral report of the incident was confirmed by a COMSIXTHFLT message reporting the USS LIBERTY had been hit by a torpedo on the starboard side at 080830 EDT. Three unidentified gunboats were reported to be approaching the vessel with the USS LIBERTY listing badly.

3. At 081013 EDT a message from COMSIXTHFLT stated the attack forces were declared hostile. COMSIXTHFLT also reported the following actions: The USS AMERICA had been directed to launch four armed A-1s and the USS SARATOGA to launch four A-1s with fighter cover to defend LIBERTY. The pilots were directed to remain clear of land. In addition, TF-60 was directed to proceed toward the scene. Air refueling tankers were also ordered to launch, the first aircraft were on the scene at approximately 0945 EDT.

4. At 081045 EDT, a message was received from the USDAO in Tel Aviv stating that Israeli aircraft and motor torpedo boats had erroneously attacked a vessel in the Mediterranean Sea at 080800 EDT, which was thought to be a US Navy ship. Israeli helicopters were conducting rescue operations. The Israeli government sent abject apologies and requested information on other US ships near the war zone.

5. Late information discloses ten US killed and 75 wounded of whom 15 are in serious condition.

6. Two destroyers from TF-60 have been directed to proceed at full speed to the USS LIBERTY, now underway north on a northwesterly course at 8 knots. The rendezvous is estimated for 0001 EDT 9 June.

~~TOP SECRET~~

COPY LBJ LIBRARY

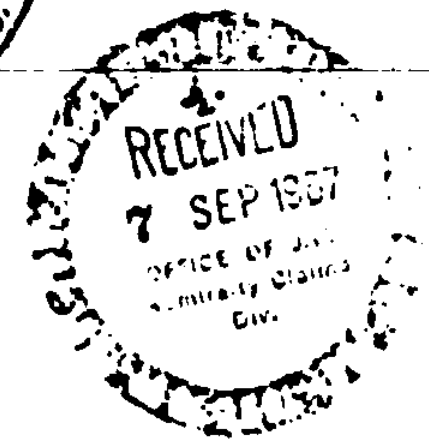


DEPARTMENT OF THE NAVY  
NAVAL SHIP SYSTEMS COMMAND  
WASHINGTON, D.C. 20360



IN REPLY MAIL  
AGTR 5  
SEP 1967

14 SEP 12 1967



From: Commander Naval Ship Systems Command  
To : Judge Advocate General

Subj: Claims Pertaining to USS LIBERTY- (AGTR 5)

Ref : (a) CNM ltr MAT 09C:ETK of 21 August 1967 w/encl.

- Encl: (1) COMSERVLANT memo of 29 August 1967  
(2) COMNAVSHIPYD NORVA ltr AGTR-5/4710 Ser 0196 of 29 August 1967  
(3) Copy of fixed price Contract No. N62678-67-C-0018  
(4) NAVSEC (Code O6R) memo Ser O6R-452 of 28 August 1967  
(5) CO, USS LIBERTY (AGTR-5) ltr AGTR-5/4010 Ser 433 of 30 August 1967  
(6) Sworn Statement of Mr. Paul T. Saari, NAVSHIPSYSCOMHQ, Code 527

1. Reference (a) requested this Command to furnish the Judge Advocate General with cost estimates for the repair of damages inflicted upon USS LIBERTY by Israeli Air and Naval units on 8 June 1967.

2. The estimated cost of restoring USS LIBERTY and its equipment to the same condition prior to the attack on 8 June 1967 is \$5,424,202. The following is a breakdown of this estimate:

a. Actual Cost of Repairs Completed at Malta - enclosure (1).	162,608
b. Actual Cost of Norfolk Navy Shipyard Personnel Travel to Malta - enclosure (2).	7,000
c. Actual Cost of Oil Removal from Bulkheads and Overhead - enclosure (3).	9,750
d. Estimated Cost of Electronic Systems Restoration - enclosure (4).	3,901,187
e. Estimated Cost of Hull, Mechanical and Electrical Damage - enclosure (2).	1,261,459
f. Estimated Replacement Cost of Equipage, Allowance Items, Consumables, etc. - enclosure (5).	141,656
g. Estimated Cost of Labor Expended by LIBERTY Personnel in Excess of Normal Duties at a Rate of \$5.00 per hour.	128,500

App. E

7 SEP 1967

ATTN: 5  
Per 527-1450

3. It is noted that the actual cost of restoring and repairing the LIBERTY and its equipment will probably be increased by an undetermined amount because of the following conditions:

- a. The Norfolk Navy Shipyard estimates (enclosure 2) are based on current labor and overhead rates which are continuing to escalate.
- b. The replacement costs (enclosure 4) of the electronic equipment destroyed by the attack are based on 1964 prices plus escalation. However, these models are no longer available and new equipment to provide the same capability is considerably more expensive.
- c. The cost to eliminate the rubbing of the shaft, indicated in enclosure (2), cannot be determined until tests and inspections are made.
- d. The Shipyard estimates (enclosure 2) for the repair of the ship's electrical system include the correction of only known damage at this time. The remaining tests to be conducted will probably uncover further damage.

4. This Command recommends that consideration be given to providing for a second payment to cover the above probable increases when the exact cost figures are known.

*E. A. Grantham*

Copy to:  
COMNAVSTA W/ENCL.  
CNO (OP-04) W/ENCL.  
CNO (OP-03) W/ENCL.  
CNO (OP-94) W/ENCL.

E. A. GRANTHAM  
Deputy Commander for  
Fleet Maintenance & Logistics



Commander Service Force  
U. S. Atlantic Fleet  
Norfolk, Va. 23511

29 August 1967

MEMORANDUM FOR COMMANDER, NAVAL SHIP SYSTEMS COMMAND

Subj: ~~USS LIBERTY (AGTR5) battle damage repairs; cost of~~

Encl: (1) Copy of Malta Drydocks invoice ser 3235 of July 1967

1. Enclosure (1) is a breakdown of the repairs accomplished by Malta Drydocks during the period 14 June 1967 to 17 July 1967 in order to make USS LIBERTY (AGTR5) seaworthy for transit to CONUS. Certain items in enclosure (1) are not associated with battle damage repairs as outlined below.

Invoice price	\$163,564.50
Less non-battle damage repairs exceptions	
Item 128	\$140.00
Item 505	532.00
Item 510	42.00
Item 512	32.00
Item 810	24.00
Item 811	10.00
Item 812	176.00
	<u>\$956.00</u>

Total cost of temporary battle damage repairs: \$162,608.50.

2. It is certified that the costs outlined in enclosure (1) are those actually paid and that the estimates for the "exception" items are reasonable and just.

*C. B. Swayne*

C. B. SWAYNE  
Ass't Chief of Staff  
(Maintenance)

Enclosure (1) to NAVSHIPS  
Ser 527-1450

CABLES TO  
 DRYDOCKS MALTA  
 SECURITY & SECOND PHASE CODE  
 TELEPHONE  
 MALTA CENTRAL 2201  
 TELEGRAM NO. 311

P/SY  
 1600/67

Serial No. 2037

July 1967

TO CAPTAIN, OWNERS AND ALL CONCERNED IN:-

Code: 2037

Dr. to  
**MALTA DRYDOCKS**  
(COMP. MALTA) LIMITED

Registered Office:  
**THE DOCKS MALTA GC**  
 MANAGING AGENTS:

**SWAN, HUNTER & WIGHAM RICHARDSON LTD.**

Register Completed 24. 6. 67  
 Register Completed 24. 7. 67

**ITEMS**

Vessel cranes, uncranes and including  
2nd day work.

Vessel cranes 24. 6. 67  
 Vessel uncranes 24. 7. 67

6.2.7. 6,000

Safety (20) subsequent day drydock  
 work.

The following work was carried out  
as directed:-

120

Manufactured and supplied every type 214  
bags and tarpaulins (214 lbs bags and 21' x 22'  
tarpaulins).

121

To weld approx. 200 lbs of steel cables  
average size 1 1/2" x 1 1/2" x 3/16"

122

To remove approx. 100 feet guard rail wire.

123

Remove approx. 10 lbs of steel cables  
plates average size 1 1/2" dia. x 3/8".

2037

20

2037

2037

2037

2037

2037

2037

2037

20

**ENCLOSURE (2)**

U.S.S. BUREAU

D/7 1943 23

105

Repair approx 12 in No. V/3 coars and chalk test on completion.

105

106

Renov approx. 6 in No. V/3 coars complete with frames.

106

105

Renov approx. 12 in No. mesh wire gratings.

107

107

To clean, wirebrush, apply one (1) coat under coat approx. 500 sq. yds damaged paint work (superstructure). Final coat to be applied to entire topside including decks and mast (paint H.M.S. supply).

108

108

To crop 6 in No. miscellaneous storages damaged beyond repairs.

109

109

Manufacture 6 in No. galv. or H/3 boxes without lid, but with 2 handles 10" x 10" x 30" high. 6 in No. 1/2 holes to be drilled in bottom.

110

110

Remove all traces of oil from shipside and other internally in way of damage, removing all crutches, also hose down No. 8 tank.

111

Apply Services of S.O.V. Battery. To remove Oil/Water from following Tanks. Clean internally and gas free.

- 3 - 52 - 2 - 7
- 3 - 52 - 0 - 7
- 3 - 52 - 1 - 7
- 3 - 37 - 2 - 7
- 3 - 59 - 1 - 0
- 3 - 37 - 0 - 7
- 3 - 37 - 1 - 7

112

111

To manufacture and fit 1 in No. inflatable liferaft storage complete with quick-release gear, approx. size 15' x 5'.

113

113

Supply the following to the Engineer officer:-

- 3 Doz. pairs overalls.
- 3 Doz. pairs gloves.
- 3 Doz. pairs sea boots.

114

U.S. Navy

1/7 9502 50

120. 213 120.  
119

Supply the services of 212 No. covered  
lorries (with drivers) at U.S.N. disposal  
as required.

118

Supply 112000 lbs. of wire, to be used in  
10 in. pieces. Wire class matching to be  
carried out in situ and 112000 lbs. wire  
tested on completion.

117

To supply 1 in. M. 50 gall. drum of  
diesel oil and 1 drum 50 gall. high octane  
gasoline and 4 in. No. Jerrycans filled  
with 2 gallons of gasoline each.

116

Mainerrick part aft, purchase wire to  
be recovered.

117

PHOTOGRAPHIC DAMAGE FWD. SIDE OF 73

- (a) Take four (4) shots at different angles  
and supply 12 in. No. of each, large size prints.
- (b) Take shots as instructed during various  
stages of repair and supply 4 in. No. of each,  
large size prints.
- (c) Supply 1 in. No. colour film (20 exposures).

DECK REPAIRS

1st Deck:-

- Deck part removed bet. 57 - 62 23' x 15' x 5/8"
- 2 in. No. deck beams removed. 9' x 6' x 1/2"
- 2 10' angle each.
- Insert fitted on deck 24' x 24' x 5/8"
- Insert fitted on deck 36' x 35' x 3/8"
- Lower part of 3 in. No. divisional blind burned  
for access to deck plating. 8' x 25'
- Deep girder part removed (atbs) 10' x 3/4" x 24"
- Deep girder part removed (face  
plate) 10' x 1 1/2" x 10"

2nd Deck:-

- No. 52 Transverse blind. part  
removed. 35' x 07' x 1/2"
- No. 52 Transverse blind. insert  
fitted. 24' x 24' x 5/8"
- 11 in. No. angle stiffeners on  
blind removed. 40 x 6" x 1/2" x 10'
- 3 in. No. brackets on stiffeners to  
deck removed. 15" x 12" x 3/8"
- Deck part removed bet. 52 - 63 36' x 22' x 5/8"

U.S.S. L...

8 in No. deck beams removed. 9" x 4" x 1/2" x 19' angle each.

Deck girder part removed (std) 16" x 25" x 3/8"

Deck girder part removed face 14" x 19" x 1/2"

Deck beam on No. 53 frame removed. 20" x 25" x 3/8"

Face plate 16" x 19" x 1/2"

8 in No. ribs on beam and girder 2 1/2" x 10" x 1/2"

3 in No. girders removed bet 52 - 53 9" x 4" x 1/2" x 18' angle each.

Deck framed bet. 52-53 (Centre line) 20" x 19" steel.

Insert fitted on deck bet 52-53 6" x 15" x 3/8"

Insert fitted on deck bet 55 - 57 10" x 10" x 3/8"

No. 60 transverse blind removed 23" x 19" x 1/2"

10 in No. T bars on case removed 5" x 6" x 3/8" x 10' each.

Centre line girder removed 8 bar 16" x 8" x 1/2" in face.

2 in No. long. blind burned off 12" x 8" x 3/8"

No. 60 transverse blind. 2 in face. 20" x 19"

(b) LOWER DECK

Long. blind on std side removed bet 52 - 60 24" x 5" x 1/2" x 1/8"

Centre line blind removed bet 52 - 60 24" x 5" x 1/2" x 1/8"

Long. blind part side part removed bet 52 - 60 24" x 5" x 1/2" x 1/8"

No. 60 transverse blind part removed. 35" x 14" x 1/2"

6 in No. T bars on Centre line blind. 9 1/2" x 8 1/2" x 1 1/2" (each)

7 in No. T bars on long. blind 9 1/2" x 6 1/2" x 1 1/2" (-)

12 in No. T bars on No. 60 blind 5 1/2" x 8 1/2" x 1 1/2" (-)

3 in No. channel bars on 52 blind 7" x 3 1/2" x 1/2" x 3 1/2" x 14'

1 in No. angle on No. 52 blind 4" x 4" x 9" x 14'

Insert fitted on No. 60 blind 43" x 25" x 3/8"

2 in No. T bars on 60 blind part removed. 6" x 10" x 3/8" x 4' (each).

3 in No. brackets on 60 blind to deck 23" x 11" x 3/8" x 5" flc. (each)

Tank top part removed 1st strake (std) 14" x 30" x 1/2"

Tank top part removed 2nd & 3rd strakes (std) 11" x 25" x 1/2"

Large plate bet. 53 - 60 removed 20" x 35" x 1/2"

Insert fitted on tank top bet 53 - 59 44" x 24" x 1/2"

59 - 60 15" x 35" x 1/2"

60 - 61 67" x 36" x 1/2"

No. 58 floor part removed 60" x 48" x 1/2"

No. 57 - 59 - 60 & 61 floors removed framed refitted. 60" x 48" x 1/2" each

U.S.S. ALBATROSS

(a) DECKWORK DATA

D strake removed bet	53 - 63	7'6" x 41" x 3/4"
E	53 - 63	6'6" x 51" x 3/4"
G	53 - 63	7'6" x 31" x 3/4"
F	50 - 63	5'9" x 51" x 3/4"
B	50 - 63	6'9" x 51" x 3/4"

Nos. 53, 54, 55, 56, 57, 59, 60, 61, 62, 63 and 64 frames removed from tank top to 1st deck.

1" x 9" x 4" x 27" angle each (chairs)  
No. 65 & 66 frames removed bet 1st and 2nd decks

No. 50 web frame removed 35" x 27" x 1/2"  
Face plate 12" x 27" x 1/4"  
3 in No. webs on 53 frame 11" x 35" x 1/2" (each)

2 in No. diaphragm plates fitted on No. 50 web

frames to deep beam on 1st and 2nd decks 35" x 15" x 3/8"  
2 in No. doubler fitted on No. 53 frame to deep beam on 1st and 2nd decks. 11" x 35" x 3/4"

10 in No. brackets on margin plate to frame 53 - 63 1/2" x 15" x 12" each  
10 in No. brackets on frames Nos. 53 - 63 to 2nd deck removed. 1/2" x 15" x 12" each

13 in No. brackets on frames Nos. 53 - 63 to 1st deck removed. 1/2" x 15" x 12" each

75775

120 723 120

119

To remove approx. 20 tons of miscellaneous lockers, fitting blocks, cable, pipes etc. (removals in connection with item 116)

379

120

To carry out daily check of ship's stores whilst vessel is in dock.

1025

121

To supply 100 fathoms of 1 1/2" rope as per pattern supplied.

270

122

Laundry arrangements.

73

123

New structure - 1 coat red lead to be applied as indicated and oilcd.

373

124

New shell plating (damage repairs) all external voiding to be 1 rayed).

515

125

To investigate oil leaks between 62 - 63 stations etc.  
Survey report forwarded.

74

M.D.D.	U.S.S. <i>ALBATROSS</i>	2/7	16518	73
Job No				
126	Four (4) rust wires to be removed.			
127	Consequence on Item 110 (Damage repairs) Ers shall plating to be painted externally i.e. 4 coats anti-corrosive paint (alternate colour) and 1 coat anticorrosing.		1979	
128	... 1/2 in circ. water inlet gaskets, 2 in lb. securing lugs and bolts to be fitted.		110	
129	To fit a welded coupler 15" x 6" x 1/2" ( in connection with Job No. 128)		115	
300	Remove approx 6000 miscellaneous upper deck piping.		23	
301	In way of funnel change, fit approx 24 welded couplers, average size 12" x 12" x 1/2"			
302	Supply on land the following to the Engineer Officers 2 in lb. calveys pump 4 in lb. air extractor fan.		670	
303	To remove from deck bottom approx 20 tons of miscellaneous scrap.		150	
304	<i>OK</i> <i>Re. fitted during actual</i> To stop overhaul and test on completion 2 in lb. steam fire/flashing manifold pump.		2576	
305	To cut keyways in 1 1/2" dia shaft.		532	
306	The following work to be carried out in connection with change repairs ( Item 118) as indicated by Mr. Lardner.		10	
307	Diesel oil supply and return for diesel generator.			
308	Salt water discharge from diesel generator.		60	
309	Air escape and sounding tubes to fuel tanks.		570	
310	35 lbs steam supply and drains.		63	
311	Fuel pump shaft coupling to be machined as instructed.		1226	
			42	

N.D.D.  
Job. No.

2/7

140753

39

NO ✓

511

Forecastle Deck  
Exhaust pipe to aux. Generator to be  
relogged.

512

To manufacture 1 in No. gear wheel as per  
pattern

513

60 (60) C.O.2 bottles to be externally  
cleaned or oil and recharged

603

Overhaul <sup>two</sup> 15 in No. gyro repeaters.

604

Overhaul and fix emergency steering binacle.

605

Gyro compass to have cartographic removed.

606

To shop overhaul and test on completion  
1 in No. emergency fire pump motor.

607

Salt water circ. pump motor to be shop  
overhauled.

The following work to be carried out  
in connection with damage repairs (Item 118) as  
indicated by Mr. Marlicca.

608

Cable glands in W/T structure to be made  
good.

609

Electric lighting to be installed.

NO ✓

610

To manufacture 8 in No. coils as per pattern  
(for U.S.S. Chikashiro)

NO ✓

611

To repair 1 in No. solenoid coil as per  
pattern (for U.S.S. Chikashiro).

NO ✓

612

Wet run motor to be shop overhauled.

SERVICES PROVIDED

Hire of tugs provided for docking, undocking  
and departure of vessel.

Services of firmatchmen provided on board  
vessel for duration of repairs.

Service of qualified chemist provided  
certifying vessel free from gas. Tests carried  
out and certificates issued during repairs.

Cables laid, connected up to vessel, and  
shore electric power supplied during repairs.  
Cables disconnected and removed on completion.  
42521 EN @ \$0.65 per unit.

775

519

73  
1616

24

13

175

511

213

463



0

- 8 -

1/7

15700 50

U.S.S. LIBERTY

Temporary electric lighting installed and service maintained during repairs. Cables disconnected and removed on completion.

250

Shore telephone installed on board for ship's use. Service maintained during repairs, disconnected and removed prior to vessel's departure.

250

Hoses laid, connected up to vessel and remain water supply. Service maintained during repairs, disconnected and removed on completion.

400

Hoses rigged and coupled up. Circulating cooling water supplied to refrigeration machinery. Hoses uncoupled and removed on completion.

400

One thousand six hundred (1600) tons of fresh water supplied to vessel.

900

Shore steam supplied to vessel for duration of repairs.

3500

Garbage removed and disposed of daily.

400

15700 50

N.B. THIS ACCOUNT IS EXPRESSED IN AID IS PAYABLE IN DOLLARS

James M. Ennes, Jr. Research Papers



EC

DEPARTMENT OF THE NAVY  
NORFOLK NAVAL SHIPYARD  
PORTSMOUTH, VIRGINIA 23709

In reply refer to  
AGTR5/4710(21)  
Ser: 0196

29 AUG 1967

**CONFIDENTIAL**  
From: Commander, Norfolk Naval Shipyard  
To: Commander, Naval Ship Systems Command

Subj: Cost Estimate to restore, USS LIBERTY (AGTR-5) to original configuration

Ref: (a) Your 241520Z Aug 67

Encl: (1) Certification of estimator's ability  
(2) Certification by Estimators

1. As requested by reference (a), estimates have been prepared for repair of all battle damages inflicted on the USS LIBERTY (AGTR-5) by aircraft and naval units.

2. A breakdown of the estimates is furnished in enclosure (2). Totals for specific areas are:

a. Structural	\$238,887
b. Electrical	\$525,731
c. Piping	\$93,620
d. Sheet metal	\$235,838
e. Machinery	\$50,108
f. Temporary Services and dry docking	\$117,275
g. Total	\$1,261,459

3. Above dollar figures are computed on the basis of current Norfolk Naval Shipyard labor and overhead rate of approximately \$60 per man day. Above machinery estimate includes only inspection and alignment check of shafting, reduction gears and turbines. Problems have been reported with rubbing of shaft after attack, but scope of repairs are unknown until above inspection is completed.

4. Estimates do not include costs of electronic equipment, antenna or allowance items, such as life boats, mattresses, blankets, pillows, etc. Also not included is cost of repairs made at Malta which are considered permanent repairs.

5. In addition to above estimates, five Norfolk Naval Shipyard personnel inspected the LIBERTY in Malta at a cost of \$7,000 which has been paid by the Type Commander.

*J. A. Sisson*

J. A. SISSON  
By Direction Enclosure (2) to NAVSIBRS  
Ser 527-1450

**CERTIFICATION OF ESTIMATORS' ABILITY**

I certify that the below listed planners and estimators are qualified through experience to prepare estimates to accomplish work in their area of technical specialty:

Robert V Watkins	Structural
Kenneth E. Dice	Electrical
Bonnie L. Hardison	Piping
Jack S. Grimes	Sheetmetal
Frank Harrington	Machinery
Joseph M. Piland	Temporary Services

*Jonathan A. Sisson*  
Jonathan A. Sisson  
Planning and Estimating  
Superintendent

Enclosure (1)

STRUCTURAL ESTIMATES

1. Structural repairs main deck and above including holes and dents in shell plating above water line.

Labor: 2788 mandays      Matl: \$13,545      Total: \$14,437

2. Structural repairs below main deck in torpedo damage area

Labor: 918 mandays      Matl: \$4,760      Total: \$59,400

I certify that the above estimates have been prepared to the best of my ability and constitute reasonably accurate estimates to perform the stated tasks.

*Robert V. Watkins*

Robert V. Watkins

Enclosure (2) page 1

ELECTRICAL ESTIMATES

1. Replace cabling and equipment main deck and above with exception of cost of antennas and AN/SPS-10 equipment.

Labor: 1308 mandays      Matl: \$21,480      Total: \$100,568

2. Install cable and electronics equipment in crypto 1 and 2 and research room number 1 not including hook up of electrical equipment in research room number 1.

Labor: 4380 mandays      Matl: \$43,815      Total: \$301,170

3. Install power, lighting and I.C. equipment in crypto 1 and 2 and research room number 1.

Labor: 1,711 mandays      Matl: \$20,733      Total: \$123,993

I certify that the above estimates have been prepared to the best of my ability and constitute reasonably accurate estimates to perform the stated tasks.

*Kenneth E. Dice*  
Kenneth E. Dice

Enclosure (2) page 2

PIPING ESTIMATE

1. Piping repairs main deck and above as a result of aircraft damage.  
Labor: 487 mandays      Matl: \$3,710      Total: \$34,012
2. Piping repairs below main deck as a result of torpedo damages.  
Labor: 400 mandays      Matl: \$5,335      Total: \$29,735
3. Repairs to air conditioning compressor topside.  
Labor: 179 mandays      Matl: \$3,275      Total: \$14,194
4. Repairs to smoke stacks as a result of aircraft damage.  
Labor: 239 mandays      Matl: \$1,100      Total: \$15,679

I certify that the above estimates have been prepared to the best of my ability and constitutes reasonably accurate estimates to perform the stated tasks.

*Bonnie L. Hardison*  
Bonnie L. Hardison

Enclosure (2) page 3.

SHEET METAL REPAIRS

1. Repairs to ventilation below main deck:

Labor 667 mandays                      Matl: \$8253                      Total: \$49,098

2. Repairs to work benches, stowage bins and safe lockers below main deck:

Labor: 1426 mandays                      Matl: 13,353                      Total: \$99,363

3. Repairs to furniture main deck and above:

Labor: 65 mandays                      Matl: \$1307                      Total: \$1207

4. Repairs to bulkheads, metal joiner doors, secure doors, insulation land deck covering below main deck.

Labor: 695 mandays                      Matl: \$11,962                      Total: \$54,037

5. Repairs to bulkheads, rugs, metal joiner doors, insulation, lockers and stowages, main deck and above.

Labor: 234 mandays                      Matl: \$5,488                      Total: \$19,520

6. Repair ventilation main deck and above.

Labor: 134 mandays                      Matl: \$573                      Total: \$8613

I certify that the above estimates have been prepared to the best of my ability and constitutes reasonably accurate estimates to perform stated tasks.

*Jack S. Grimes*  
Jack S. Grimes

Enclosure (2) page 4

MACHINERY REPAIRS

1. Removal and alignment of shafting (does not include access to remove shaft)

Labor: 438 mandays                      Matl: \$1050                      Total: \$27,120

2. Inspect and repair propeller, outboard shaft bearing and rope guard.

Labor: 193 mandays                      Matl: \$570                      Total: \$13,080

3. Take tape readings and reassemble main reduction gear, L.P. and H.P. sides (No repairs included in estimate).

Labor: 149 mandays                      Matl: \$125                      Total: \$8,979

4. Check alignment H.P. and L.P. turbine coupling. (No repairs included in estimate).

Labor: 30 mandays                      Matl: \$75                      Total: \$1,921

I certify that the above estimates have been prepared to the best of my ability and constitutes reasonably accurate estimates to perform the stated tasks.

*Frank Harrington, Jr.*  
Frank Harrington

Enclosure (2) page 5



SERVICES

1. Temporary services (water, steam, electricity, telephone, fire alarm, etc)

Labor: 739 mandays      Matl: \$25      Total: \$51,755

2. Removal of debris and crane operators

Labor: 900 mandays      Matl: -      Total: \$54,000

3. Dry Docking

Labor: 187 mandays      Matl: \$300      Total: \$11,520

I certify that the above estimates have been prepared to the best of my ability and constitutes reasonably accurate estimates to perform the stated tasks.

*Joseph M. Piland*  
Joseph M. Piland

<b>JOB ORDER</b> (Master Contract for Repair and Alteration of Vessels)		PAGE NO. <b>1</b>	NO. OF PAGES <b>1</b>
JOB ORDER ISSUED UNDER CONTRACT NO. <b>N62678-67-C-0018</b>		REQUISITION NO./PURCHASE AUTHORITY <b>ComServLant msg. 152043Z August 1967</b>	
THIS JOB ORDER IS ISSUED PURSUANT TO 10 U.S.C. 2301 ET SEQ. <input type="checkbox"/> BY ADVERTISING UNDER INVITATION NO. <b>N62678-68-R-32</b> <input checked="" type="checkbox"/> BY NEGOTIATION UNDER 10 U.S.C. 2304(a) (2).		VESSELS (Name or number) <b>USS LIBERTY (AGTR-5)</b>	
OFFICE TO MAKE PAYMENT (if other than that designated by contract)		DATE OF ORDER <b>19 August 1967</b>	
ISSUED BY <b>Supervisor of Shipbuilding, Conversion and Repair, USN Fifth Naval District P. O. Box 215 Portsmouth, Virginia 23705</b>		PER DIEM RATE OF LIQUIDATED DAMAGES <b>\$400.00 not to exceed 10% of Job Order price</b>	
TO: (Contractor and Address) <b>Norfolk Shipbuilding, &amp; Drydock Corp. P. O. Box 2100 Norfolk, Virginia 23501</b>		PLACE OF PERFORMANCE <input type="checkbox"/> CONTRACTOR'S PLANT <input checked="" type="checkbox"/> AS SPECIFIED BELOW OR IN SPECIFICATIONS OR SCHEDULE <b>U. S. Naval Amphibious Base Little Creek, Virginia</b>	
		AMOUNT <b>9,750.00</b>	
		COMMENCEMENT DATE <b>21 August 1967</b>	
		COMPLETION DATE <b>September 15</b>	
		APPLICABLE SPECIFICATIONS AND/OR SCHEDULE <b>Attached</b>	

ACCOUNTING AND APPROPRIATION DATA:			
Appropriation & Subhd.	<b>1731804.2657</b>	Property Acct. Activity	<b>--</b>
Object Class	<b>--</b>	Fest Code	<b>None 98015</b>
Bu. Cont. & Sub. Allot.	<b>94143</b>	Code	<b>02-532P</b>
Auth. Acctg. Activity	<b>181</b>		
Transaction Type	<b>2D</b>		

An order hereby placed with you under and pursuant to the provisions of the above numbered contract between you and THE UNITED STATES OF AMERICA to effect the repair, completion, alteration of, or additions to the above named (or numbered) vessel as described in the above numbered specifications and/or schedule. You shall perform the following items at the price or prices specified therefor:

Item 1

DO-A-3 has been assigned this Job Order.  
Clause 45 applies to this Job Order.

**CONFORMED COPY**

If this job order is issued on a negotiated basis, the Contractor shall execute the following acceptance: Accepted this <u>19</u> day of <u>AUGUST</u> <u>27</u> 19 <u>67</u> <u>Norfolk Shipbuilding &amp; Drydock Corp.</u> <small>CONTRACTOR</small> By <u>[Signature]</u> <small>SIGNATURE</small> <u>Vice President</u> <small>TYPED NAME AND TITLE</small>	THE UNITED STATES OF AMERICA By <u>[Signature]</u> <small>SIGNATURE</small> <u>W. P. TALMAGE</u> <small>TYPED NAME OF CONTRACTING OFFICER</small>
---	---

1441

Norfolk University  
P. O. Box 2100, Norfolk, Virginia

U.S.S. AIRMAIL (AGTR-5) 18 AUG 1967

James M. Ennes, Jr. Research Papers

X

Rev. Revised 1/67

SUPERVISOR OF SHIPBUILDING, USN  
FIFTH NAVAL DISTRICT  
P. O. BOX 215  
Portsmouth, Virginia

**GENERAL PROVISIONS  
Pertaining to Specifications for  
Repair and Alterations**

The general provisions contained herein are applicable to, and form a part of the various items contained in specifications for work under a Master Contract for Repair and Alteration of Vessels (DD-ASPR Form No. 731).

1. Delays. In the event the contractor encounters difficulty in meeting performance requirements, or when he anticipates difficulty in complying with the contract schedule dates, he shall immediately notify the Contracting Officer via the Naval Inspector, in writing, giving pertinent details; provided, however, that this data shall be informational only in character and that this provision shall not be construed as a waiver by the government of any delivery schedule or date for any rights or remedies provided by law or under this contract.

2. Plans and Test Specifications.

a. Labor, materials and equipment indicated on plans or test specifications as being provided by "shops", "codes", "manufacturer", or "government", or listed as existing, which are required to complete work in these specifications are to be furnished by the contractor unless specifically listed as government-furnished in the specifications items. (Disregard all sources of supply referred to on the plans).

b. One non-reproducible (blueprint) copy of each plan referenced in the specifications will be furnished each contractor tendered an IFB and one reproducible copy of each plan will be furnished the successful bidder.

c. One non-reproducible copy of each test specification referenced in the specifications will be furnished each contractor tendered an IFB and three copies will be furnished the successful bidder.

3. Work Performance.

a. The contractor shall diligently perform the required work in accordance with an orderly schedule that will enable him to progressively complete the various phases of the work in a timely fashion. This work schedule shall be developed around certain milestone dates that are established in the specifications, including, but not limited to: drydocking, submission of various reports, post repair trials, and completion date.

b. Inspection and reports must be thorough and complete and made by experienced and fully qualified personnel, to assure an informed decision on necessary repairs. Sufficient time and manpower shall be scheduled by the contractor to make inspections properly and complete reports early in the contract period or in accordance with the dates required in the specifications.

#### 4. Tests.

a. Whenever a test is required by the specifications, it shall be witnessed by the Naval Inspector and by a ship's inspector.

b. All work which requires acceptance tests shall be progressed in sufficient time to allow the contractor to complete such tests and correct deficiencies prior to the final job order completion date or at such earlier dates as may be directed in the specification.

c. Newly installed or reinstalled electronics or ordnance equipment shall not be energized except with the prior approval of a representative of the Supervisor of Shipbuilding.

d. In every case where it is necessary to operate ship's equipment for purpose of contractor's test or work, permission shall be obtained from the appropriate department head or the duty officer of the vessel via the Naval Inspector before proceeding with such operation.

e. Any work or tests requiring the inspection and approval of the Naval Inspector are to be performed during normal working hours, unless prior approval of the Naval Inspector is obtained. Normal hours are 8:00 A.M., to 4:30 P.M., Monday through Friday except on Federal Legal holidays. Work or tests performed by the contractor during other than normal working hours will be subject to inspection and approval by the Naval Inspector upon his return to duty on the next working day.

#### 5. Fire Prevention and Safety:

The contractor shall abide by the requirements of "Safety and Health Regulations for Ship Repairing" as required by Clause 29 of the MSR Contract. The following precautions supplement those required by the "Regulations":

a. Whenever it is necessary to bring a quantity of any inflammable liquid in excess of five (5) gallons aboard ship via portable containers, the Naval Inspector shall be informed. The following precautions apply:

(1) The container is to be adequately protected during handling and while it is aboard ship.

(2) Provisions for confining any accidental spillage from such temporary storage tank to a small area are to be made by either fitting a pan underneath or a coaming around the tank with sufficient capacity to hold the entire contents of the tank.

(3) A fire hazard zone shall be designated and plainly marked around the container.

(4) Appropriate firefighting equipment and material shall be at hand in the vicinity of the fire hazard zone.

(5) It shall be removed as soon as it has served the purpose for which it was brought aboard.

b. Where a significant quantity of wood is required for work inside a ship, as much of the wood as practicable shall be treated to make it fire retardant.

c. The contractor shall assure that a supply of adapters and spanner wrenches for mating shipboard firefighting equipment (hoses and nozzles) with facility and/or municipal fire equipment is readily available on each pier.

d. Prior to the commencement of any "hot" work, the contractor will assure that adequate fire watch is stationed at the scene of the operation and in adjacent areas where a fire hazard might exist. When fire hazard is increased due to a large number of persons working in a limited area, or by location of hot work or other physical factors, the fire watches and equipment must be increased accordingly. If the ship's fire main is inactivated due to repairs specified, sufficient temporary fire stations shall be installed with hose and fittings to reach any point aboard with not more than one-hundred (100) feet of hose.

e. Before any welding, burning or other "hot" work is undertaken, the contractor shall obtain a certificate from a certified chemist showing that all spaces, compartments, tanks, voids, etc., including pipe lines, in, adjacent to, or upon which such work is to be performed, are gas free and safe for work. Subsequent tests shall be performed as necessary. Signs shall be posted as required by Sub-part B of the "regulations".

f. The contractor shall provide suitable precaution cards and post them in conspicuous places, on or near any equipment or material which offers a hazard to the security of the ship or the safety of personnel. Such warning signs shall be posted whenever precautions are necessary for the safe handling, stowage and security of dangerous materials, such as ammunitions, explosives or inflammables. Warning signs shall be posted whenever conditions of a hazardous nature are known to exist. Conditions which would prohibit smoking or welding, the presence of toxic or explosive vapors, acids or caustics, high voltage lines, breathing air supply lines, and radioactive materials are examples of conditions which would require the posting of warning signs. The contractor is also to assure that the protection afforded by such warning displays is further augmented by the familiarization of personnel with and the enforcement of, safety precautions.

6. Precautions against flooding:

a. Whenever the list of a ship or boat while waterborne or the failure of docking or hauling facilities could result in flooding through unattended hull openings open for repair or examinations, the contractor shall, at the end of each work shift not immediately followed by a shift engaged in work on these openings, secure all intact seaches and overboard discharge valves or fit temporary closures to these and to all other hull openings upon which work is being undertaken.

b. When the area of shell plating removal makes temporary closure impracticable, the contractor shall secure each vulnerable compartment in order to minimize potential damage. To the extent permitted by scope and urgency of work, underwater hull operations shall be scheduled to maintain positive vessel stability and maximum hull watertight integrity in event of flooding.

7. Piping.

All piping disconnected in performance of work shall be suitably blanked to prevent entrance of foreign objects.

8. Classified Work.

Clause 34 of the MS Contract sets forth the military security requirements for classified work under the contract. The contractor shall have a Facility Security Clearance consistent with the degree of access required in order to undertake any classified work involved in attached specifications.

AGTR-5

I N D E X

Item No.

Title

1. OIL AND DEBRIS; REMOVAL FROM COMPARTMENTS

James M. Ennes, Jr. Research Papers



OPTIONAL FORM NO. 10

UNITED STATES GOVERNMENT

# Memorandum

TO : Code 527

Ser 06R-452  
DATE: 28 AUG 1967

FROM : Code 06R

SUBJECT: USS LIBERTY, AGTR-5, Research Electronics Systems cost

Reference: (a) Chief of Naval Material letter serial 09C:ETK dated 21 August 1967

Enclosure: (1) Estimated cost breakdown of Special Electronics in the Radio Research system on subject ship  
(2) Statements of qualifications of personnel preparing estimates

1. As requested by reference (a) and enclosures thereto enclosures (1) and (2) are herewith submitted.

2. Equipment listed in paragraph I enclosure (1) can be broken down into detailed lists however to do so would require high security classification of the enclosure. Detailed back up information is available in this office if needed.

  
E. E. BALL

Enclosure (4) to NAYSHIPS  
Ser 527-1450

D. Proecs, 62108; J. Allen, 8/28/67

Cost of Special Electronics in the Radio Research System  
on the USS LIBERTY AOTR-5

I. Equipment Replacement Costs

A. Major electronics equipment destroyed or damaged beyond repair. (based on INSURV Board Report)	\$972,678
B. Portable test equipment destroyed. (based on INSURV Board Report)	\$ 30,922
C. Spare parts destroyed. (based on COMSERVLANT estimates)	\$200,000
D. Ancillary equipment destroyed. (based on "On-Site" survey and review of installation drawings)	\$189,560
E. Antenna system components destroyed. (based on "On-Site" survey)	<u>\$ 58,000</u>
TOTAL -	\$1,451,160

II. Damaged Equipment Refurbishment Costs

A. Electronics Equipment. (based on contractors estimates)	\$390,000
B. Antenna Systems. (based on manufacturers estimates)	<u>\$10,000</u>
TOTAL -	\$400,000

III. Design and Installation Costs

A. Engineering	\$210,233
B. Engineering overhead	\$149,265
C. Manufacturing labor	\$ 19,435
D. Manufacturing overhead	\$ 9,718
E. Sub contract costs	\$854,425
F. Other direct costs	\$ 68,243
G. Material	<u>\$102,806</u>
SUB-TOTAL -	\$1,414,125
H. General and Administrative	240,401
I. Profit	<u>132,362</u>

TOTAL - \$1,786,888

IV. Cost on Items I escalation. (based on escalation of 4% per year 1964 to 1967)	\$173,139
V. Total cost to replace Special Electronics (Items I, II, III and IV above)	\$3,901,187

AGTR-5

1. OIL AND DEBRIS; REMOVAL FROM COMPARTMENTS (wah)

1. Remove all oil including oil film, water, and debris from decks, false decks, bulkheads, overheads, foundations, cabinets including equipment cabinets, lockers, stowage racks, frame members, ventilation, cables and wiring, and piping. This includes the interior surfaces of the listed spaces, interior and exterior of ventilation, cabinets (except as noted below), and lockers and exterior surfaces of other listed items.

a. Exceptions - This does not cover internal parts of equipments in Radio Research Room No. 2 2-52-2-C and disassembly of cable runs.

b. Spaces to be cleaned.

- |      |          |                                     |
|------|----------|-------------------------------------|
| (1)  | 2-52-2-C | Research Radio Room 2               |
| (2)  | 2-59-0-L | Passage                             |
| (3)  | 2-73-0-4 | Aviation Photo Lab                  |
| (4)  | 2-52-1-C | Special Electronics Room            |
| (5)  | 2-62-3-C | Research Operations                 |
| (6)  | 3-52-2-C | Crypto II                           |
| (7)  | 3-52-0-C | Crypto I and Communication Center   |
| (8)  | 3-60-0-C | Research Radio Room Number 1        |
| (9)  | 3-60-1-L | Passage                             |
| (10) | 3-60-3-C | Coordination Center                 |
| (11) | 3-69-1-A | Classified Mail Store Room          |
| (12) | 3-69-3-C | Recorder Transcribing Room          |
| (13) | 3-72-1-Q | Operations Department Office        |
| (14) | 4-52-1-Q | Electronics Repair Shop             |
| (15) | 4-52-3-A | Spare Parts Store Room              |
| (16) | 4-52-2-A | Teletype, Typewriter Repair Shop    |
| (17) | 4-52-4-A | Spare Parts Store Room              |
| (18) | 4-60-0-L | Passage                             |
| (19) | 4-60-1-T | Trunk                               |
| (20) | 4-60-3-U | Heater Fan Room                     |
| (21) | 4-60-2-Q | Training Class Room                 |
| (22) | 4-61-1-A | Registered Publications Strong Room |

NOTE: The internal compartment division bulkheads have been removed from compartments in paragraphs (8), (9), (10), (11), (12), (13) and (20) above.

CONTR REP \_\_\_\_\_ SHIPS REP \_\_\_\_\_ SUPSHIP REP \_\_\_\_\_ 2

1. The cost figures submitted in enclosure (1) are estimates derived by Mr. Daniel R. Preecs and Mr. Paul R. Freund of Code 6050 NAVSEC. Mr. Preecs has been the Program Manager for the Naval Ships Engineering Center for the design and installation of Special Electronics Systems used for the research functions on AGTR type and other ships for the past two and one-half years. He has made operational cruises on these ships and made an on-site inspection of the damage to the LIBERTY in the drydock at MALTA. He is presently directing the efforts of NAVSEC in studies for future ships of this nature. Mr. Freund as Project Coordinator has worked on projects associated with the AGTR type ships and many projects of a similar nature on other ships for the past year and one-half and is completely familiar with this type special system.

2. As Program Manager and Project Coordinator respectively Mr. Preecs and Mr. Freund are completely familiar with all technical and financial aspects involved in the Special Electronics System installed on the LIBERTY and are considered to be highly qualified experts in this area.

  
G. F. BALL

We, the undersigned, certify that to the best of our knowledge and belief the cost estimates shown in enclosure (1) to this memorandum constitute reasonably accurate estimates of costs to perform the stated tasks.

  
DANIEL R. PREECS

  
PAUL R. FREUND

~~CONFIDENTIAL~~  
CONFIDENTIAL

~~CONFIDENTIAL~~  
CONFIDENTIAL

<u>Number</u>	<u>Quantity</u>	<u>Unit Cost</u>	<u>Total Cost</u>
CU-1099/FRR	4	800	3,200
CV-157/URR	3	5,000	15,000
CV-591A/URR	6	400	2,400
CV-1089A/TLR-28	1	2,000	2,000
CV-1744/UG	1	17,500	17,500
DEI-21-4	1	1,000	1,000
HFN-6-PT-330-8	2	2,700	5,400
KY-463/FGC	10	200	2,000
LS-474/U	13	100	1,300
MX-27-N-ED	1	2,000	2,000
MX-2962/USM	1	600	600
NV-2	3	900	2,700
PP-1767/UG	2	400	800
R-390A/URR	50	2,500	125,000
R-1039/TLR-28	1	2,300	2,300
R-1274A/URR	2	800	1,600
R-1279A/URR	2	2,700	5,400
RO-98A	6	5,000	30,000
RO-1048-4	2	1,500	3,000
SB-15A	1	2,300	2,300
SB-315B/U	1	100	100
SB-1203A/UG	6	400	2,400
SB-1210/UG	6	400	2,400
TD-529/FRR	1	1,500	1,500
TD-687/URR	2	1,000	2,000

~~CONFIDENTIAL~~  
CONFIDENTIAL

**U.S.S. LIBERTY (AGTR-5)**  
PPG, NEW YORK 09501

AGTR (O)  
4010  
433  
8 AUG 1967

From: Commanding Officer, USS LIBERTY (AGTR-5)  
To: Commander, Naval Ship Systems Command

Subj: Ship's allowance material lost and/or damaged beyond repair as a  
result of Israeli attack on LIBERTY 8 JUN 67

Encl: (1) Category listing and estimated value of material lost

1. It is hereby certified that to the best of my knowledge and belief the list of categories contained in enclosure (1) and their estimated replacement value are correct and correctly reflect the ship's allowance material which was lost, damaged, or disposed of as hazardous to the health, safety, and comfort of the crew or safety of the ship as a result of the Israeli attack of LIBERTY 8 JUN 67 and must be replaced prior to the ship being fit for unrestricted service.

*W. L. Mognagle*  
W. L. MOGNAGLE

Copy to:  
Commander Service Squadron EIGHT  
COMSERVLANT

Enclosure (5) to NAVSHIPS  
Ser 527-1450

## ENCLOSURE (1)

CATEGORY	ESTIMATED VALUE
Storeroom Items - Repair Parts, etc.	\$37,560.00
Clothing, Bedding, etc.	
Protective Clothing	5,050.00
Bedding	2,542.00
Crews clothing	2,000.00
	<u>\$9,592.00</u>
Office Machinery, Supplies	
Typewriters, Adding Machines	\$13,662.00
Safe, supplies, etc.	<u>\$13,662.00</u>
Cleaning Gear	
Vacuum Cleaner	\$80.00
Swabs, brooms, etc.	76.00
	<u>\$156.00</u>
Damage Control and Lifesaving Gear	
Life Preservers	\$1,417.00
Rafts	\$27,360.00
Motor Barge Boat	10,000.00
Hoses	560.00
Phones and PA System	1,433.00
Repair party apparatus	1,180.00
Fire Extinguishers, etc.	1,575.00
OBA Cannisters	89.00
Lights	260.00
Shoring, wedges, etc.	500.00
Misc.	235.00
	<u>\$44,609.00</u>
Medical Equipment and Supplies	<u>\$940.00</u>
Navigational Gear:	
Binoculars	\$1,650.00
Compasses, bearing circles, etc.	\$2,053.00
Signal flags	607.00
Signal Lights	300.00
	<u>\$4,610.00</u>
Weapons:	
50 Cal. Machine Guns	\$16,000.00
Small Arms	233.00
	<u>\$16,233.00</u>
Fuel and Oil	<u>\$3,115.00</u>
Misc.	
Lines	\$6,140.00
Vehicle	1,300.00
Special Services Equipment	2,051.00
Still Picture Proj.	365.00
Multimeter	118.00
Paint	780.00
Mess Utensils	75.00
Carpenter Shop Equipment	350.00
	<u>\$11,179.00</u>

ENCLOSURE (1)

ENCLOSURE (1)

Grand total of Ship's allowance material lost  
and/or damaged beyond repair as a result of  
Israeli attack on LIBERTY 8 June 1967

\$141,656.00

\*Above total estimates do not include portable electronics test equipment  
which will be included in the listing of electronics equipment destroyed  
to be submitted separately.

Manhours expended in debris removal, fire and security watches, and resto-  
ration of habitability of ship in excess of that normally required to main-  
tain health and cleanliness standards:

25,000 man/hrs.

Inventorying, packing, and shipping  
of personal effects:  
Restowage of Storerooms:

500 man/hrs

200 man/hrs

700 total man/hrs

Total man hours expended:

25,700 man/hrs



The undersigned solemnly swears that to the best of his knowledge and belief the individuals who prepared the detailed estimates enclosed herewith are recognized and regularly employed as experts in the field of naval repair, construction, and planning.

Paul T. Darr

PAUL T. DARR  
Naval Architect  
Naval Ship Systems Command  
Code 527

Subscribed and sworn to before me this 14th day of August, 1967.

Ira W. Blair

IRA W. BLAIR  
Commander U.S. Navy  
Director of Auxiliary Ships Maintenance

My commission expires at the pleasure  
of the President of the United States

Enclosure (6) to NAVSHIPS  
Ser 527- 1450

OUTGOING TELEGRAM Department of State

INDICATE:  COLLECT  
 CHARGE TO

SECRET

Classification

(21)

142

FOR OCIT USE ONLY

Origin

ACTION: Amembassy TEL AVIV PRIORITY  
USUN

Date

STATE 210199

LIMDIS

MEMCON Between Amb Harman and Under Secretary Rostow June 10

1. Under Secretary Rostow presented Amb Harman text of USG note concerning LIBERTY incident (sent septel). Before reading note Harman noted ~~that~~ GOI was appointing a committee of inquiry to investigate incident.

2. Harman said he would refrain from commenting on ~~the~~ note of but expressed ~~the~~ hope that any publication ~~if~~ it would follow ~~the~~ line that this was a tragic mistake for which ~~the~~ GOI accepted full responsibility. Rostow agreed ~~that~~ ~~the~~ incident ~~was~~ tragic mistake but added that ~~the~~ circumstances surrounding it ~~were~~ very mysterious. ~~Next~~ Word used in our note was QTE incomprehensible UNQTE and we hope board of inquiry would take ~~appropriate~~ appropriate action against responsible parties when investigation concluded.

DEPARTMENT OF STATE A/CDC/ME

REVIEWED BY Thorn DATE 2/1/83

RDS  or XDS  EXT. DATE \_\_\_\_\_

TS AUTH. REASON(S) \_\_\_\_\_

REMOVE EXISTING MARKINGS

~~DECLASSIFIED~~ ~~RELEASABLE~~

RELEASE DENIED

PA or FOI EXEMPTIONS \_\_\_\_\_

Dated by: M:RTGrek:ek:6/11/67

2157

Telegraph

Classified by: S/S Mr. Walsh

SECRET

Classification

Liberty - P

~~SECRET~~  
Classification

3. Rostow said USG presenting this case to GOI in same manner in which it would present similar case to any other government.
4. Harman noted three things: GOI did not know/ship, <sup>location of</sup> ~~XXXXXX~~ ~~XXXXXX~~ ~~XXXXXX~~ ~~XXXXXX~~ ~~XXXXXX~~ ~~XXXXXX~~ was scene of active hostility, and GOI had promptly apologized for this tragic episode.
5. In closing Harman again reiterated GOI desire to handle incident as tragic mistake for which GOI accepted full responsibility.

GP-3

END

RUSK

SECRET

Classification

(15)

(142)

R (15) WAK R  
Hot

NFA/IAI - Mr. Arthur A. Houghton

November 1, 1977

L/C - Fabian A. Kwiatek

#158 in World case

Talking Points Regarding USS Liberty Incident

I have taken the liberty of redrafting the draft Talking Points which you handed me on October 31. In doing so, I have incorporated many of the points contained in your paper, but also broadened the paper to include specific details, statistics and dates.

If you have any questions, please let me know.

Your draft paper is returned herewith.

Attachments:

- 1. Redraft
- 2. Original Draft

DEPARTMENT OF STATE A/CDC/MR	
REVIEWED BY <u>J. Ennes</u>	DATE <u>9/1/83</u>
RDS <input type="checkbox"/> or IDS <input type="checkbox"/> EXT. DATE _____	REASON(S) _____
TS AUTH. _____	ENDORSE EXISTING MARKINGS <input type="checkbox"/>
DECLASSIFIED <input type="checkbox"/> RELEASABLE <input checked="" type="checkbox"/>	RELEASE DENIED <input type="checkbox"/>
PA or FOI EXEMPTIONS _____	

James M. Ennes, Jr. Research Papers

L/C:FAKwiatek mb

TALKING POINTS

Claim of U.S. Government  
for Damages to the USS Liberty

--- As you know, the American people and numerous members of Congress are expressing a continuous interest in the facts and circumstances surrounding the attack by the Israeli Government on the USS Liberty, even though such incident occurred more than ten years ago. We are aware that some of the interest continues to be stimulated by unreliable and sometimes quite erroneous articles in the media. Nevertheless, residual aspects of the incident remain open and continue to elicit quite pointed questions about the policy of the United States regarding the Liberty Incident and toward the Government of Israel itself.

--- The most important outstanding issue is that relating to the claim of the Government of the United States for damages to the USS Liberty. Let me briefly review the matter:

(A) The Government of Israel attacked the USS Liberty without provocation and in international waters on June 8, 1967. Promptly following the attack, the Government of Israel informed the United States Government that it assumed responsibility

for the attack and was prepared to make amends for the flag's losses which occurred.

- (B) On December 29, 1967, our Embassy in Tel Aviv presented to the Government of Israel claims totaling \$3,323,500 on behalf of the families of the 34 men killed in the attack. After negotiations, the Government of Israel paid the full amount claimed on May 27, 1969. On March 28, 1969, our Embassy presented claims totaling \$3,452,275 on behalf of the 164 injured members of the crew. The Government of Israel paid the full amount claimed on April 28, 1969. In both cases, U.S. Treasury checks drawn on the funds received from the Government of Israel were sent to the claimants within a month after the Israeli payment was received.

- (C) On July 1, 1968, the Government of the United States presented to the Government of Israel a formal diplomatic claim for \$7.6 million based upon damages sustained by the USS Liberty. Interest was not included as an element of the claim. In August 1971 the Government of Israel offered to pay the Government of the United States \$100,000 "...in token of the Government of Israel recognition of its liability in the matter." In September 1971 the Department

rejected the offer because it was a token rather than a substantial offer of payment, that it had no relationship to the amount of damage actually sustained, and that such acceptance could establish an undesirable precedent.

--- The Government of the United States last requested payment of the claim from the Government of Israel on or about September 22, 1971. Notwithstanding the

non-payment or further communications from the Government of Israel about the matter, the Government of the United States considers the claim as an outstanding and valid obligation of the Government of Israel.

--- As the Government of Israel will admit, the claim of the Government of the United States for adequate payment for damages sustained by the USS Liberty is valid. It is important that the Governments of the United States and Israel reach agreement at an early date on a figure that will permit us to put this tragic incident behind us. If this cannot be done, it will only create complications in our broader relationship and leave the way open for continued charges that Israel is ignoring its promises of payment and violating applicable principles of international law.

--- It is becoming increasingly difficult for the Department to explain why there has been no settlement on this

4  
legally valid claim more than ten years after the  
vessel was damaged.

James M. Ennes, Jr. Research Papers

T/C:FAFwiatek:mb 11/1/77



317  
F'S 8-4  
**OUTGOING TELEGRAM Department of State**

INDICATE:  COLLECT  
 CHARGE TO

**CONFIDENTIAL**  
Classification

DEPARTMENT OF STATE A/CDC/HR  
REVIEWED BY *[Signature]* DATE 8/1/68  
CLASSIFIED BY *[Signature]* EXT. DATE  
TS AUTH. REASON(S)  
ENDORSE EXISTING MARKINGS   
DECLASSIFIED/RELEASABLE   
RELEASE DENIED   
FOIA or FOI EXEMPTIONS

Origin  
Date

ACTION: Amembassy TEL AVIV #89

STATE:

LIMDIS

SUBJECT: U.S.S. Liberty Claims

REFERENCE: State 219537 & 223893; Tel Aviv 4949

1. Unless objection perceived Embassy requested transmit following note:

Embassy refers to MFA note dated August 5, in reply to Embassy's Note No. 74, dated July 1. Ministry's note states that MFA considers that, in light of circumstances of attack on U.S.S. Liberty which have come to light in various inquiries carried out in Israel and US, Israel is not liable for damages claimed in Embassy's note.

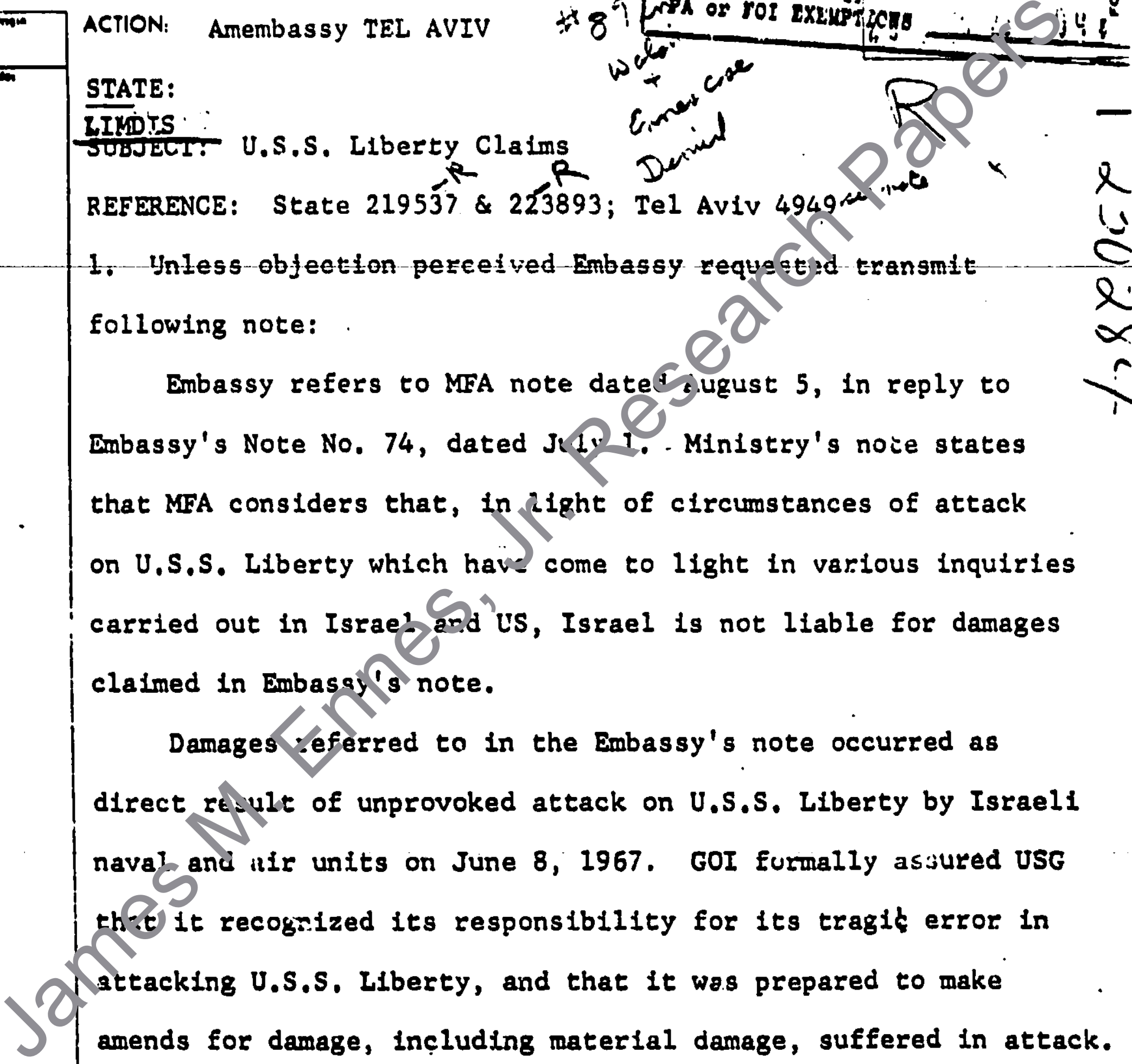
Damages referred to in the Embassy's note occurred as direct result of unprovoked attack on U.S.S. Liberty by Israeli naval and air units on June 8, 1967. GOI formally assured USG that it recognized its responsibility for its tragic error in attacking U.S.S. Liberty, and that it was prepared to make amends for damage, including material damage, suffered in attack.

Drafted by: NEA/IAI:JDLeonard 4967  
L:L/C:ELKerley:ams 8/26/68 5896  
Telegraphic transmission and classification approved by: NEA - Mr. Battle

Clearance:  
L - Mr. Salans  
NEA/IAI - Mr. Battle  
NEA - Mr. Davies  
D.O.D. - Mr. Schwartz  
NAVY OP-61 - Rear Admiral O'Grady  
S/S - Mr. Walsh

**CONFIDENTIAL**

Classification



1-230284

CONFIDENTIAL  
Classification

These assurances were stated in notes of Israeli Ambassador to US dated June 10 and June 12, 1967, and were quoted in Embassy's Note No. 26 to MFA, dated December 29, 1967, by which Embassy informed MFA of categories of claims, including a claim for damage to vessel, which would be presented.

Position stated in MFA note of August 5 is in contravention of express assurances of GOI regarding its responsibility for material and other damage caused by attack. USG not aware of alleged circumstances that have come to light in inquiries carried out since attack which would relieve Israel from its admitted responsibility.

In light of established facts regarding circumstances under which Liberty was attacked and of express assurances previously given by GOI, USG must reject as totally unacceptable position stated in MFA note of August 5 and reiterates expectation that the GOI will promptly compensate ti. USG for/amount claimed.  
full

GP-3

RUSK

CONFIDENTIAL  
Classification

G. SLOWIN  
(Language Officer and Officer)

SECRET

DEPARTMENT OF STATE

10027

Approved in S/S  
by Mr. Thompson  
6/9/67

Memorandum of Conversation  
Telephone

DATE: June 8, 1967  
10:15 a.m.  
11:00 a.m.

SUBJECT: USS Liberty

PARTICIPANTS: Mr. Yuri N. Tcherniakov, Soviet Chargé d'Affaires a.i.  
Mr. Foy D. Kohler, Deputy Under Secretary

COPIES TO: S/SEC EUR/SOV  
SEC NEA  
UCC Embassy Moscow  
MCC Embassy Tel Aviv  
CCC  
EUR

ORIGINAL/COPY TO TWR FOR  
RECORDING & DISTRIBUTION

JUN 14 1967

COPY TO FOR

JUN 13 PM 11 52

JUN 27 1967

Mr. Kohler informed the Chargé that he had an urgent message for the Soviet Government. An American ship, the USS Liberty, was torpedoed a few hours ago off Port Said. We are not sure of the exact location where the incident took place. It is an auxiliary ship. We are sending eight aircraft from the Carrier Saratoga to investigate. We wanted the Soviet Government to know that this was the purpose and the only purpose of those aircraft approaching in that direction. The Chargé said he assumed these would be military aircraft since they came from the Saratoga, and he repeated his understanding that their purpose was solely to investigate.

Mr. Kohler called the Chargé again at 11:00 a.m. to inform him that we have just received the information that it was the Israelis who attacked the vessel. He emphasized, however, that this did not change the import of the message he had given the Chargé earlier to the effect that our planes are going to the scene of the incident in connection with the vessel and not for any other purpose.

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY *[Signature]* DATE *1/21/81*

SECRET

REASON(S)

EXEMPT FROM AUTOMATIC DOWNGRADING AND DECLASSIFICATION

EXEMPT FROM AUTOMATIC DOWNGRADING AND DECLASSIFICATION

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EXEMPT FROM AUTOMATIC DOWNGRADING AND DECLASSIFICATION

MICROFILMED  
BY S/S: CMS

Handwritten notes on the right margin: "POL", "27", "ARRB-TSK", "X.R. Department of State".

U: SLOW: LSH: 6/8/67

Approved *JG*,  
June 9, 1967

DEPARTMENT OF STATE

Memorandum of Conversation

SECRET

1003.  
FINE  
RS/R

DATE: June 8, 1967  
12:45 p.m.

(6)

SUBJECT: USS LIBERTY Incident (Telephone Conversation)

PARTICIPANTS: Deputy Under Secretary Foy D. Kohler  
A Counselor of the Soviet Embassy in Washington

COPIES TO: S cc EUR cc  
U cc WH cc  
M cc DOD cc  
G cc Embassy MOSCOW cc  
NEA cc

ORIGINAL/COPY TO FILE FOR  
RECORDING

JUN 27 1967

FOR 217 HRHS - JJK

Mr. Kohler asked to speak to Mr. Terniakov but was informed by the Counselor of the Embassy that the Charge was in a meeting. Mr. Kohler asked the Counselor to pass a message to the Charge informing him that the message Mr. Kohler had given him this morning was also sent to Moscow via the "Hot Line." We now have a reply from Chairman Kosygin acknowledging receipt of the telegram and informing us that the information was immediately passed to President Nasser. Mr. Kohler asked the Counselor to thank the Charge for his promptness and cooperation in passing the information to Moscow.

Mr. Kohler also noted that Chairman Kosygin had described the vessel concerned as a Liberty-type ship. In fact, USS LIBERTY was the name of the ship concerned.

DEPARTMENT OF STATE A/CDC/MR	
REVIEWED BY <i>[Signature]</i>	DATE <i>1/24/83</i>
EDS <input type="checkbox"/> or ID <input type="checkbox"/> EXT. DATE _____	REASON(S) _____
ENDORSE EXISTING MARKINGS <input type="checkbox"/>	
DECLASSIFIED <input type="checkbox"/> RELEASABLE <input checked="" type="checkbox"/>	
RELEASE DEN. EX <input type="checkbox"/>	
PA or FCI EXEMPTIONS _____	

SECRET

DEF 1245  
CRUIS-USSR

MICROFILMED  
BY S/S: CMS

67 JUN 3 1967

FORM 100-10

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PS 84 U.S. - 25K



Department of State

TELEGRAM

LIMITED OFFICIAL USE 213

PAGE 01 TEL AV 02159 061245Z

54/17  
ACTION L 03

INFO OCT 01, NEA 13, CIAE 02, INR 07, NSAE 00, RSC 01, DODE 02, PM 04

RSR 01, 030 W

03694

R 060900Z JUN 69  
FM AMEMBASSY TEL AVIV  
TO SECSTATE WASHDC 6345

DEPARTMENT OF STATE	
REVIEWED BY <i>[Signature]</i>	DATE <i>1/21/82</i>
CLASSIFICATION	
AUTHORITY	
DATE OF EXPIRATION	
NAME OF POT. EXEMPTIONS	

LIMITED OFFICIAL USE TEL AVIV 2159

C O R R E C T E D C O P Y F O R T E X T

SUBJECT: USS LIBERTY CLAIMS

REF: STATE 082020

1. IF WE ASK GOI FOR SUBSTANTIVE REP Y RE SHIP DAMAGE CLAIM  
! WOULD ANTICIPATE RECEIVING A LEGALISTIC ARGUMENT PROBABLY  
ALONG LINES OF ORIGINAL NOTE OF AUGUST 5 (TEL AVIV 4798)  
ENDEAVORING TO DISCLAIM LIABILITY WHICH ACTION WOULD NO  
DOUBT INITIATE A LONG AND PROBABLY UNSUCCESSFUL NEGOTIATION.

2. CONSEQUENTLY BEFORE DOING SO SUGGEST THE DEPARTMENT  
CONSIDER. WHILE THERE IS, OF COURSE, NO REPEAT  
NO QUESTION THAT THE ISRAELIS BEAR RESPONSIBILITY FOR THEIR  
ERROR IN ATTACKING THE SHIP AND THEY ACKNOWLEDGE SUCH  
RESPONSIBILITY AND EXPRESSED WILLINGNESS TO PAY SUCH COMPENSATION  
IN THEIR FIRST COMMUNICATIONS FOLLOWING THE DISASTER,  
IT IS ALSO A FACT AND PUBLIC KNOWLEDGE THAT WE ISSUED  
INSTRUCTIONS OF THE VESSEL, WHICH UNFORTUNATELY DID NOT  
ARRIVE IN TIME TO MOVE OUT OF THE AREA IT WAS THEN OPERATING  
IN. IT CAN BE ARGUED THAT THIS ACTION ON OUR PART CONFIRMED  
OUR CONCLUSION THAT THE SITUATION IN THE SHIP'S AREA OF  
OPERATION INVOLVED UNACCEPTABLE RISK AND THIS  
RECOGNITION COULD BE CONSTRUED AS ATTENUATING AT LEAST  
MORALLY IF NOT LEGALLY ISRAELI RESPONSIBILITY. FURTHERMORE  
WE HAVE ALSO ANNOUNCED PUBLICLY THAT THE NAVY DOES NOT REPEAT  
NOT INTEND TO REFIT THE LIBERTY WHICH APPARENTLY WILL BE

JUN 27 1969

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James M. Ennes, Jr. Research Papers

Tell Aviv 2159

6-6-69

31



4  
Department of State

TELEGRAM

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PAGE 02 TEL AV 02159 061245Z

SCRAPPED. FINALLY THE ISRAELIS HAVE PAID IN FULL OUR CLAIMS FOR DEATHS AND INJURY THUS DISCHARGING TO THE EXTENT COMPENSATION CAN DO SO THE CLAIMS WHICH HAVE A HUMANITARIAN PERSONAL BASIS.

3. IT IS RECOGNIZED THAT THE PRECEDENT INVOLVED IN THIS SHIP CLAIM MAY BE IMPORTANT TO US IN ITSELF IN THAT IF WE ARE UNABLE TO OBTAIN AT LEAST SOME COMPENSATION FOR MATERIAL DAMAGE TO THIS SHIP FROM A COUNTRY WITH FRIENDLY RELATIONS WITH THE US WE MIGHT PREJUDICE OUR ABILITY TO COLECT SIMILAR CLAIMS INVOLVING LESS FRIENDLY OR UNFRIENDLY STATES.

4. CONSEQUENTLY I SUGGEST THAT WE RECOGNIZE THAT OUR CLAIM IN THIS CASE IS IN FACT ATTENUATED AS SET FORTH ABOVE AND THAT AS A PRACTICAL MATTER WE ARE UNLIKELY TO OBTAIN ANYTHING LIKE FULL DAMAGES FOR THE SHIP CLAIM. AT THE SAME TIME AND IN VIEW OF THE DESIRABILITY OF OBTAINING SOMETHING IN SETTLEMENT I FURTHER SUGGEST THAT I BE AUTHORIZED IN THE FIRST INSTANCE TO SOUND OUT THE ISRAELIS INFORMALLY AS TO THE POSSIBILITY OF NEGOTIATING A SETTLEMENT INVOLVING ONLY SOME TOKEN PAYMENT.

5. DEPARTMENT'S COMMENTS WOULD BE APPRECIATED.  
BARBOUR

JAN 27 '82

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3)

(54) (240)

REVIEWED BY *[Signature]* DATE *1/14/73*

171

UNITED STATES GOVERNMENT

# Memorandum

DATE: September 3, 1971  
REASON(S)  
DECLASSIFIED/RELEASABLE  
RELEASE DETERMINE  
PA or FOI EXEMPTIONS

R

TO : NEA - Mr. Sisco

FROM : NEA/IAI - H. H. Stackhouse

SUBJECT: Suggested Reply to Informal Israeli Offer on Liberty Claim

After a three year silence on the subject the Israelis have finally responded to our prodding on the approximately \$7 million Liberty damage claim. They propose to settle for \$100,000 and would like to clear it all out with us informally before taking any formal steps. Ambassador Barbour's letter to Roy Atherton and the proposed Note they would transmit are at Tab B. The Ambassador recommends acceptance of the Israeli approach.

We have discussed this with L but not with DOD. Certainly the Ambassador is right in his estimate that opposition to any token settlement such as the Israelis propose is likely to be strongest in DOD. We conclude with L that we should not accept this Israeli offer but should ask the Israelis instead to do what they have failed to do so far, engage in a dialogue with us about the merits of the case. Our suggested answer, to go in Roy's absence to Zurhellen over my signature, is at Tab A. Roy has cleared the suggested reply. Pros and Cons of the Israeli approach are:

PRO

-- The Israelis settled the death and injury claims quickly and in full. We should be responsive to this offer of good will by accepting this token offer.

-- The ship itself has been scrapped along with others of its class. Thus why press a claim for a vessel for which we no longer have use?

-- We are unlikely to get any better offer and perhaps will not get any other offer at all.

-- It will remain an item of unpleasant, unfinished business in our relations.

CON

-- L knows of no precedent for accepting an offer of such token magnitude. To do so could weaken our position in handling future claims from others.

JAN 27 1982

CONFIDENTIAL

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



-- In spite of its quick settlement of the other Liberty claims, Israel has not dealt with us in a manner we might reasonably expect from a country with which we are in such close touch on other issues. Our Note on this subject of July 1, 1968 is still unanswered. To snap up this offer without further discussion would seem to reward such evasiveness.

-- This is an offer of one and one-half cents on the dollar. The Department would certainly be exposed to some public criticism if it accepts it. Israel as well could be criticized, especially in the light of the assistance it has been getting from us lately.

-- To leave the claim outstanding will not be a major irritant in our relations. But it will be a reminder to the Israelis that we expect them to be businesslike in such matters. (There are pending several other claims of American citizens deriving from IDF actions in the occupied territories. We have repeatedly asked the Israelis for information on these cases. These inquiries have been ignored almost as assiduously as those in relation to the Liberty claim.)

Recommendation:

That you clear the attached letter.

Approve \_\_\_\_\_

Disapprove \_\_\_\_\_

Attachments:

- Tab A. Suggested Reply
- Tab B. Ambassador Barbour's letter to Roy Atherton and proposed Note

JAN 27 1982

NEA/IAI:HHStackhouse:mc

83 (mc)  
Clearance: L/NEA:SBoyd



UNITED STATES GOVERNMENT

**Memorandum** CONFIDENTIAL

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53

TO : NEA - Alfred L. Atherton, Jr.

DATE: August 25, 1971

FROM : NEA/IAI - H. H. Stackhouse

SUBJECT: USS LIBERTY Claims

R

I have discussed with L Ambassador Barbour's letter to you of August 6, 1971, supporting a draft Israeli proposal of a \$100,000 token settlement of the outstanding claim for damage to the LIBERTY. L agrees with me that the suggested sum is so small as to call clearly for a courteous rejection out of hand. You will find attached a suggested reply to Owen Zurhellen, largely drafted by L. In sum, we think it better to keep the claim outstanding than to make a settlement unsatisfactory in so many ways. It would not be a serious irritant in our relations, and it would be a continuing reminder we are not that easy a mark.

Attachment:

Suggested Reply to  
Mr. Zurhellen

DEPARTMENT OF STATE A/CDC:MR	
REVIEWED BY <i>L. Kelly</i>	DATE <i>1/24/82</i>
FOR XEROXING	DATE
TO AUTH.	REA ON(S)
ENDORSE BY (NAME)	MARKINGS
DECLASSIFIED	RELEASABLE
RELEASE DENIED	
FA or FOI EXEMPTIONS	

James M. Ennes, Jr. Research Papers

NEA/IAI:GRCe *me* a::sf  
8/25/71 22036

JAN 27 1982



CONFIDENTIAL

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

The Government of Israel hopes that the United States Government will be



CONFIDENTIAL  
EMBASSY OF THE  
UNITED STATES OF AMERICA  
Tel Aviv, Israel

235

8/10/71

49

August 6, 1971

Mr. Alfred L. Atherton  
Deputy Assistant Secretary  
Bureau of Near Eastern and  
South Asian Affairs  
Department of State  
Washington, D.C.

DEPARTMENT OF STATE A/CDC/MR	
REVIEWED BY <i>John Kelly</i>	DATE <i>12/1/83</i>
POSITION AND TITLE	REASON(S)
TS AUTH.	EXEMPT <input type="checkbox"/>
DECLASSIFIED	EXEMPT <input checked="" type="checkbox"/>
RELEASE	PA or FOI EXEMPTIONS

Dear Roy:

The Israelis have now decided to try to move ahead for a final solution on the Liberty claims. They have given us a draft note which they would like to have informally considered within the U.S. Government. If we are able to indicate to them that our reply to such a note would be affirmative, they will then present it to us formally. We understand that the note had been given final clearance within the GOI, but they do not wish it a matter of record until assured that it will be acceptable to us.

In essence the note reiterates the acceptance of liability and expression of regret by the GOI, refers to the full payment of claims for deaths and injuries, and asks the U.S. to accept a payment of \$100,000 for the damage to the ship itself.

I am thoroughly convinced that acceptance of this Israeli offer would be in the best interests of the United States. If we continue to press them for a more substantial payment, we will only drag out the matter. I believe that this question requires a rapid and unequivocal decision at a political level in the government and would appreciate your taking it up in the way best calculated to produce agreement without bureaucratic wrangling. One way might be to ask Alex Johnson, when the

JAN 27 1982

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2.

Department's own concurrence has been obtained, to discuss the Israeli proposal at a high level in the Defense Department to gain their agreement and to leave it to DOD to satisfy the Navy that this solution is in the best overall interests of the United States.

Please let me know how this comes out.

With all best wishes,

Sincerely yours,



Walworth Barbour

James M. Ennes, Jr. Research Papers

JAN 27 1957

CONFIDENTIAL

Draft NoteConfidential

The Ministry for Foreign Affairs presents its compliments to the Embassy of the United States of America and, referring to the Embassy's Note No. 74 of 1 July 1968, has the honour to respond as follows:

Following the attack by Israel aircraft and torpedo boats on 8 June 1967 on the USS Liberty, the Government of Israel, as soon as it became aware of the tragic error, informed the United States Government of what had taken place, assumed responsibility for this error and conveyed its deep regret and apologies for what had occurred and for the grievous loss of life. The Government of Israel also at once took the initiative to offer to make amends for the tragic loss of life and the material damage.

In May 1968, the Government of Israel paid in full claims submitted by the United States Government, amounting to US \$ 3,529,500 to compensate those suffering loss as a result of the deaths of members of the ship's company.

In April 1969, the Government of Israel paid the additional amount of US \$3,566,457 in full and final settlement of claims submitted by the United States Government on behalf of the injured, as well as in settlement of claims in respect of medical treatment and destruction of personal property.

Prior to these payments it had been agreed that, to facilitate a mutually acceptable settlement, a United States Government claim for losses sustained by it as a result of damage to the vessel would be discussed when all remaining United States claims were ready.

The Government of Israel in no way wishes to shirk its responsibility in this matter. Taking into account the fact that the Government of Israel has, to the complete satisfaction of the United States Government, made compensation in full regarding the personal claims relating to loss of life and injuries, the Government of Israel suggests that the United States Government agree to accept in settlement of the still outstanding material claim a payment of US \$ 100,000 in token of the Government of Israel's recognition of its liability in the matter.

The Government of Israel hopes that the United States Government will be agreeable to such a settlement so that this tragic chapter may be closed.

11

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY *John Kelley* DATE *1/24/83*

RDS  X D  A  DATE \_\_\_\_\_

TS AUTH. \_\_\_\_\_ A OY(S) \_\_\_\_\_

ENDORSE  \_\_\_\_\_

DECLASSIFIED  \_\_\_\_\_

RELEASE DENIED  \_\_\_\_\_

PA or FOI EXEMPTIONS \_\_\_\_\_

(u/d)

Liberty (56)

↑

SEP 9 1971

CONFIDENTIAL

J. Owen Zurhellen, Jr., Esquire  
Charge d'Affaires  
Tel Aviv

Dear Owen:

This is in response to the Ambassador's letter to Roy of August 6 regarding the Liberty claim.

We are naturally encouraged by the apparent Israeli decision to try to move toward a settlement of the U.S.S. Liberty claim. However, the amount offered in settlement is a token rather than a substantial payment, bearing no relationship to the amount of damage actually sustained by the U.S. Government in the attack on the ship. Considerations of precedent and principle preclude our accepting it.

We recognize the danger, to which the Ambassador's letter refers, that our unequivocal rejection of this token settlement offer could drag the matter out. Our note of July 1, 1968 presenting the ship claim has already gone unanswered for a longer period than seems appropriate in the relations between two friendly countries. The most promising means of avoiding substantial further delay, in our view, would be to initiate the discussion of the claim on the technical level, as we proposed in the note. In such discussions the documentation of the claim could be reviewed and the extent of the U.S. Government's loss could be demonstrated. The Israeli experts would be fully entitled, of course, both to test the U.S. position and to put forward reasons why a lesser amount is appropriate. By demonstrating our commitment to pursue the claim and engaging their attention on it in a less pressing atmosphere we would be following an avenue most likely to lead to settlement.

Consideration of legal precedent and principle aside, it is pertinent to note, as well, that our agreement

James M. ...

JAN 27 1982

CONFIDENTIAL

2

to the Israeli suggestion would run the risk of re-kindling U.S. public interest in a touchy issue in a sense adverse to both the State Department and Israel. Although the matter has been quiet for some time, a body of public sentiment exists which could be expected to protest what might be interpreted as our abandonment of a position whose merit the GOI itself originally quickly recognized. Besides exposing the Department to criticism, we believe the adverse public reaction could also rebound against Israel itself. In this regard, the average American taxpayer would likely find it hard to reconcile a settlement of less than two cents on the dollar in the case of the Liberty with our recent large-scale support for Israel.

Sincerely,

N. H. Stackhouse  
Country Director  
Israel and Arab-Israel Affairs

NEA/YAI:G. Sella:cf  
9/9/77 22030

JAN 27 1982

## TO WHOM IT MAY CONCERN:

On December 17, 1977, I filed a request with the United States Department of State under the Freedom of Information Act for release to me of all documents pertaining to the 1967 Israeli attack on the USS Liberty. Because I was facing deadline for a book under contract with Random House, I specifically requested that documents be released to me individually as available, rather than withholding the package until all documents had been reviewed.

Although the request was acknowledged and was assigned case number 740846, I failed to receive any of the requested documents. Various followup requests to the State Department Freedom of Information Office by letter and telephone were apparently ignored. When I eventually appealed to my congressman for help, Congressman Lloyd Meeds informed me that the Department was "extremely reluctant to release any information dealing with the Middle East" but had promised nevertheless to "move more quickly" on my request. Nothing happened.

In May, 1980, still having received none of the requested documents, nor any specific reply, decision or refusal to release the documents, I filed Civil Action #80-1126 in the United States District Court for the District of Columbia.

On June 10, 1980, the State Department responded (separately from my suit) by releasing all or part of 55 documents among 163 then identified. Many other documents were referred to other agencies for review, and I was promised a further report. Over the next several months, various minor documents slowly trickled out.

On February 25, 1981, I wrote informally to the Assistant U.S. Attorney representing the Department of State to request a more diligent search, since I had (and still have) reason to believe that a great many more documents exist. I was informed by telephone that no additional documents can be located. Soon thereafter I notified the Court that I would not pursue the matter further.

The Department did not respond to my FOI request until after it had been served with notice of my civil suit. Among the documents it claims to be unable to locate are some that I have seen elsewhere marked as Department of State documents, including some that have been released to more persistent and better financed litigants. And, although the Department claims to have identified only 163 documents pursuant to my suit, I have been informed of a great many additional documents that it has identified and released pursuant to later suits.

My conclusion is that the Department of State was deliberately evasive and unresponsive both to my FOI request and later to my civil suit.

James M. Ennes, Jr.  
19009 194th Avenue NE  
Woodinville, Washington 98072

14

LLOYD MEEDS  
2d DISTRICT, WASHINGTON

EVERETT OFFICE  
281 FEDERAL BUILDING  
252-3188

BELLINGHAM OFFICE  
200 FEDERAL BUILDING  
733-4500

MT. VERNON OFFICE  
3121 COLLEGE WAY  
424-2207

Congress of the United States  
House of Representatives  
Washington, D.C. 20515

COMMITTEE ON  
RULES

COMMITTEE ON INTERIOR  
AND INSULAR AFFAIRS

CHAIRMAN, WATER AND  
POWER RESOURCES  
SUBCOMMITTEE

September 6, 1978

James M. Ennes, Jr.



Dear Mr. Ennes:

Thank you for your letter detailing the difficulties you were having with the State Department.

As you are probably aware the State Department has been extremely reluctant to release any information dealing with the Middle East for fear of jeopardizing the peace talks between the Egyptians and Israelis; however as a result of my inquiry the Freedom of Information division of the State Department has reported back to me that the Near East Bureau will now move more quickly than before on processing the documents specifically relating to your involvement in the U.S.S. Liberty incident.

I hope that this information has been of some assistance to you. Please feel free to contact me in the future if you encounter any further difficulties.

Again many thanks for writing.

Sincerely,

Lloyd Meeds  
Member of Congress

LM:jmb



# 15

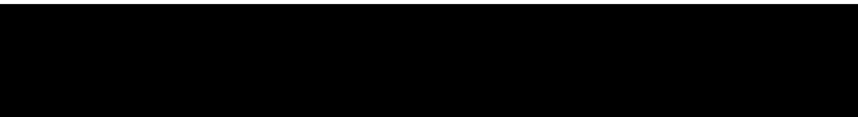


DEPARTMENT OF STATE

Washington, D.C. 20520

June 10, 1980

Mr. James E. Ennes, Jr.



Re: Freedom of Information Request #740846

Dear Mr. Ennes:

This refers to your request, under the Freedom of Information Act, for access to information maintained by the Department of State pertaining to the attack on the USS Liberty. I apologize for the delay in responding to your request.

Briefly, 163 documents pertinent to your request were located. 65 of these have been cleared for release and are enclosed with this letter. 78 documents are being denied. An additional 20 documents were originated by the Department of Defense and have been forwarded to that agency for review and direct response to you. Also enclosed is a letter from the acting Deputy Assistant Secretary for Classification/Declassification which explains the review of these documents.

As you are no doubt aware, several persons have requested access to information about the USS Liberty incident. We are in the process of consolidating and coordinating our responses to these requesters to insure accuracy and thoroughness. This accounts for much of the delay in getting this information out to you. As the extent of our holdings becomes clear, please be assured that we will make available to you any additional information that may be located.

Again, my apologies for this delay in response. If you have any questions regarding this matter, please contact the case officer, Mr. Blair Hall, Information and Privacy Staff, FAIM/IS, Room 1235, Department of State, Washington, D.C. 20520. His telephone number is (202) 632-0337 should you wish to call him.

Sincerely,

Frank M. Machak  
Information and Privacy Coordinator

# 16



DEPARTMENT OF STATE

Washington, D.C. 20520

June 10, 1980

Mr. James M. Ennes, Jr.  
[REDACTED]

Dear Mr. Ennes:

In reply please  
refer to: #740846

With apologies for the delay in response, I refer to your letters of December 17, 1977, and August 23, 1978 requesting the release of certain Department of State documents concerning the attack on the USS LIBERTY, pursuant to the Freedom of Information Act, Title 5 USC Section 552.

A careful search of files under the Department's control has resulted in the retrieval of 163 documents considered relevant to your request. After careful review, we have determined that 46 of these documents can be released. Nineteen more can be released subject to excisions. Seventy-eight must be withheld from release.

Portions of 14 documents and 32 entire documents have been determined to be properly exempt from release under Paragraph (b) (2) of Section 552 as currently and properly classified under Executive Order 12065 and authorized by that Order to remain protected in the interest of national defense or foreign policy.

Three documents have been excised and 27 denied under Paragraph (b) (5) of Section 552 as specifically exempt from disclosure as they constitute inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with this agency.

Two documents have been excised and 19 denied under Paragraph (b) (6) of Section 552 as they represent personnel or medical files and/or similar files the release of which would constitute a clearly unwarranted invasion

- 2 -

of the personal privacy of the individuals involved.

Twenty documents were found to have originated in the Department of Defense. We have therefore requested that agency to review those documents and reply directly to you.

With respect to the material denied or excised, you have the right to appeal this determination within 60 days. Appeals should be addressed to the Assistant Secretary for Public Affairs, Department of State, Washington, D.C. 20520. A letter of appeal should refer to the Freedom of Information case number shown above.

The covering letter from the Department's Foreign Affairs Document and Reference Center, explains how the released material will be made available to you.

Sincerely,

*Clayton E. McManaway*  
Clayton E. McManaway  
Deputy Assistant Secretary  
Bureau of Administration  
Classification/Declassification  
Center

# 18



DEPARTMENT OF STATE

Washington, D.C. 20520

October 21, 1980

Mr. James M. Ennes, Jr.  
[REDACTED]

Re: Freedom of Information Request #740846

Dear Mr. Ennes:

I refer to my letters of June 10 and September 24, 1980, regarding the above captioned Freedom of Information request. Under cover of those letters, you will recall, the Department of State released to you a total of 105 documents in full and 16 in part.

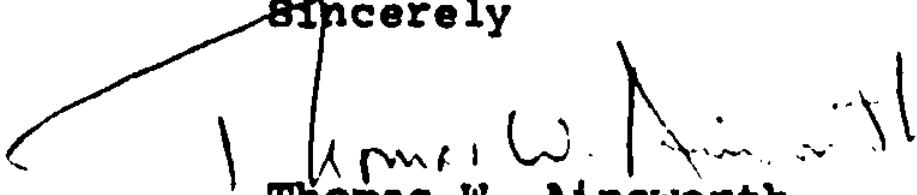
As a result of a recent decision of the Appeals Panel, we now are releasing to you the enclosed two documents. These documents were among the three that I indicated were pending appeal in another case in my letter of September 24.

In summary, of the 163 documents located pursuant to your request:

- 9 have been denied in full;
- 107 have been released in full;
- 16 have been released in part;
- 31 have been forwarded to other government agencies for review and direct response to you.

Should you have any questions, please contact Mr. Hall on our Information and Privacy Staff, Room 1239, (202) 632-0377.

Sincerely

  
Thomas W. Ainsworth  
Acting Deputy Assistant Secretary  
Bureau of Administration  
Classification/Declassification  
Center

Enclosures:  
Document Nos. 140 and 143

# 19



DEPARTMENT OF STATE

Washington, D.C. 20520

September 24, 1980

Mr. James M. Ennes, Jr.  
[REDACTED]

Re: Freedom of Information Request #740846

Dear Mr. Ennes:

I refer to my letter of June 10, 1980, regarding the above captioned Freedom of Information request. Under cover of that letter, you will recall, the Department of State released to you 46 documents in full and 19 in part out of the total 163 documents located. Twenty documents were referred to the Department of Defense for review and direct response to you. The remaining 78 documents were denied.

In the process of evaluating our response to requests for information pertaining to the U.S.S. Liberty, we have re-reviewed the 78 documents originally denied to you and the 19 documents originally denied in part. Based on this further review, we have determined that additional discretionary releases may be made.

Of the 78 documents originally denied in full, 46 are released to you in full at Tab A, 10 are released to you in part at Tab B, and 11 are being forwarded to the government agencies that originated them for review and direct response. 11 of these continue to be withheld. Three of the documents being withheld are currently on appeal in another case. I will let you know the disposition of these as soon as the appeals panel makes its decision.

Of the 19 documents originally released with excisions, 13 are released in full at Tab C, and 6 continue to be withheld in part.

To summarize, of the total 163 documents located pursuant to your request: 105 have been released in full, 16 are released in part, 31 have been forwarded to other government agencies for review and direct response to you, and 11 have been denied in full.

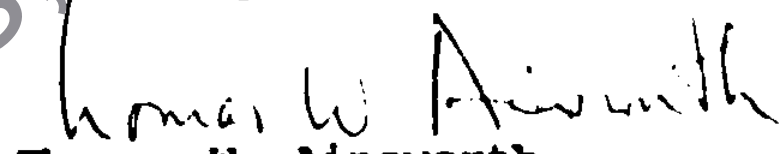
20

The documents withheld in full are exempt from disclosure under Exemption (b)(1) as confidential information, release of which could cause identifiable damage to the national security, and under Exemption (b)(5) as inter or intra-agency memoranda, release of which would have an inhibitory effect upon the deliberative processes of the Department.

Most of the deletions in the documents released in part are names of third parties. The information deleted is exempt from disclosure under Exemption (b)(1) and under Exemption (b)(6) as information from a personnel, medical, or similar file disclosure of which would constitute a clearly unwarranted invasion of those person's personal privacy.

As our evaluation and consolidation of requests for information about the U.S.S. Liberty proceeds, it is possible that additional information may be located and found to be releasable. If that is the case, please be assured that we will make it available to you. In the meantime, please contact Mr. Hall on our Information and Privacy Staff, Room 1239, (202) 632-1337, should you have any questions.

Sincerely,



Thomas W. Ainsworth  
Acting Deputy Assistant Secretary  
Bureau of Administration  
Classification/Declassification Center

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JAMES E. ENNES, JR.,

Plaintiff,

v.

DEPARTMENT OF STATE,

Defendant.

Civil Action No. 80-1126

NOTICE OF FILING

Please take note that the defendant has filed with the Court this date, the Affidavit of Clayton E. McManaway dated December 30, 1980.

*Jason D. Kogan*  
JASON D. KOGAN  
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Notice of Filing has been mailed this 30th day of December, 1980 to plaintiff pro se, James E. Ennes, Jr., 19009 - 194th Ave., N.E., Woodinville, Washington 98072.

*Jason D. Kogan*  
JASON D. KOGAN  
Assistant U.S. Attorney  
U.S. Courthouse - Rm. 2804D  
3rd & Constitution Ave., N.W.  
Washington, D.C. 20001  
(202) 633-4977

# 22

27 August 1978

Director, Freedom of Information Staff  
Bureau of Public Affairs  
Department of State, Room 2811  
2201 C Street NW  
Washington, D.C. 20520

Dear Sir:

I am writing again to inquire about the status of my Freedom of Information Act Case #740846 which has been pending for eight months.

My original inquiry was mailed to your office on 17 December 1977, and was acknowledged promptly. On 10 February 1978 Mr. Jim Wood of your office telephoned to tell me that 500 pages of documents relating to my inquiry had been identified and that they would be given a security review. Mr. Wood advised that it was impossible to comply with the ten day period required by law, but that the material would be reviewed and I would be informed of the results as soon as possible.

On 4 June 1978 I wrote again. I was informed that the material was still under review and was given a telephone number to call. Although I called that number many times, no one answered. When I called through the State Department operator, the person named could not be located.

Meanwhile I have moved from Washington, D.C., and now reside in Washington State. Would you please expedite your review and send me a list of the documents which are available to me?

Sincerely,

James M. Ennes, Jr.  
[REDACTED]

copy to: Congressman Lloyd Meeds





(a) notes exchanged between Secretary Rusk and Israel's Ambassador Harmon on or about June 8, 9 and 10, 1967, concerning Israel's air and naval attack upon the USS LIBERTY which occurred on June 8, 1967; (b) an exchange of letters between Secretary Rusk and Representative Craig Hosmer in about September or October, 1967, concerning USS LIBERTY; (c) a claim submitted to Israel on December 19, 1967, for injuries suffered by plaintiff in the attack; (d) several notes, messages and letters between Washington, our embassy at Tel Aviv and the Israeli Government in 1967, 1968 and 1969 concerning negotiations for settlement of claims; (e) a note dated August 5, 1968, from the Israeli Ministry of Foreign Affairs concerning Israeli liability for damage; (f) a Rusk/Barbour exchange of messages or notes concerning the Israeli note of August 5, 1968; (g) an August 29, 1968, note from Secretary Rusk to the Israeli government responding to the Israeli note of August 5, 1968; (h) a claim submitted to the government of Israel on March 18, 1969, for injuries plaintiff suffered during the attack; (i) any White House comment on the circumstances of the attack; (j) any official American response, reaction or statement concerning the Israeli excuse for the attack; (k) any other documents or files pertaining to the attack or its aftermath, or any notes, messages or diplomatic exchanges between the United States and the Government of Israel or between Washington and the American Embassy at Tel Aviv concerning the attack or concerning compensation for deaths, injuries or property damage, including the loss of the ship. A copy of said letter is annexed hereto as Exhibit "A".

6. Under letter dated December 30, 1977, defendant acknowledged receipt of plaintiff's request and assigned Freedom of Information Case #740846. A copy of

7. Under letter dated June 12, 1978, defendant responded to a followup inquiry by plaintiff and advised plaintiff that 163 documents consisting of 553 pages associated with plaintiff's request had been located and were under review. A copy of said letter is annexed hereto as Exhibit "C".

8. Under letters dated August 23, 1978, plaintiff requested expeditious action on his request, advised defendant of his new mailing address, and sought help from his Congressman in obtaining the requested material. Copies of said letters and of defendant's response are annexed hereto as Exhibits "D", "E", and "F".

9. The Freedom of Information Act ("FOIA") 5 U.S.C. § 552, as amended, provides that "any person...shall be deemed to have exhausted his administrative remedies if the agency fails to comply with the applicable time limit provisions..." which are established to be ten working days.

10. Plaintiff believes that he has exhausted his administrative remedies with respect to the Act, since the defendant has failed for more than two years to comply with the applicable time limit provisions.

11. Further, plaintiff believes that defendant's failure for more than two years to review and release the requested documents constitutes an unjustified and extra-legal denial of access.

12. Further, plaintiff believes that defendant's failure to grant access to the requested documents is frivolous, arbitrary and capricious, inasmuch as certain of the requested documents, although denied to plaintiff, have in fact been declassified and released to other members of the public by the same agency of the United States. One such document is annexed hereto as Exhibit "G".

13. Plaintiff is entitled to a review of the documents requested and to release to him of those documents not exempt by law, and the defendant's failure to grant access is without legal basis.

WHEREFORE, plaintiff prays that this Court enter judgment in his favor and against defendant: (1) ordering the defendant to produce any agency records improperly withheld from plaintiff in order that the Court may determine the matter do novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions; (2) ordering the release to plaintiff of any such records not found to be exempt; (3) awarding plaintiff his costs and disbursements incurred in this action; (4) granting such other, further and different relief as the Court may deem just and proper, including, if deemed appropriate, the waiver of copy charges for the material released to plaintiff.

Dated: Washington, D.C.  
May , 1960

*James M. Ennes, Jr.*  
JAMES M. ENNES, JR.  
Plaintiff



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

"  
JAMES M. ENNES, JR. "

Plaintiff, "

v. "

Civil Action No. 80-1126

DEPARTMENT OF STATE, "

Defendant. "

" "

PLAINTIFF'S RESPONSE TO DEFENDANT'S ANSWER

Response to the First Defense

Contrary to defendant's defense, plaintiff has stated a claim upon which relief can be granted. Defendant has failed for more than two years to respond to plaintiff's request for review and release of certain documents. Plaintiff's claim as stated in paragraph 13 of his complaint is that he is entitled to a review of the documents requested and to release to him of those documents not exempt by law, and that the defendant's failure to grant access is without legal basis.

Response to the Second Defense

Contrary to defendant's defense, 5 U.S.C. §552(a) (4) (B) provides authority for this Court to order production of records improperly withheld and to determine the matter de novo. Defendant's failure for more than two years to act upon defendant's request constitutes an improper withholding of agency records, and any token release of a portion of the requested documents once the matter is before the Court cannot correct defendant's failure and should not remove the matter from the jurisdiction of the Court.

Response to the Third Defense

Plaintiff reasserts the originally stated allegations, except to admit that certain of the requested documents were released to plaintiff after the matter was presented to the Court, while most such documents are still being withheld. Plaintiff prays that the Court examine these records in camera to determine whether such

records or any part thereof shall be withheld under any of the exemptions.

Dated: Washington, D.C.  
1980

JAMES M. ENNES, JR.  
Plaintiff



James M. Ennes, Jr. Research Papers

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JAMES M. ERNES, JR.,

Plaintiff,

v.

DEPARTMENT OF STATE,

Defendant.

Civil Action No. 80-1128

ANSWER

First Defense

The complaint fails to state a claim upon which relief can be granted.

Second Defense

The Court lacks jurisdiction over the subject matter of this action in that no records have been improperly withheld from plaintiff within the meaning of 5 U.S.C. § 552(a)(4)(b).

Third Defense

Answering specifically the numbered paragraphs of the complaint, defendant admits, denies and avers as follows:

1-2. These paragraphs contain plaintiff's characterizations of this action to which no answer is required, but insofar as an answer may be deemed to be required, deny.

3-6. Admit.

7. Admit except to deny that the writing in the upper left corner of Exhibit C appeared on the original letter sent to plaintiff.

8. Admit except defendant is without knowledge or information sufficient to form a belief as to the accuracy of Exhibit E.

9. This paragraph does not contain allegations of facts to which an answer is required, but insofar as an answer may be deemed required, deny.

11-11. These paragraphs contain conclusions of law to which no answer is required, but insofar as an answer may be required, deny.

12. Deny except to admit that [redacted] was continuously released and defendant avers that it will be held in contempt.

13. This paragraph contains conclusions of law to which no answer is required, but insofar as an answer may be required, deny.

Each and every allegation not hereinfore admitted or denied is denied.

Defendants deny that plaintiffs are entitled to the relief prayed for or to any relief whatsoever.

\_\_\_\_\_  
CHARLES F. COFF  
United States Attorney

\_\_\_\_\_  
ROYCE C. LAMBERTH  
Assistant U.S. Attorney

\_\_\_\_\_  
JASON D. KOGAN  
Assistant U.S. Attorney



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing answer has been mailed this 12th day of June, 1980 to plaintiff, pro se, James F. Ennes, Jr., 19009 - 194th Ave., N.W., Woodinville, Washington, 98072.

Charles H. Pugh

Assistant U.S. Attorney  
U.S. Courthouse - Rm. 2900  
3rd & Constitution Aves., N.W.  
Washington, D.C. 20541

James M. Ennes, Jr. Research Papers

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JAMES M. ENNES, JR.,

Plaintiff,

v.

DEPARTMENT OF STATE,

Defendant.

District of Columbia

Civil Action No. 80-1126

DECLARATION OF CLAYTON E. McMANAWAY

I, Clayton E. McManaway, declare and say as follows:

1. I am the Deputy Assistant Secretary of State for Classification and Declassification and Director of the Department's Classification/Declassification Center (CDC). In this capacity I am the senior official of the Department of State directly responsible for review of documents pursuant to the Freedom of Information Act, 5 U.S.C. §552 (FOIA). In this capacity I am authorized to classify or to downgrade and declassify national security information pursuant to Section 1 - 3 of Executive Order 12065 and Department of State regulations, 22 C.F.R. § 9.12. I am familiar with the complaint in the above captioned matter. I make the following statements based upon my personal knowledge and upon information made available to me in the performance of my official duties.

Processing of the Request

2. By letter dated December 17, 1977, plaintiff requested under the FOIA ten categories of information pertaining to an attack by Israeli armed forces on the USS Liberty in 1967. (Exhibit 1.) Plaintiff was a member of the crew of the USS Liberty and had sustained injuries as a result of that attack.

3. In response to plaintiff's FOIA request, the Department located and reviewed 163 documents.

4. By letter dated June 10, 1980, 46 documents were released to plaintiff in full and 19 were released in part. (Exhibit 2) An additional 20 documents were originated by the Department of Defense and were forwarded to that agency for review and direct response to plaintiff. After further consultation two of these, duplicate telegrams, were released to plaintiff by letter dated December 30, 1980. (Exhibits 3 and 4). The remaining 78 documents were withheld in full.

5. Following a further review of the documents that remained withheld, the Department determined that additional documents could be released. By letter dated September 24, 1980, (Exhibit 5) 46 of the 78 documents originally withheld were released in full and 10 were released with excisions. Of the 19 documents originally released in part, 13 were released in full. Further portions of the remaining 6 documents were disclosed while limited portions continue to warrant protection.

6. Also on September 24, 1980, 11 documents which originated with other government agencies were forwarded to those agencies for review and direct response to plaintiff, including 1 document originally classified by the National Security Agency and 1 originally classified by the Central Intelligence Agency. The Department of State has no control over the disposition of those documents. The remaining 9 referrals were forwarded to the Department of Defense for direct response.

7. As a result of an appeal in another case regarding the same subject matter, two documents which had previously been denied in full were released to plaintiff by letter dated October 21, 1980. (Exhibit 6). Portions of two previously denied documents were released on December 30, 1980. (Exhibit 7).

8. In summary, the disposition of the 163 documents located pursuant to plaintiff's Freedom of Information request is as follows:

Released in Full .....	109
Released in Part.....	18
Denied in Full.....	07
Referred to Other Agencies.....	<u>29</u>

Description and Justification of Documents  
Withheld In Full or In Part

9. Of the 163 documents originally located, only seven have been withheld in their entirety and eighteen have been excised prior to release. The Department of State is not in a position to address the disposition of the documents referred to the Department of Defense, Central Intelligence Agency, and the National Security Agency. The Department of State documents that remain in dispute all pertain to the 1967 attack on the USS Liberty by the armed forces of Israel, the ensuing death and injury claims of the American armed services personnel and the negotiations undertaken by the United States and Israeli Governments for the compensation of American losses. The documents further reflect contemporaneous U.S. consultations with third party governments through diplomatic channels. Those few remaining withholdings have been made on the basis of FOIA Exemptions 1, 5, and/or 6 as more particularly described below.

A. Seven Documents Withheld in Full

- 1) [28]<sup>\*</sup> Nine page UNCLASSIFIED Memorandum dated October 2, 1967, from the Assistant Legal Adviser for International Claims to the Legal Adviser. This document discusses the pros and cons of alternative formulas to be used in calculating compensation to be claimed in death cases. It further addresses problems that could arise in calculating the compensation. Those problems are discussed in relation to relevant case law and precedents (pp. 1 - 4). On the basis of the relevant precedents the memorandum proceeds to propose a formula for consideration. That formula is broken down into three components each of which is analyzed and contrasted with further case law where applicable (pp. 4 - 9). Throughout the document, interlineations, questions and comments are handwritten which confirm the deliberative predecisional nature of this document. This document is purely analytical; any facts are stated by way of assumption for purposes of discussion. No segregable portion could be disclosed without compromising the governmental deliberations protected by Exemption 5.

- 2) [158] Five page UNCLASSIFIED Memorandum dated November 1, 1977, from the Assistant Legal Adviser for International Claims to the Director of the Office of Israeli and Arab-Israeli Affairs suggesting arguments in the negotiation of the U.S. claim for damages to the U.S.S. Liberty. Described in the transmitting cover page as a draft, this document comprises a series of suggestions on how to characterize the attitude of the United States Government and people towards the attack on the United States Liberty. It recommends certain priorities and proposals to be advanced during the course of negotiations. It does not appear to have been intended as anything more than an internal briefing paper for the benefit of the negotiators. It is accordingly withheld in its entirety as a deliberative and advisory memoranda under exemption 5.
- 3) [127] One page SECRET Memorandum of telephone conversation between the Deputy Under Secretary of State and the Counselor of a foreign Embassy in Washington, dated June 8, 1967. This document memorializes an informal diplomatic exchange between the United States government and the government of a foreign power. It further reveals the diplomatic channels used as well as the frank manner in which such foreign consultations are carried out. Disclosure of any portion of this document could reasonably be expected to cause serious damage to the national security. The document is marked SECRET at the top and bottom. It appears to have been classified SECRET at its origination under authority of the Deputy Under Secretary pursuant to E. O. 10501. It does not bear any declassification schedule markings and would therefore be eligible for systematic declassification review 20 years after its date of origin under E. O. 12065 § 3-401 and the Department's regulations, 5 FAM 939.2. I have reviewed this document in light of Executive Order 12065 and have determined that it is currently properly classified SECRET both under E. O. § 1-301(a) involving military plans and operations and § 1-301(d) involving the foreign relations of the United States. It is accordingly withheld under exemption 1.
- 4) [128] One page SECRET Memorandum of Conversation between the

in Washington, dated June 8, 1967. This document reflects the frank manner in which the purposes and extent of certain military operations are disclosed in the conduct of our foreign relations. Disclosure of any portion of this document could reasonably be expected to cause serious damage to the national security. The document is marked SECRET at the top and bottom. It appears to have been classified at its origination under E. O. 10501 by authority of the Deputy Under Secretary. It does not bear any declassification schedule markings and would therefore be eligible for systematic declassification review 20 years after its date of origin pursuant to E. O. 12065 § 3-401 and 5 FAM 939.2. I have reviewed this document under Executive Order 12065 criteria and have determined that it is currently properly classified SECRET both under E. O. § 1-301(a) involving military plans and operations and § 1-301 (d) involving the foreign relations of the United States.

- 5) [96] One page CONFIDENTIAL Telegram (Tel Aviv 2159) from the American Embassy to the Secretary of State dated June 6, 1969, discussing options for approaching the Israeli Government concerning U.S. claims which were under negotiation for damage to U.S.S. Liberty. The first paragraph sets forth the anticipated response of the Government of Israel to a United States initiative under consideration. The second paragraph reflects the author's opinions on certain legal issues under negotiation and suggests a number of alternative interpretations and arguments that might be advanced. The third paragraph analyzes the relation of this matter to other foreign policy considerations and the fourth paragraph sets forth the conclusions and observations of the author as to the likely outcome of the negotiations. This document in its entirety frankly sets forth the opinions, observations and suggestions of a Foreign Service Officer during the course of on-going negotiations. No segregable portion may be released without divulging the deliberative process itself. It is accordingly protected by exemption 5.

Under authority of E. O. 12065 § 1-606, I classified this document CONFIDENTIAL on June 19, 1980, as disclosure of any

portion of it could reasonably be expected to cause identifi-

ifiable damage to the national security. The disclosure of the positions that were shared in confidence by the Government of Israel during the negotiation process, and the analysis by Foreign Service personnel of the relative merits of those positions, would raise doubts as to the ability of the U.S. government to keep information secure and thus inhibit future candid exchanges of information with the United States government. This is precisely the type of information that § 1-301(d) was intended to protect. This document is currently marked CONFIDENTIAL and is scheduled for systematic declassification review 20 years from its date of classification. It is accordingly withheld under exemption 1.

- 6) [89] Two page CONFIDENTIAL Telegram (State 230284) from the Department to the American Embassy in Tel Aviv dated August 29, 1968 relaying a message for delivery to the Government of Israel. This telegram summarizes an Israeli position previously transmitted and proceeds to comment in a frank manner on the U.S. perceptions of the Israeli position. Throughout the arduous negotiations over the USS Liberty incident, there were several bargaining positions and strategies that were not pursued. Disclosure of such confidential exchanges could only cause friction in our relations with the Israelis at a time when an amicable solution to the claims had been reached. This document was classified CONFIDENTIAL at its origination by the authorized Assistant Secretary. It bears markings that indicate it was included in declassification schedule Group 3 under former E.O. 10501. While Group 3 documents are downgraded at 12 year intervals until the lowest classification is reached, they are exempt from automatic declassification. I have reviewed this document under the criteria of the current Executive Order 12065 and determined that disclosure reasonably could be expected to cause identifiable damage to the national security. It logically falls within E. O. 12065 § 1-301(d) as concerning the foreign relations of the United States. It is accordingly withheld on the basis of exemption 1.

- 7) [142] Two page CONFIDENTIAL Telegram (State 210199) from the De-

and the Israeli Ambassador in Washington. The telegram summarizes frank deliberative exchange of views between senior U.S. and Israeli government officials and describes the manner in which each government intends to proceed in resolving the dispute over the USS Liberty incident. Such consultations are expressly covered by E.O. § 1-301(d) as they directly implicate the foreign relations of the United States. The telegram was classified SECRET at origination under authority of the Under Secretary. It bears markings that indicate it was included in declassification Group 3 under former E. O. 10501. While Group 3 documents are downgraded at 12 year intervals until the lowest classification is reached, they are exempt from automatic declassification. I have reviewed this document under the criteria of the current Executive Order 12065 and have determined that it continues to warrant that classification at the CONFIDENTIAL level because disclosure could reasonably be expected to cause identifiable damage to the national security.

B. Eighteen Documents Released in Part

- 8) [19] Three page DECLASSIFIED Memorandum dated August 26, 1968 from the Assistant Legal Adviser for International Claims to the Legal Adviser. The first paragraph which sets forth certain claims that could be asserted against the Government of Israel has now been released. The remainder of the document, which analyzes the theories and bases for these claims, remains withheld on the basis of exemption 5. The remainder of the first page contains observations on the manner in which those negotiations could be expected to proceed. It further describes the negotiating purpose of the memorandum. The second and third pages comprise three paragraphs, one for each claim enumerated on page 1. Each paragraph summarizes and analyzes the legal bases for computing the recommended rates of compensation for particular claims. The withheld portion of this document reflects the internal advice of an assistant legal adviser to his superior in preparation for future negotiations with the Israeli Government. No portion can be reasonably segregated and released without compromising the internal deliberations and conclusions of the assistant legal adviser that were the



3) [37] A compilation of [redacted] that was in to a transmittal memorandum dated July 11, 1967 from the Assistant Legal Adviser for International Claims to the Legal Adviser. The transmittal memorandum has now been released. The four "Tabs" to memorandum have been withheld in their entirety as internal deliberative memoranda that are privileged and protected by exemption 5.

Tab A dated July 10, 1967, is an 11 page internal memorandum from a staff attorney to the Legal Adviser entitled "Measure of damages under international law for losses resulting from personal injury, death, and property loss or damage, and proper party claimants." This memorandum analyzes each category of claim under the relevant principles of international law. It is divided into four subparts one for each category of claim. Each subheading sets forth a proposal for computation and "illustrative comments," i.e., citations to and quotations from international law precedents. The memorandum further reflects the frank assessments of the author as to the value and relevance of various legal principles cited. This document contains nothing more than proposals and quotations of relevant legal theories. No segregable portion can be released without divulging the theories and opinions of the author. It is accordingly protected in its entirety by the deliberative process privilege and exemption 5.

Tab B dated July 11, 1967, is a seven page internal memorandum from the Assistant Legal Adviser to the Legal Adviser entitled "Procedure for preparing USS Liberty claims." The memorandum is divided into six subheadings, one for each category of claim proposed. Within each subheading the author identifies categories of facts that should be investigated and compiled in order to verify each claim, and proposes various sources of the evidence sought. The document contains no raw facts, merely the proposed strategy for compiling evidence and preparing the documentation necessary to support each claim. It is merely a recommendation for further action, and is advisory and deliberative in nature. It is accordingly protected in its entirety by exemption 5.

Tab C dated July 11, 1967, is a three page internal memorandum from the Assistant Legal Adviser to the Legal Adviser entitled "Estimated schedule for USS Liberty Claims." In an attempt to estimate the schedule for processing USS Liberty claims, the

author set forth for each category of claim the proposed procedures and problems anticipated during the preparation of each claim. The document is advisory and predecisional in nature. Because it was based on the assumption that certain procedural decisions would be made and appears to have been prepared in support of those procedural proposals, it is accordingly protected in its entirety by exemption 5.

Tab D dated July 10, 1967, is a seven page internal memorandum from the Assistant Legal Adviser to the Legal Adviser entitled "Life Insurance and the USS Liberty Claims." The first page of this memorandum raises the question of subrogated claims of life insurance companies and provides legal advice and recommendations concerning such claims. The author thereupon proceeds to analyze such claims under international law and practice submitting relevant authorities and quotations of law. This document contains purely legal analysis. It does not reflect any facts relevant to the USS Liberty claims. It is withheld in its entirety as a privileged deliberative document and is accordingly protected by exemption 5.

- 10) [17] A one page UNCLASSIFIED letter dated May 27, 1969, from the Assistant Legal Adviser for International Claims to attorney Leonard Braman and a two page letter from attorney Leonard Braman dated May 23, 1969 acknowledging receipt of Treasury checks by several claimants. These letters have been released with the exception of the identity of individuals who received compensation for injuries resulting from the attack on the USS Liberty. The disclosure of the identity of those individuals injured on the USS Liberty, particularly in relation to the processing of their personal injury claims constitutes a clearly unwarranted invasion of their personal privacy and is withheld on the basis of exemption 6.
- 11) [23] Ten page UNCLASSIFIED Memorandum dated December 19, 1967, from the Assistant Legal Adviser for International Claims to the Legal Adviser discussing the claim for loss of future support in one of the cases arising out of the Israeli attack on the U.S.S. Liberty. This document has been released subject only

to the extent that it does not disclose the identity of the individual claimant on

page 1. The memorandum describes in considerable detail the relationship of the claimant to his family and the financial circumstances of the family which support his claim. Such information is highly personal in nature and the identification of the individual claimant in relation to such personal facts would be an unwarranted invasion of personal privacy. The name is therefore withheld on the basis of exemption 6.

- 12) [33] One page UNCLASSIFIED letter of July 28, 1967 by which the Assistant Legal Adviser forwarded a draft questionnaire to the General Counsel of the National Security Agency. This document has been released subject only to the deletion of the identities of two NSA employees on whose behalf compensation claims were submitted. The identification of individuals in the context of this personal injury claims would constitute a clearly unwarranted invasion of their personal privacy. This information is therefore withheld on the basis of exemption 6.
- 13) [34] One page UNCLASSIFIED letter of July 24, 1967, by which the Assistant Legal Adviser forwarded copies of claims forms to the General Counsel of the National Security Agency. This document has been released subject only to the deletion of the identity of two NSA employees whose on whose behalf compensation claims were submitted. The identification of government employees in relation to their personal injury claims would be a clearly unwarranted invasion of their personal privacy. This information is therefore withheld on the basis of exemption 6.
- 14) [35] Three page UNCLASSIFIED letter of September 10, 1968, from the Assistant Legal Adviser to the Department of the Navy Bureau of Medicine and Surgery and a four page letter dated September 6, 1968, of attorney Leonard Braman to Assistant Legal Adviser for International Claims. Both letters pertain to operations performed on several victims of the Israeli attack on the U.S.S. Liberty. These letters have been released subject to the deletion of the names, medical conditions, and treatment of the individual claimants. The disclosure of such personal medical information of individual government employees would be a clearly unwarranted invasion of personal privacy. This information has therefore

- 15) [59] Six page UNCLASSIFIED letter of July 18, 1968, from Assistant Legal Adviser to the Office of the Judge Advocate General requesting further medical information in 7 number of U.S.S. Liberty personal injury cases. Each claimant is identified in relation to his medical condition and the status of treatment. All names and medical summaries, with the exception of that of the plaintiff, have been excised as disclosure would be an unwarranted invasion of personal privacy protected by exemption 6.
- 16) [61] Four page UNCLASSIFIED letter dated March 29, 1968, from Assistant Legal Adviser to the Office of the Judge Advocate General requesting additional medical information for fully developing claims for compensation in several U.S.S. Liberty personal injury cases. The only information withheld is the names, medical condition, and treatment of the individual claimants. The disclosure of such personal data would constitute a clearly unwarranted invasion of personal privacy. This information has therefore been withheld under exemption 6.
- 17) [160] Two page UNCLASSIFIED letter dated March 25, 1977, from the Assistant Secretary for Congressional Relations to Representative Virginia Smith concerning the settlement of the claim of one of the victims of the Israeli attack on the U.S.S. Liberty. This document has been released subject only to the deletion of the identity of the individual crewman who is the subject of the Congressional inquiry. The disclosure of the identity of the individual within the context of a discussion of his medical history and the conditions of his claim settlement would constitute a clearly unwarranted invasion of his personal privacy. Such information is protected by exemption 6.
- 18) [29] One page UNCLASSIFIED memorandum from the Director of the Office of Israeli and Arab-Israeli Affairs dated September 28, 1967, suggesting the content of a reply to a letter received by the Department regarding the Israeli attack on the U.S.S. Liberty. Name of the author of the letter to the Department who appears to have had a personal interest in the processing of the claims has been excised under exemption 6, as disclosure would constitute a clearly unwarranted invasion of personal privacy.

19) [106] Two page SECRET telegram (Kuala Lumpur 4694) dated June 8, 1967, summarizing conversation between the U.S. Ambassador and the Prime Minister of Malaysia on the Middle East situation. This document has been released with the exception of twelve lines of the first paragraph which consist of information given by a foreign government with the implicit assumption that it would be kept in confidence. I have reviewed this document under the criteria established by E. O. 12056 and have determined the excised portions warrant continued classification. The excised information, which reflects the official and personal attitudes of a foreign government official, if disclosed could reasonably be expected to cause serious damage to the national security.

Such information derived through confidential diplomatic consultations clearly falls within the purview of E. O. § 1-301(d) as it directly concerns the foreign relations of the United States. This document was classified SECRET at its origination by authority of the U.S. Ambassador pursuant to E. O. 10501. It is accordingly withheld under exemption 1.

20) [46] Three page SECRET telegram (State 211672) dated June 16, 1967, reporting a conversation between the Under Secretary of State and the Israeli Ambassador in Washington on June 14, 1967. This telegram consists of four paragraphs, the first of which has been released. Paragraphs 2, 3, and 4 have been deleted as they consist of information (completely extraneous to the Israeli attack on the U.S.S. Liberty) provided to the United States in confidence by a foreign government. Disclosure of this information could reasonably be expected to cause serious damage to the national security. All three deleted paragraphs detail a frank exchange of views between the respective governments on bilateral and multilateral political and military issues of international and regional concern. This information clearly falls within the purview of E.O. §§ 1-301(b) and 1-301(d) as it was provided by a foreign government official in the course of sensitive and confidential discussions and directly concerns the foreign relations of the United States. This document was classified SECRET at its origination under the authority of the Under Secretary pursuant to E. O. 10501. It bears markings indicating that

from automatic downgrading or declassification. I have reviewed this document under criteria established by E. O. 12065 and have determined the excised paragraphs warrant continued classification at the level of SECRET and are exempt from declassification. It is accordingly withheld on the basis of exemption 1.

- 21) [60] Four page UNCLASSIFIED letter, dated May 21, 1968, from the Assistant Legal Adviser to the Office of the Judge Advocate General requesting up to date medical evaluation of several victims of the Israeli attack on the U.S.S. Liberty. This document has been released subject only to the deletion of the names of the individual claimants (other than plaintiff) and descriptions of the specific medical examinations requested. The disclosure of such personal medical information of individual government employees would be a clearly unwarranted invasion of their personal privacy. This information has therefore been withheld on the basis of exemption 6.
- 22) [62] Two page UNCLASSIFIED letter, dated January 23, 1968, from the Assistant Legal Adviser to the Office of the Judge Advocate General requesting recent medical information on several men seriously injured in the Israeli attack on the U.S.S. Liberty. This document has been released subject only to the deletion of names and other data identifying individual claimants other than plaintiff. Disclosure of such personal medical information pertaining to government employees would constitute a clearly unwarranted invasion of personal privacy. This information has therefore been withheld on the basis of exemption 6.
- 23) [126] One page SECRET telegram (Tel Aviv 4014) dated June 8, 1967, reporting Israeli attack on an alleged U.S. flag vessel. This telegram has been released with the exception of the last sentence. This sentence was deleted as it consisted of an Embassy assessment, intended solely for Department of State evaluation, of the impact of the incident on the foreign relations of the U.S. It is the type of information intended to be protected by E.O. § 1-301(d). Release of this information could reasonably be expected to cause identifiable damage to the national security. This document was classified SECRET by the U.S. Ambassador to Israel at its origination pursuant to E. O. 10501. It bears

While Group 3 documents are downgraded at 12 year intervals until the lowest classification is reached, they are exempt from automatic declassification. I have reviewed the document under the criteria established by E. O. 12065 and have determined that the excised portion warrants continued classification at the level of CONFIDENTIAL and is currently exempt from declassification.

- 24) [155] One page CONFIDENTIAL telegram (State 7098) dated January 11, 1978, requesting Israeli views on the status of outstanding U.S. claim for damages to the U.S.S. Liberty. This telegram has been released in full except for the deletion of the name of an Israeli government official who was intimately involved with the the U.S.S. Liberty claim pursuant to exemption 1. Release of the identity of this official could reasonably be expected to cause identifiable damage to the national security by making foreign officials more reluctant to provide information to the United States government. This information falls within the purview of E.O. §1-301(d). It was classified CONFIDENTIAL at its origination by Ambassador-at-Large for the Middle East negotiations. Under the general declassification schedule it is eligible for systematic review 12 years after its origination. I have reviewed this telegram and have determined that the excised portions warrant continued classification at the level of CONFIDENTIAL and is exempt from declassification.
- 25) [156] One page CONFIDENTIAL telegram (Tel Aviv 474) dated January 11, 1978, from the Embassy in Tel Aviv to the Department in response to Document #24 above [#155]. This telegram has been released in full except for the name of an Israeli governmental official who was intimately involved with the U.S.S. Liberty claim. Release of the identity of this official could reasonably be expected to cause identifiable damage to the national security by making foreign officials more reluctant to provide information to the United States government. This information falls within the purview of E.O. §1-301(d). It was classified CONFIDENTIAL at its origination by the U.S. Ambassador to Israel. Under the general declassification schedule it is eligible for systematic declassification review 12 years after

mined that the excised portions warrant continued classification at the level of CONFIDENTIAL and are currently exempt from declassification. It is accordingly withheld on the basis of exemption 1.

I, Clayton E. McManaway, do this 31<sup>st</sup> day of DECEMBER, 1980, affirm under penalty of perjury that to the best of my knowledge the foregoing is true and accurate.



James M. Ennes, Jr. Research Papers



742846

17 Dec. 77

Director, Freedom of Information Staff  
Bureau of Public Affairs  
Department of State, Room 2811  
2201 C Street NW  
Washington, D.C. 20520

Dear Sir:

This letter follows a telephone conversation of this afternoon with Mr. Jim Wood of your office. I was a member of the crew of USS LIBERTY on June 8, 1967, when the ship was strafed and torpedoed by Israeli forces in the Mediterranean Sea. Because of my personal interest in involvement in the incident, I would like to see any documents or files pertaining to the attack or its aftermath, or any notes, messages or diplomatic exchanges between our country and Israel or between Washington and our embassy at Tel Aviv concerning the attack or compensation for deaths, injuries or property damage, including the loss of the ship. I understand that several such documents have previously been released under the Freedom of Information Act and I request access under that Act.

I am interested in seeing any document pertaining to the ship, including but not limited to notes or messages covering the following:

1. Notes exchanged between Secretary Rusk and Israel's Ambassador Harmon on about June 8, 9 and 10, 1967, concerning the attack on LIBERTY.
2. An exchange of letters between Secretary Rusk and Representative Craig Hosmer in about September or October, 1967, concerning LIBERTY.
3. A claim submitted to Israel on December 19, 1967, in my name for injuries I suffered in the attack.
4. Several notes, messages and letters between Washington, our embassy at Tel Aviv and the Israeli Government in 1967, 1968 and 1969 concerning negotiations for settlement of claims.
5. An August 5, 1968, note from the Israeli Ministry of Foreign Affairs concerning Israeli liability for damage.
6. A Rusk/Harbour exchange of messages or notes concerning the Israeli note of August 5, 1968.
7. An August 29, 1968, note from Secretary Rusk to the Israeli government responding to the August 5 Israeli note.
8. A claim submitted to Israel on March 18, 1969, in my name for injuries I suffered in the attack.
9. Any White House comment on the circumstances of the attack.

DEPARTMENT OF STATE  
DEC 21 4 35 PM '77  
FREEDOM OF INFORMATION ACT

JUN 10 1980

Mr. James H. Ennes, Jr.  
[REDACTED]

Dear Mr. Ennes:

In reply please  
refer to: 7740846

With apologies for the delay in response, I refer to your letters of December 17, 1977, and August 23, 1979 requesting the release of certain Department of State documents concerning the attack on the USS LIBERTY, pursuant to the Freedom of Information Act, Title 5 USC Section 552.

A careful search of files under the Department's control has resulted in the retrieval of 163 documents considered relevant to your request. After careful review, we have determined that 46 of these documents can be released. Nineteen more can be released subject to excisions. Seventy-eight must be withheld from release.

Portions of 14 documents and 33 entire documents have been determined to be properly exempt from release under Paragraph (b) (1) of Section 552 as currently and properly classified under Executive Order 12065 and authorized by that Order to remain protected in the interest of national defense or foreign policy.

Three documents have been excised and 27 denied under Paragraph (b) (5) of Section 552 as specifically exempt from disclosure as they constitute inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with this agency.

Two documents have been excised and 19 denied under Paragraph (b) (6) of Section 552 as they represent personnel or medical files and/or similar files the release of which would constitute a clearly unwarranted invasion

of the personal privacy of the individuals involved.

Twenty documents were found to have originated in the Department of Defense. We have therefore requested that agency to review those documents and reply directly to you.

With respect to the material denied or excised, you have the right to appeal this determination within 60 days. Appeals should be addressed to the Assistant Secretary for Public Affairs, Department of State, Washington, D.C. 20520. A letter of appeal should refer to the Freedom of Information case number shown above.

The covering letter from the Department's Foreign Affairs Document and Reference Center, explains how the released material will be made available to you.

Sincerely,

Clayton E. McManaway  
Deputy Assistant Secretary  
Bureau of Administration  
Classification/Declassification  
Center

A/CDC/MR:Amb. Rockwell:dcs

# Middle East Perspective

A NEWSLETTER ON EASTERN MEDITERRANEAN AND NORTH AFRICAN AFFAIRS

VOL. XIV, No. 3

JUNE 1981

NEW YORK, N.Y.

"There is nothing more damaging to a journalist than a closed mind."  
—Pierre Salinger

## DIMENSIONS IN THE NEWS

By Dr. Alfred M. Lindthal

• A most valuable book is *Taking Root*, dealing with Israeli settlements on the West Bank, the Golan and Gaza-Sinai 1976-1980. It is published by John Wiley and Sons as part of their Geographical Research Study Series, with excellent photographs, charts, maps, and complete in every detail. Written by William W. Harris of the University of Otago in New Zealand, this is a most objective and scholarly work in which the author details how and where the Arabs were pushed out, what "legal" means were used, "how and what a tragedy this has been," says the author, "for all parties concerned."

• Author Herman Wouk found time to write an introduction to the Zionist tome, *The Letters of Jonathan Netanyahu*. These came from the pen of the Israeli Lieutenant Colonel who was killed during Israel's successful 1976 Entebbe airport raid. To further push the saga of persecution and to assure success of the book, it was given by the Times for review to an Israeli writer who just happens to be an ardent Zionist protagonist. And so the slanting continues ad infinitum.

• Dr. John S. Booth, as visiting minister at the Community Church in New York City during his May 1971 Wesak Sunday (honoring Buddha's birth) sermon, lamented: "It is the ultimate in desecration for present-day stewards of the Holy Land, of the Prince of Peace, of the Manger and of the Cross, to be manufacturing and selling to other nations the instruments for killing." Although he had earlier in his sermon named the U.S. as "the number one merchant of death," it was his eighty-second reference to Israel that brought a bombardment of calls and threats of bombings to New York Times radio station WQXR, which, as customarily, was carrying the services directly from the pulpit renowned for the preachments of John Haynes

(continued on page 6)

## ASSAULT ON THE LIBERTY: What Price Book Burning?

By James M. Ennes, Jr.

[Fourteen years ago this month 34 American naval personnel were killed, 171 more wounded in an Israeli attack by air and sea on an American ship. Here is what happened to the authoritative book that dared tell this story.]

*ASSAULT ON THE LIBERTY, The True Story of the Israeli Attack on an American Intelligence Ship*, was published by Random House in January, 1980. This, my first book, was the first detailed, fully documented account of the 1967 attack on the USS *Liberty*, and it was almost the first public statement of any kind by a survivor.

From the very beginning I was warned by newsmen and others that the book would be ignored by major reviewers and book dealers because of its subject, but I could not accept that. Scores of major American daily newspapers had complained editorially in 1967 that the attack could not have been an accident. *Newsweek* published a scathing comment at that time. I felt confident that my well-documented account would command immediate news, review, and book store attention. I was wrong.

There was a flurry of excitement when the book was released, but not what one might expect. *The Washington Post* informed the publisher that they would not be reviewing *Assault on the Liberty*; the *New York Times* was silent, all New York City book reviewers and talk shows rejected the story; NBC Evening News, after having invited me to an interview in 1977 (which I had declined because I was still subject to military discipline and was forbidden by the Navy to speak freely), was not interested when I told them that I was now free to speak; *Good Morning America* invited me to an interview set for March 14, 1980, but cancelled after discussing the matter with the Israeli Embassy; *Newsweek* editors wrote a story about the book for their *Periscope* column, and then cancelled without

(continued on page 2)

## ASSAULT ON THE LIBERTY

(continued from page 1)

explanation just before press time; a San Francisco talk show producer called me at home to arrange an interview, then called the publisher in New York to cancel; a Seattle talk show producer called, then begged off due to "a full schedule." And a dinner party at the home of a leading Seattle newspaper editor ended prematurely in a shouting match after the host, having just returned from an all-expense-paid trip to Israel, failed to convince his guests that his executive decision *not* to allow a review of *Assault on the Liberty* to be printed in his newspaper was fair, unbiased, and in the best interest of a free press.

*Time*, *Newsweek*, *U.S. News and World Report*, *The New Yorker*, *New York Review of Books*, and most of the other important national news and book review media pretended that *Assault on the Liberty* had not been written. Jack Anderson, that fearless syndicated exposé of wrongdoing and chicanery who had announced flatly in 1967 that the action was planned in advance, could find no room in 1980 for stories unflattering to Israel.

But many reviews did find their way into print, and almost every one was a rave. Among the first published reviews was the widely-read *Hartford Courant* which called *Assault* "a balance between *The Cruel Sea* and *Mister Roberts*; the most important book you'll read this year." *People* magazine did a two page spread on the book. *U.S. Naval Institute Proceedings* picked *Assault* as a book selection and eventually honored it as a "Notable Naval Book" and "the most important naval book of 1980." *The Washington Post* finally reversed itself, published a review which said *Assault* "reads like a thriller... the writing is first class," ran two new stories on the subject, and gave the book its highest rating, "Choice". Even the independent Jewish press published a number of favorable reviews which called the book "in the best traditions of quiet investigative journalism."

### Media Receptive

For the next few months interest soared. I did scores of radio interviews and talk shows, including two hours with Larry King on his large national network and about seven hours on Washington, D.C. stations alone—none of which was paid for by the publisher because, Random House told me, they could see no sales resulting from the publicity.

I did a television spot in the nation's capital opposite an Israeli journalist. I gave an interview for UPI Audio which was broadcast over 1,200 radio stations in four segments, and an interview which, along with remarks by Senator Adlai Stevenson, went on the UPI news wire. (Senator Stevenson said in the interview that the *Liberty* matter was not given more attention in the Congress "because Congressmen feel intimidated by a powerful Israeli lobby which takes its orders from an extremist group within Israel." Unfortunately, those remarks seemed to guarantee their limited publication. The story got almost no play, and many newspapers that did run it, pulled it from their pages in mid press run.) And the book won favorable endorsements from former chiefs of naval operations Admirals Arleigh Burke and Thomas Moorer, from Senators Barry Goldwater and Adlai Stevenson, from former Senators J.W. Fulbright

and James Abourezk, and from Pulitzer Prize-winning author Seymour Hersh among many others, while receiving highly laudatory reviews in all the official and semi-official military journals such as *Shipmate*, *Seapower*, *Military Review*, *Proceedings*, *The Retired Officer*, and *Naval War College Review*.

One would expect that such favorable comment along with extensive national publicity would sell books. Instead, my editor advised gloomily in late summer that sales were "scary". Each week more books were being returned from bookstores than were being ordered!

### Campaign to Discredit

By then a pattern was becoming clear and I was beginning to see some evidence that at least some of the "lack of interest" in this book was apparently the result of an organized campaign. Paperback publishers were not only indifferent, but two notes that reached me from leading paperback editors were downright hostile. And a friend wrote to tell me privately that "a fairly serious undercover campaign in New York and Washington, D.C., is underway to discredit the book."

Soon I noticed the same arguments against the book appearing time and time again, particularly where there were connections with the Israeli Embassy. For instance, on the Panorama TV show in Washington, D.C., after I had described Israeli reconnaissance aircraft that I had personally seen flying at masthead level directly over our ship, Israeli journalist Ron Ben-Yishai baldly insisted that there were no reconnaissance aircraft at all. An Anti-Defamation League chairman who was allowed to review *Assault* for the *Dallas Morning News* informed his readers that I was "too close to the event to be objective." ADL spokesmen in San Diego, San Francisco, Seattle and elsewhere complained to and through the media that "Ennes's conclusions fly in the face of logic and military facts."

What is remarkable about the campaign against the book is that it is usually conducted behind the scenes, usually directed to editors, station managers, and talk show hosts rather than to the public, and usually contains the same arguments, particularly when funneled through ADL spokesmen. All arguments simply deny the facts in the book and ignore the evidence and documentation, insisting instead that the attack was a case of mistaken identity and that there was no reconnaissance and no identification, even though I have in my possession two Israeli documents which admit privately to the United States that there was reconnaissance, that the ship was tracked in the Israeli war room, and that she was correctly identified as to type, name, nationality and mission.

### Retail Orders Sabotaged

And the campaign was effective. Most of my mail in 1980 consisted of complaints that the book was not available or that individual shopkeepers often refused to accept orders for it or falsely claimed that it was out of print. Reports from New York and Los Angeles were particularly consistent and

(continued on page 3)

## ASSAULT ON THE LIBERTY

(continued from page 2)

candid: booksellers in those cities routinely told potential buyers that "we will not accept orders for *that* book."

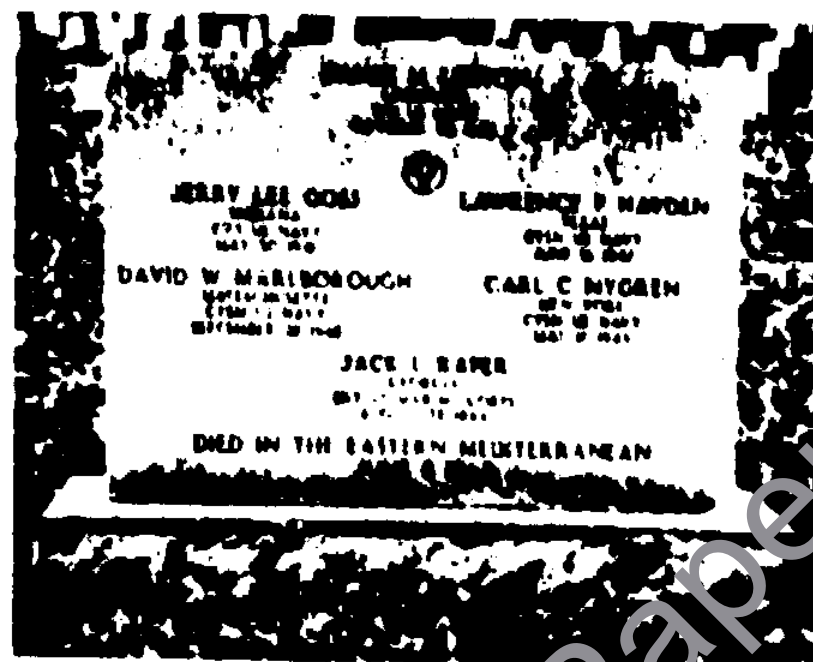
A man in Ohio phoned (he found the *author* with no difficulty) to say he had spent three days and \$70 in long distance calls before finding a store that would accept a special order. A man in Dallas took time to visit 32 bookstores: only two stores displayed *Assault*, while thirty stores admitted that they had received copies from Random House but intended to return them, unsold and undisplayed, because they did not like the topic.

Letter writers from New York, Baltimore and San Francisco wrote to tell me that when, as a last resort, they phoned Random House to place orders they were told by clerks both in New York and at the warehouse in Maryland (in what must have been private sabotage, rather than reflections of corporate policy) that Random House had never published such a book, or had suspended publication.

In Seattle when I asked local booksellers about *Assault on the Liberty* I was told, "We get orders for it constantly, but it must be out of print—our wholesaler can't get it from Random House." Facing that problem at my request, Random House discovered that a major national wholesale dealer (no doubt due to another private act of sabotage) had failed to forward orders to Random House. Ostensibly, all orders for *Assault on the Liberty* had been "lost." That stoppage was eventually unblocked, but not before orders from hundreds of stores were sidetracked for perhaps eight months. And the problem was not confined to the West Coast: even in Washington, D.C., a major bookseller told me that he could not get the book through his regular supplier for at least four months while demand was high following several important reviews and talkshows—even though Random House had an abundance of books on hand at that time.

Even *The Washington Post* may have yielded to pressure. After two book reviews and two news stories about *Assault on the Liberty* within about four weeks, the East Coast book-burning faction inundated the *Post* in a well-organized campaign with hundreds of letters and telephone calls complaining about the attention being paid to this book. According to a *Post* staff member, "it seems that every phone in the building had someone calling to complain about our mention of the book." And a few days later when a Seattle bookseller called the *Post* to place an ad offering to sell *Assault on the Liberty* by mail, the ad clerk warned: "I don't know if we can accept an ad for that book. There have been a lot of complaints that we should not have reviewed such a controversial book."

Several weeks later, after repeated apologies for unexplained delays and missed publication dates, the *Post* returned the bookseller's check. The ad did not run. This, too, was probably an act of private sabotage rather than a corporate decision by *The Washington Post*, but the result is the same. And although the *Post* mentioned the attack six months later in a typically excellent Christmas Day editorial, they have not mentioned the book since the day their phones rang off the wall.



Grave # 1817, Section 34, of Arlington National Cemetery - The final resting place of the five sailors and one marine killed in the Israeli attack on the USS LIBERTY, June 8, 1967. Note the evasive tombstone reference, "Died in the Eastern Mediterranean."

Despite the resistance, however, the book has slowly gained circulation and popularity—while the pressure has continued. In January, 1981, Dick Estell, the Radio Reader from Michigan State University, read *Assault on the Liberty* in its entirety over his 44 station coast-to-coast radio network—a reading which consumed nine hours of air time on each station over almost a month. Many stations broadcast the readings twice. And Dick Estell soon received a call from an Anti-Defamation League spokesman in New York City asking about his "book selection policy," while individual station managers received obviously ADL-inspired letters and petitions complaining about the decision to read this book.

### Pressure Continues

In Seattle, when two producers on a widely heard talk radio station scheduled me for four talk shows over a period of a few weeks, the local ADL spokesman complained. All four shows were strangely truncated, and the last show, which had been scheduled for three hours, was abruptly cut to about 40 minutes by management at the last moment despite solid listener reaction. (I learned of the change only while enroute to the studio.)

Within the week *both* hosts were shifted to minor time slots, both producers were discharged, and authority to schedule guests was shifted from individual producers to a single executive producer—who would not accept or return my calls. Coincidental? Perhaps, but it is consistent with the pattern.

When I was invited to a widely heard San Francisco radio talk show, the station received *five hundred* complaining letters even before the show was aired, and during the show the host's life was threatened twice by off-the-air callers claiming to represent the Jewish Defense League and promising to ambush and kill the host as he drove home. He was escorted home by five San Francisco policemen with riot guns, and he promptly abandoned plans for a followup interview.

I had little hope of clearly identifying the source of the campaign against the book until, in December, I received a telephone call from an American newsmen in Jerusalem.

(continued on page 6)

## DIMENSIONS IN THE NEWS

(continued from page 1)

Holmes. Church pastor Donald S. Harrington — an extremely vocal Zionist — flew home from leave and banned any further reference to the Middle East conflict in the Unitarian minister's scheduled sermons. Anti-Defamation League pundit Arnold Foster was given time on WQXR to answer Booth's charge of "napalm from Nazareth and bombs from Bethlehem."

Today, ten years later, Israel's arms sales top the \$1-billion mark. The items include sophisticated war planes (the Kfir is powered by General Electric J-79 jet engines), ground-to-air missiles, missile boats, machine guns and ammunition. Much of this, as has been pointed out by our New Hampshire correspondent, goes to repressive regimes, according to the prestigious Stockholm International Peace Research Institute (SIPRI). Thirty-five percent of Israeli exports went to South Africa, 29 percent to Argentina, and 6 percent to El Salvador. Israeli arms have constituted 81 percent of that totalitarian regime's arms supply.

- The Vatican has again made it clear it does not believe it to be sufficient to protect "the right to visit the holy places while leaving Jerusalem a united Jewish city under Jewish rule." The Holy See has continuously opposed any unilateral initiative to modify the political "status" of Jerusalem. This had been emphasized in the communique issued following the meeting between Pope John Paul and Saudi Arabian Foreign Minister Prince Saud al-Faisal. The Papal statement also stressed the necessity for maintaining the "independence, territorial integrity and unity of Lebanon." Since that time, things have gone from bad to worse in that beleaguered country. As far as Jerusalem is concerned, we have been told that problem has been placed on a back burner.

- Millionaire property speculator Knesset member Shumuel Flatto-Sharon, who ran for and was elected to his seat to escape extradition to France where he had been sentenced to five years in prison, has now been sentenced to nine months in prison for election fraud. He is the first member of the Knesset sentenced on such charges (Israel has had no Abscam). After the French wanted him for fraud, Flatto-Sharon had been praised by portions of the Israeli press as "a true prophet. Most of our politicians smuggle abroad the money they steal from here. He, at least, took to Israel money taken abroad."

- Expanded agricultural and cattle-breeding cooperation between Egypt and Israel became a reality during the late May meeting between President Sadat and Israel's Ariel Sharon. We wonder how the Egyptian leader must have felt asking the help of the Israeli hero of the '73 War. Sharon had been responsible for the October 1953 massacre of 66 Palestinians in the attacks by Israel's notorious Unit 101 on the border village of Kibya and had commanded the 1975 eviction of Bedouin tribes from the Rafah Approaches to make way for Jewish settlements in the Sinai. While Gush Emunim's Geula Cohen mostly vociferates about it, Sharon has made expansionism a reality. And Sadat incessantly claims to have the best interests of the Palestinians at heart!

## ASSAULT ON THE LIBERTY

(concluded from page 3)

The newsman had asked the Israeli government to comment on *Assault on the Liberty*, and the Israeli Foreign Office in Jerusalem had given him a four page "draft" press kit designed to discredit the book. He sent it to me for comment. Voila! Here were the same arguments I had first heard from Israeli journalist Ben-Yishai (after he had been briefed by the Israeli Embassy), and that had been emanating from the Anti-Defamation League ever since: "The attack was a tragic mistake; Liberty was thought to be Egyptian. Israel would not have wasted torpedo boats on an attack that could easily have been handled from the air. Ennes's conclusions fly in the face of logic and the military facts; the history of war is full of incredible incidents involving mistaken identity; Ennes allows his rumor to override objective analysis."

Clearly the campaign to discredit and to frustrate sales of *Assault on the Liberty* is being conducted directly from Jerusalem through this key ADL document.

### Adventure, Drama and Expose

Unfortunately, the Israeli spokesmen miss the point of the book. This book, for all it may say that Israel may not want known, is *not* an attack on Israel. While I cannot be pleased to have been hospitalized for a year by Israeli bullets or to have seen my shipmates die in an Israeli attack, the main thrust of the book is to tell a readable story of adventure and drama and to expose a coverup which has blinded our leaders to the American military mistakes that led to the disaster.

As a result of the coverup, an enormous failure of military command, control and communications has never been exposed or fully acknowledged, and because it was not acknowledged we made many of the same mistakes again seven months later when the USS *Pueblo* was captured under very similar circumstances. Probably we are still vulnerable to the same failures today. But because Israel is offended by this story, and because Israel is widely, passionately, and expensively supported in our country, and apparently, as Adlai Stevenson said, because many of our elected representatives feel intimidated by the Israeli lobby, our leaders prefer to pretend that the attack did not happen.

By blinding ourselves to history, we condemn ourselves to repeat it.

Fortunately, this is a story that generates a great deal of interest. Despite the clear and very strong resistance, demand for the book is still increasing more than a year after it was published. More retail as well as wholesale dealers stock the book each month. And in the past several weeks Random House has ordered more printings. As this is written a fourth printing is in distribution. The future looks bright.

### ABOUT THE AUTHOR

James Ennes retired from the Navy in 1978 as a lieutenant commander after twenty-seven years of enlisted and commissioned service. He now lives and writes in the Pacific Northwest. And he continues to battle his way onto television and radio talk shows.

**ISRAEL BOMBS IRAQI REACTOR: SPECIAL JULY ISSUE**

25

James M. Ennes, Jr. Research Papers



THE  
AMERICAN  
LEGION

THE VFW

ARAB AFFAIRS ARTICLE  
(REBUTTAL TO ATLANTIC)

FOLDER 25

THE AMERICAN  
**LEGION**  
MAGAZINE

P. O. BOX 1055 • INDIANAPOLIS, INDIANA 46206-1055 • (317) 835-8411

November 2, 1984  
7 - 97 - 7

Mr. James M. Ennes, Jr.  
[REDACTED]

Dear Mr. Ennes:

While there is no way that we could accommodate a 300-500 word article describing the attack on the USS Liberty, we think it would make an excellent 1,500 word feature.

If you are interested in undertaking this assignment, please let us know so that we can work out details -- such as payment and deadline.

Sincerely yours,

*Daniel S. Wheeler*  
DANIEL S. WHEELER  
Editor

Enclosure: Writer's Guidelines

Research Papers  
Not 300-500 3,000 25,000

THE AMERICAN  
**LEGION**  
MAGAZINE

P. O. BOX 1055 • INDIANAPOLIS, INDIANA 46206-1055 • (317) 835-8411

November 19, 1984  
7 - 97 - 7

Mr. James M. Ennes, Jr.  
[REDACTED]

Dear Mr. Ennes:

We are pleased that you are interested in writing a 1,500-word article for The American LEGION Magazine about the Liberty incident. Inasmuch as the article is not yet slated for a particular issue, the deadline is not pressing. A February 1, 1985 due date works well for us, and we will so schedule it unless we hear from you to the contrary.

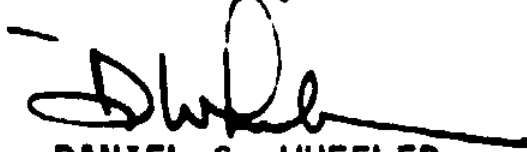
Our usual rate for pieces such as you have described is \$650 for an acceptable article. We purchase only First North American serial rights.

The style of composition we prefer makes the main point of the article early in the lead, provides substantiating data next, and summarizes main points in conclusion. All articles are subject to legal review and our attorney frequently asks for documentation of key facts, especially if those facts or their interpretation appear controversial.

If the above terms are satisfactory, we shall look forward to reading your manuscript. If we may be of any assistance, please do not hesitate to ask.

Thank you for thinking of The American LEGION Magazine.

Sincerely yours,

  
DANIEL S. WHEELER  
Editor

THE AMERICAN  
**LEGION**  
MAGAZINE

P.O. BOX 1055 • INDIANAPOLIS, INDIANA 46206-1055 • (317) 635-8411

January 10, 1984  
7 - 97 - 7

Mr. James M. Ennes, Jr.  
[REDACTED]

Dear Mr. Ennes:

After much struggling over your article "The Israeli Assault on the USS Liberty," the editorial staff here has concluded that this simply doesn't fit in with the Legion Magazine's approach.

I am personally sorry about this, inasmuch as I had ordered the piece in the first place -- and you have already put a great deal of effort into its doing. The least we can do, however, is to pay you a kill fee, so I'm enclosing a check for \$200.00.

Thank you for thinking of our magazine. Please try us again.

Sincerely yours,

  
DANIEL S. WHEELER  
Editor

Enclosure

NOTE: THE ARTICLE FROM AS  
LITTON IN  
ISSUE OF  
THE  
RETIRED OFFICERS  
AND WIVES REPORTED  
IN MILITARY MAGAZINE

James M. Ennes, Jr.

Research Papers

THE AMERICAN  
**LEGION**  
MAGAZINE

P. O. BOX 1055 · INDIANAPOLIS INDIANA 46206-1055 · (317) 635-8411

October 1, 1985  
34 - 97 - 34

Mr. James M. Ennes Jr.  
[REDACTED]

Dear Mr. Ennes:

As stated in previous correspondence with you, we understand your consternation and disappointment concerning The American Legion Magazine's rejection of your article, "The Israeli Assault on the USS Liberty."

We reiterate that The American Legion no longer has a position on this subject and we do not think it advisable to publish an article on the Liberty incident at this time.

Sincerely yours,

*Michael La Bonne*

MICHAEL D. La BONNE  
Editor

THE AMERICAN  
**LEGION**  
MAGAZINE

P. O. BOX 1056 • INDIANAPOLIS, INDIANA 46206 • (317) 635-9411

February 8, 1985  
7 - 97 - 7

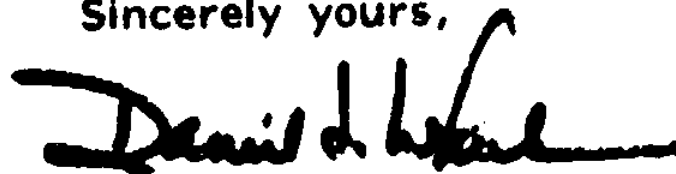
Mr. James M. Ennes, Jr.  
[REDACTED]

Dear Mr. Ennes:

I can understand your consternation and disappointment concerning The American Legion Magazine's return of your article "The Israeli Assault on the USS Liberty."

As I stated in my earlier correspondence, The American Legion no longer has a position on this topic and we do not think it advisable to publish an article on the Liberty affair at this time.

Sincerely yours,



DANIEL S. WHEELER  
Editor

THE AMERICAN  
**LEGION**  
MAGAZINE

P. O. BOX 1055 · INDIANAPOLIS INDIANA 46206-1055 · (317) 635-8411

September 6, 1985  
34 - 97 - 34

Mr. Harrison Plum  
1500 Center Avenue  
Bay City, Michigan 48706

Dear Mr. Plum:

We have had numerous requests to publish information on the attack against the USS Liberty. Unfortunately, the bulk of the material we have seen has been too political in nature, which prevents us from using it. The American Legion is a congressionally chartered veterans organization that cannot support any particular political party or philosophy. Other material presented too many questions without answers and too much speculation on the events surrounding that incident. Should complete facts be made known in the future, we would consider using some or all of that material in a related article.

Sorry we couldn't have been more positive in our answer.

Sincerely yours,

*Michael D. La Bonne*

MICHAEL D. La BONNE  
Editor

Copy for Lt Ennes

HARRISON PLUM  
1500 CENTER AVENUE  
BAY CITY MICHIGAN 48706  
419 895-5284

September 12, 1985

Mr. Michael D. La Bonne, Editor  
The American Legion Magazine  
Box 1055  
Indianapolis Indiana 46206-1055

Dear Mr. La Bonne:

Thank you for your letter of September 6 1985 regarding the attack on the U.S.S. Liberty by Israeli forces.

I can well understand your position as editor of the American Legion Magazine, the official news organ of a Congressionally chartered Veterans organization, regarding publishing politically slanted articles.

However, your some 2,000,000 veteran members look to you for reports on matters of interest and concern pertaining to defense and service activities.

It would appear that the attack on the "U.S.S. Liberty" well qualifies for such articles.

You refer to the possible future availability of facts pertaining to this tragic occurrence.

It could well be that the facts mentioned are presently available from official Naval Board of Inquiry records and eye witness and participant statements.

While the facts are very evident, the reasons for the attack and the cloak of secrecy and semi-secrecy placed around it by governmental and news media are not.

I have the above material available and would be glad to send copies if desired.

It is felt you would do a real service to your readers in publishing an article or articles on this matter.

With very best regards.

*Harrison Plum*

Harrison Plum  
Post 12  
Bay City, MI



U.S.S. LIBERTY



ASSOCIATION

Stan White, Chairman  
Joseph L. Meadows, President  
Robert Casale, Vice President  
P.O. BOX 780, WOODINVILLE.

Joyce Casale, Secretary/Treasurer  
Paul N. McCloskey, Legal Advisor  
James M. Ennes, Jr., Historian  
WASHINGTON BR079

COPY

17 September 1985

Editor Michael D. La Bonne  
The American Legion Magazine  
PO Box 1055  
Indianapolis, Indiana 46206-1055

Dear Mr. La Bonne:

Mr. Harrison Plum of Bay City, Michigan, has kindly forwarded to me your letter to him of September 6 which attempts to explain why the American Legion seems to fear the story of the USS Liberty.

I am astounded to read that "the bulk of material...has been too political...[while other material] presented too many questions without answers and too much speculation on the events surrounding that incident."

I presume the material to which you refer includes my article on the subject which was commissioned by The American Legion Magazine late in 1984 and then rejected by the Legion editorial board as "inappropriate."

Never was the suggestion made to me that my material was "too political" or speculative or presented unanswered questions. I was told only that the decision to reject my article was based on an ancient Legion policy of avoiding controversy—a policy which I submit is unsuitable for a modern veterans organization. The fact is, I included with my article about 100 pages of documentation to support every point that could possibly be considered controversial.

I was Liberty's officer-of-the-deck and was present on the bridge when the attack started. I conducted more than 12 years of intensive research into the attack and have compiled a research library of some 20,000 pages including many thousands of pages of declassified U.S. Government documents and many official Israeli documents. The story I tell is supported by key U.S. Government leaders of the time and by every known survivor of the attack. In fact, my Random House book on the attack ("Assault on the Liberty") was the subject of an intensive legal review before it was published; Random House legal officers told me when they were finished that they had never before published a book that was so thoroughly documented.

Is this the story that the American Legion finds "speculative"?

As you probably know, the article rejected by the Legion was later published in the June, 1985, Retired Officer magazine. Far from being considered "controversial" or "political," the magazine's editor told me that they had a deluge of supporting mail from members and only two critical letters.

My shipmates and I will be pleased to document or give direct eyewitness testimony concerning any aspect of this affair for which you require further evidence. I look forward to your reply so that I may share it with other survivors of the attack.

Sincerely,

Copy for Lt Ennes

HARRISON PLUM  
1500 CENTER AVENUE  
BAY CITY, MICHIGAN 48706  
517/895-5284

September 12, 1985

Mr. Michael D. La Bonne, Editor  
The American Legion Magazine  
P.O. Box 1055  
Indianapolis Indiana 46206 1055

Dear Mr. La Bonne:

Thank you for your letter of September 6 1985 regarding the attack on the U.S.S. Liberty by Israeli forces.

I can well understand your position as editor of the American Legion Magazine, the official news organ of a Congressionally chartered Veterans organization, regarding publishing politically slanted articles.

However, your some 2,000,000 veteran members look to you for reports on matters of interest and concern pertaining to defense and service activities.

It would appear that the attack on the "U.S.S. Liberty" well qualifies for such articles.

You refer to the possible future availability of facts pertaining to this tragic occurrence.

It could well be that the facts mentioned are presently available from official Naval Board of Inquiry records and eye witness and participant statements.

While the facts are very evident, the reasons for the attack and the cloak of secrecy and semi-secrecy placed around it by governmental and news media are not.

I have the above material available and would be glad to send copies if desired.

It is felt you would do a real service to your readers in publishing an article or articles on this matter.

With very best regards,

*Harrison Plum*

Harrison Plum  
Post 18  
Bay City, MI

THE AMERICAN  
**LEGION**  
MAGAZINE

P O BOX 1055 INDIANAPOLIS INDIANA 46206-1055 (317) 686-8411

September 6, 1985  
34 - 97 - 34

Mr. Harrison Plum  
1500 Center Avenue  
Bay City, Michigan 48706

Dear Mr. Plum:

We have had numerous requests to publish information on the attack against the USS Liberty. Unfortunately, the bulk of the material we have seen has been too political in nature, which prevents us from using it. The American Legion is a congressionally chartered veterans organization that cannot support any particular political party or philosophy. Other material presented too many questions without answers and too much speculation on the events surrounding that incident. Should complete facts be made known in the future, we would consider using some or all of that material in a related article.

Sorry we couldn't have been more positive in our answer.

Sincerely yours,

*Michael D. La Bonne*

MICHAEL D. La BONNE  
Editor

RESOLUTION  
National Headquarters, The American Legion

Forty-Ninth Annual National Convention, Boston, Massachusetts  
August 29, 30, 31, 1967

Resolution No. 508

USS LIBERTY INCIDENT

Subject REPARATIONS BE PAID BY THE ISRAELI GOVERNMENT FOR ATTACKING U.S. NAVY SHIP "LIBERTY".

Referred to Committee on FOREIGN RELATIONS

3561

(DO NOT WRITE IN ABOVE THIS LINE)

USS LIBERTY INCIDENT:

Resolution No. 508 (Pennsylvania) has to do with the tragic attack by Israeli planes and torpedo boats against the USS Liberty, during the recent Arab-Israeli war. The resolution is recommended for adoption, after amendment, as follows:

WHEREAS, on June 8, 1967, the USS Liberty -- while operating in international waters in the Eastern Mediterranean -- was the target of an apparent deliberate attack by Israel's war planes and torpedo boats; and

WHEREAS, this unwarranted and unprovoked attack killed 31 members of the Liberty's crew, and wounded 75 other U.S. Navy personnel on board, in addition to causing extensive damage to the ship; and

WHEREAS, the U. S. Government's official inquiry covered the circumstances surrounding the incident, including the fact that the ship was "properly marked as to her identity and nationality, and in calm, clear weather" when attacked, but the published report fails to provide the American public with a satisfactory answer as to the reason for the attack; now, therefore, be it

RESOLVED, by The American Legion in National Convention assembled in Boston, Massachusetts, August 29, 30, 31, 1967, That The American Legion denounces and condemns Israel's irresponsible attack on the USS Liberty, a United States' ship and its crew; and be it

FURTHER RESOLVED, That The American Legion insists that the United States Government conduct a complete and thorough investigation of this incident, with the results to be made public insofar as security permits; and be it

FURTHER RESOLVED, That the United States Government demand full payment from the Israeli Government for 1) compensation to the next of kin of the deceased, 2) compensation to the wounded for injuries and residual disabilities, and 3) damages to the property of the United States.

NOTE: SEE INSTRUCTIONS ON REVERSE SIDE OF THIS FORM.

# The American Legion

★ NATIONAL HEADQUARTERS ★ P. O. BOX 1055 ★ INDIANAPOLIS, INDIANA 46206 ★  
(317) 635-8411 ★



OFFICE OF THE  
NATIONAL ADJUTANT

January 7, 1986  
2-77-2

Mr. William T. Edmonds, Jr.  
Vice Commander  
Dhahran Memorial Division  
Generals Ward and Chennault - China Post One  
Box 5718  
Dhahran, Saudi Arabia

Dear Mr. Edmonds:

This will acknowledge receipt of your letter dated December 1, 1985. You asked two (2) questions:

- 1) What actions have been taken to fulfill the requirements of Resolution No. 508?
- 2) What is the current status of National Convention Resolution No. 508?

In reply, I can furnish you with the following:

- 1) A copy of Resolution No. 508 adopted at the 1967 Annual National Convention was delivered to the President of the United States. Additionally, it was processed by the staff along with the hundreds of other resolutions to endeavor to get the United States Congress to agree with the position of The American Legion.
- 2) By Resolution No. 8 adopted by the National Executive Committee at its regular meeting in Indianapolis, Indiana, on May 9-10, 1984, Resolution No. 508 was rescinded as stated in Resolution No. 8, a copy of which is enclosed for your ready reference. Resolution No. 508 had already lapsed pursuant to a resolution adopted at the 1936 Annual National Convention which provides in part: "...that 'mandates pertaining to legislative action by the Congress of the United States shall be effective only to the date of final adjournment of the Congress during which such resolutions were adopted by a national convention or the National Executive Committee, except that resolutions passed at the national convention or the National Executive Committee preceding the convening of a new Congress, shall be effective until the adjournment of such new Congress.'"

3501

3561

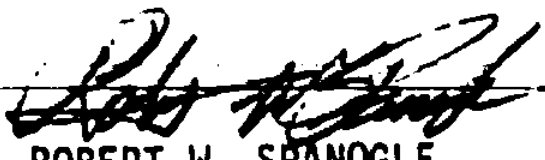
Mr. William T. Edmonds, Jr.

- 2 -

January 7, 1986

I trust the foregoing answers your questions.

Sincerely,



ROBERT W. SPANOGLE  
National Adjutant

Enc.

cc: Dale L. Renaud, National Commander  
Philip B. Onderdonk, Jr., National Judge Advocate  
G. Michael Schlee, Director - National Security/Foreign Relations  
Daniel S. Wheeler, Publisher/Editor-in-Chief - The American Legion Magazine

James M. Ennes, Jr. Research Papers

January 20, 1986

Joseph L. Meadors, President  
The USS Liberty Veterans Association  
3 Burns Avenue  
Hicksville, New York 11801  
United States of America

3501

To the Men of the USS Liberty Veterans Association.

This letter is a result of questions about the USS Liberty Incident raised during a meeting of the Dhahran Memorial Division, General Ward and Chennault - China Post One, American Legion.

The following questions were raised about American Legion Resolution No. Resolution 508 (Pennsylvania), 49th Annual National Convention, also known as USS Liberty Incident:

- 1) What actions have been taken to fulfill the requirements of Resolution No. 508?
- 2) What is the current status of National Convention Resolution No. 508?

Seeking answers to these questions, I wrote to the National Adjutant. In my letter I stated the questions listed above and indicated our members' strong interest in Resolution 508. I received a prompt reply (attached). I find no ambiguity in the answers provided by Mr. Robert W. Spanogle, National Adjutant.

Resolution Resolution 508 was delivered to the President of the United States as well as the United States Congress in 1967. Resolution 508 remained in effect until the date of final adjournment of Congress in 1967. This is the standard practice with National Convention resolutions calling for legislative action by the US Congress. Resolution 508 notified the Executive and Legislative branches of the US Government and the American public of the outrage felt by Legion membership for the attack by Israel on a ship of the United States Navy. A review of the actions requested in Resolution 508 indicates that all items have been addressed, as follows:

- 1) American Legion condemnation of the Israeli attack on the USS Liberty is a part of public record.
- 2) The United States government conducted an investigation of the USS Liberty Incident, as called for by Resolution 508.
- 3) The government of Israel paid compensation to the victims and the Government of the United States, as called for by Resolution 508.

Let me say at this point that I feel that Resolution 508 has served its purpose and any further discussion of it would be beating a dead horse.

That is not to say that Item Two above has been adequately addressed. The key unanswered question is not why Israel attacked, but why the United States Navy and the United States Government failed to come to the assistance of the USS Liberty. I am not convinced that our government has answered this question truthfully, then or now. Rather it has retreated behind a cloud of empty words and "vital National Interest." Other unanswered questions come readily to mind, as follows:

- 1) Which Naval officers were relieved or reassigned as a result of this incident?
- 2) Which members of the Administration were fired?
- 3) Which members of the US Intelligence community were fired.
- 4) Why did the US Navy fail in its duty to its officers and men?
- 5) Who decided that the lives of American sailors were less important than the feelings and lives of an "ally"?

The introduction of a new USS Liberty resolution to address these and other questions at the next National Convention of the American Legion would be appropriate. However, to make your voice heard you must be a member of the Legion. Many of us believe your cause to be just. I urge you to join with us so that the truth may be brought to others.

*William T. Edmonds, Jr.*

William T. Edmonds, Jr.  
Vice Commander  
Dhahran Memorial Division  
Generals Ward and Chennault -China Post One  
Box 5713  
Dhahran 31311  
Saudi Arabia

Enc.

cc:

Dale L. Renaud, National Commander, American Legion  
Robert J. Spanogle, National Adjutant  
Philip B. Onderdonk, Jr., National Judge Advocate  
G. Michael Schlee, Director, National Security/Foreign Relations  
Daniel S. Wheeler, Editor-in-Chief, The American Legion Magazine



HARRISON PLUM  
1500 CENTER AVENUE  
BAY CITY, MICHIGAN 48706  
517/895-5284

December 15, 1985

Mr. Daniel S. Wheeler  
Publisher/Editor in Chief  
American Legion Magazine  
P.O. Box 1055  
Indianapolis, Indiana 46206-1055

Dear Mr. Wheeler:

Thank you for your letter of December 12, 1985 replying to my letter regarding publication of an article on the attack of the U.S.S. Liberty by Israeli Units in June 1967.

Just what your reasons are for refusing to publish such an article, I am not sure. However I cannot help but feel this refusal is a disservice to your some 3,000,000 members and a sorry tribute to the widows and orphans of those who gave their lives in the service of our country, for those who bear the scars of wounds received and for those who, although not physically wounded, underwent the traumatic experience of the murderous attack.

Very truly yours,

*Harrison Plum*

Harrison Plum  
Post 18 Bay City MI



P. O. BOX 1055 · INDIANAPOLIS, INDIANA 46206-1055 · (317) 635-8411  
OFFICE OF THE PUBLISHER/EDITOR-IN-CHIEF

December 12, 1985  
7-58-7

Mr. Harrison Plum  
1500 Center Avenue  
Bay City, Michigan 48706

Dear Mr. Plum:

Inasmuch as National Commander Dale Renaud is currently traveling for The American Legion and is not present at National Headquarters, your recent letter concerning publication of the article submitted on the USS Liberty has been referred to me.

As was indicated in previous correspondence, it is our decision not to publish an article on this subject at this time.

Sincerely yours,

DANIEL S. WHIFFEN  
Publisher/Editor-in-Chief

cc:  
Dale S. Renaud, National Commander

HARRISON PLUM  
1500 CENTER AVENUE  
BAY CITY, MICHIGAN 48706  
517/896-5284

December 14, 1965

Senator Carl Levin  
Washington, D.C. 20510

Dear Senator Levin:

Re: Attack on U.S.S. Liberty by Israeli planes and torpedo  
boats in June 1967.

Thank you for your letter of December 9, 1965 in response to my  
letter on the above.

I was pleased to learn you felt the anti-semitic feeling in the  
U.S. was no stronger than it has been in the past.

Unfortunately the circumstances surrounding the attack and the  
reactions of the governments involved, particularly our own, remain  
a mystery to me.

I wish you and your family a joyous holiday season.

Very truly yours,

*Harrison Plum*  
Harrison Plum

THE AMERICAN  
**LEGION**  
MAGAZINE

P. O. BOX 1055 · INDIANAPOLIS, INDIANA 46206-1055 · (317) 636-8411

October 1, 1985  
34 - 97 - 34

Mr. James M. Ennes Jr.  
[REDACTED]

Dear Mr. Ennes:

As stated in previous correspondence with you, we understand your consternation and disappointment concerning The American Legion Magazine's rejection of your article, "The Israeli Assault on the USS Liberty."

We reiterate that The American Legion no longer has a position on this subject and we do not think it advisable to publish an article on the Liberty incident at this time.

Sincerely yours,

*Michael La Bonne*

MICHAEL D. La BONNE  
Editor

HARRISON PLUM  
1500 CENTER AVENUE  
BAY CITY, MICHIGAN 48706  
517/895 5284

*Letter to  
James M. Ennes*  
September 30, 1985

Mr. Michael D. LaBonne, Editor  
The American Legion Magazine  
P.O. Box 1055  
Indianapolis, Indiana 46206 1055

Dear Mr. LaBonne:

In our correspondence regarding the publication of an article regarding the attack in June 1967 on the U.S.S. Liberty by Israeli planes and torpedo boats, I have appreciated your courtesies.

However, it is disconcerting and perplexing to a Legion member of 40 years that the editor of our official magazine should be apparently apprehensive to publish a factual documented article regarding this vicious, treacherous and murderous attack in which over 30 American seamen were killed, 171 were wounded and their relatively unarmed ship was nearly sunk by torpedo and gun fire.

It is sincerely hoped that the future will permit the publication of article or articles on this tragedy, allowing Legion members and others to learn more of this atrocity.

Very truly yours,

*Harrison Plum*

Harrison Plum  
Post 18, Bay City, MI

U.S.S. LIBERTY



ASSOCIATION

Stan White, Chairman

Joseph L. Meadors, President

Robert Casale, Vice President

P.O. BOX 788, WOODINVILLE,

Joyce Casale, Secretary/Treasurer

Paul N. McCloskey, Legal Advisor

James M. Ennes, Jr., Historian

WASHINGTON 98078

October 7, 1985

Mr. Michael D. La Bonne  
Editor  
The American Legion Magazine  
P.O. Box 1055  
Indianapolis, Indiana 46206-1055

Dear Mr. La Bonne:

Mr. Harrison Plum recently shared with our association your response to him concerning your reasons why The American Legion Magazine will not print articles concerning the USS LIBERTY.

It reminded me of the guy who killed his parents then threw himself on the mercy of the court because he was an orphan.

In their 1967 National Convention the American Legion passed Resolution Number 508 calling on the United States Government to conduct a "complete and thorough investigation" into the USS LIBERTY incident. This investigation would answer all of the questions surrounding the attack. In 1982 the American Legion withdrew this resolution. We have been unable to get any official reason from the American Legion as to why this was done.

Now you are telling us that the reason you will not publish a story about the USS LIBERTY is that there are "too many questions without answers and too much speculation on the events surrounding that incident."

How can the American Legion on one hand say that there are too many unanswered questions and on the other say that there should not be an investigation?

How can the American Legion say that they will publish an article "should complete facts be made known in the future" when in 1982 you took an active role in perpetuating the cover-up by withdrawing Resolution #508?

I am asking you, on behalf of the survivors of the attack, and the 34 who did not come back, to explain the inconsistent position The American Legion and The American Legion Magazine has taken with regard to the USS LIBERTY. Does the American Legion really want the questions surrounding the USS LIBERTY answered? If so, why was Resolution #508 withdrawn?

Sincerely,

Joseph L. Meadors  
President  
c/o Aramco, P.O. Box 1168  
Dhahran, SAUDI ARABIA

cc: Harrison Plum  
James M. Ennes, Jr.

THE AMERICAN  
**LEGION**  
MAGAZINE

P O BOX 1055 · INDIANAPOLIS INDIANA 46206-1055 · (317) 636-6411

October 1, 1985  
34-97-34

Mr. Phillip F. Tourney  
Public Affairs Officer  
U.S.S. Liberty Veterans Association  
P. O. Box 283  
Arvada, Colorado 80001-0283

Dear Mr. Tourney:

As we indicated to Mr. Ennes, Mr. Plum and several additional writers over the years who proposed to produce an article on the USS Liberty incident, The American Legion no longer has a position on this subject and we do not think it advisable to publish an article on the Liberty affair at this time.

Sincerely yours,

*Michael D. La Bonne*  
MICHAEL D. La BONNE  
Editor

*Copy for Lt Enns*

HARRISON PLUM  
1500 CENTER AVENUE  
BAY CITY, MICHIGAN 48706  
517/895-5284

September 12, 1985

Mr. Michael D. La Bonne, Editor  
The American Legion Magazine  
P.O. Box 1055  
Indianapolis Indiana 46206-1055

Dear Mr. La Bonne:

Thank you for your letter of September 6 1985 regarding the attack on the U.S.S. Liberty by Israeli forces.

I can well understand your position as editor of the American Legion Magazine, the official news organ of a congressionally chartered Veterans organization, regarding publishing politically slanted articles.

However, your some 2,000,000 veteran members look to you for reports on matters of interest and concern pertaining to defense and service activities.

It would appear that the attack on the "U.S.S. Liberty" well qualifies for such articles.

You refer to the possible future availability of facts pertaining to this tragic occurrence.

It could well be that the facts mentioned are presently available from official Naval Board of Inquiry records and eye witness and participant statements.

While the facts are very evident, the reasons for the attack and the cloak of secrecy and semi-secrecy placed around it by governmental and news media are not.

I have the above material available and would be glad to send copies if desired.

It is felt you would do a real service to your readers in publishing an article or articles on this matter.

With very best regards,

*Harrison Plum*

Harrison Plum  
Post 18  
Bay City, MI



U.S.S. LIBERTY



ASSOCIATION

Stan White, Chairman

Joseph L. Meadors, President

Robert Casale, Vice President

P.O. BOX 780, WOODINVILLE,

John Casale, Secretary/Treasurer

Paul N. McCloskey, Legal Advisor

James M. Barnes, Jr., Historian

WASHINGTON 20078

December 1, 1985

Mr. Clarence M. Bacon  
National Commander  
American Legion  
P.O. Box 1055  
Indianapolis, Indiana 46206

Dear Mr. Bacon:

To date we have had no response to our letter of November 1 (enclosed).

We are confused by the American Legion's apparent inability to respond to our question.

It would be logical to assume that the withdrawal of Resolution #508 would have been accomplished during a formal meeting of the Executive Committee of the American Legion. A review of the minutes of that meeting would clearly indicate the reason for that withdrawal.

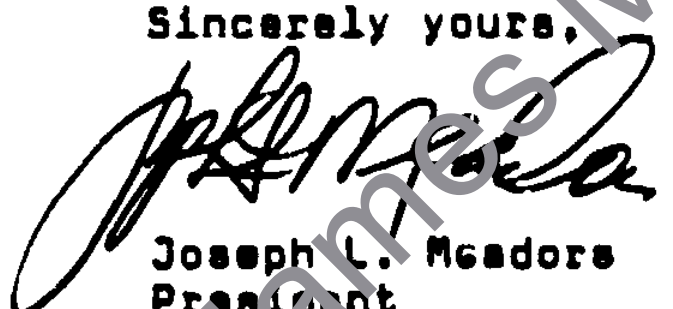
Please review those minutes and provide this Association with a detailed explanation for the withdrawal of Resolution #508.

We also request the American Legion to:

1. Itemize what actions they took on Resolution #508 during the 15 years it was in effect; and
2. Provide this Association with a copy of the appropriate portions of the American Legion Constitution that refers to the procedure followed to withdraw a resolution.

Looking forward to your prompt response, I remain,

Sincerely yours,

  
Joseph L. Meadors  
President  
c/o Acemco, P.O. Box 1168  
Dhahran, Saudi Arabia

U.S.S. LIBERTY



ASSOCIATION

Brian White, Chairman

Joseph L. Meadors, President

Robert Casale, Vice President

P.O. BOX 789, WOODINVILLE,

Joyce Casale, Secretary Treasurer

Paul N. McCloskey, Legal Advisor

James M. Ennes Jr., Historian

WASHINGTON 20072

November 1, 1985

Mr. Clarence M. Bacon  
National Commander  
American Legion  
P.O. Box 1055  
Indianapolis, Indiana 46206

Dear Mr. Bacon:

On June 8, 1967, a United States Navy Ship, the USS LIBERTY, was attacked without provocation by the armed forces of a foreign government under conditions that were suspicious, to say the least.

In addition to the total destruction of the ship, the attack resulted in the deaths of 34 of its American crewmen, and the wounding of 171 others. The Congress of the United States has, for reasons only they can understand, not felt this incident worthy of a Congressional Investigation.

In June, 1982, the survivors of the attack met at a reunion in Washington, DC. At that reunion, we decided to form an association. The USS LIBERTY VETERANS ASSOCIATION.

One of the goals of the Association is to bring the incident to the attention of the United States Congress in order to convince them to conduct a complete and comprehensive investigation.

The American Legion recognized the gravity of the situation long before the survivors did. In its 1967 National Convention the American Legion passed Resolution #508 calling for a "complete investigation" into the attack. This Resolution is completely supported by the USS LIBERTY VETERANS ASSOCIATION.

It has been brought to our attention that Resolution #508 has been withdrawn by the American Legion.

With this letter, and on behalf of the survivors of the attack and the families of the 34 men who died, I am formally requesting you to explain to us the complete details behind the American Legion's decision to withdraw Resolution #508.

Sincerely,

Joseph L. Meadors  
President

U.S.S. LIBERTY



ASSOCIATION

Alan White, Chairman  
Joseph L. Meadors, President  
Robert Casale, Vice President  
P.O. BOX 780, WOODINVILLE,

Joyce Casale, Secretary/Treasurer  
Paul N. McCloskey, Legal Advisor  
James M. Ennes, Jr., Historian  
WASHINGTON 98072

October 28, 1985

Michael D. La Bonne  
Editor  
The American Legion Magazine  
P.O. Box 1055  
Indianapolis, Indiana 46206-1055

Dear Mr. La Bonne:

Since I am well aware of the various reasons you have presented regarding your refusal to publish any article concerning the USS LIBERTY, I must admit I was more than a little confused by your letter of October 18.

I re-read my letter of October 7, looking for a passage for which your response would have been appropriate. I found none.

For your convenience, I am resubmitting my letter, highlighting the specific questions I am asking you to respond to.

Sincerely,

Joseph L. Meadors  
President  
c/o Aramco, P.O. Box 1163  
Dhahran, Saudi Arabia

enclosure

cc: Harrison Plum (w/attachments)  
James M. Ennes, Jr. (w/attachments)

U.S.S. LIBERTY



ASSOCIATION

Brian White, Chairman

Joseph L. Meadors, President

Robert Casale, Vice President

P.O. BOX 780, WOODINVILLE,

Joyce Casale, Secretary/Treasurer

Paul N. McCloskey, Legal Advisor

James M. Ennes, Jr., Historian

WASHINGTON, D.C. 20078

October 7, 1985

Mr. Michael D. La Bonne  
Editor  
The American Legion Magazine  
P.O. Box 1055  
Indianapolis, Indiana 46206-1055

Dear Mr. La Bonne:

Mr. Harrison Plum recently shared with our association your response to him concerning your reasons why The American Legion Magazine will not print articles concerning the USS LIBERTY.

It reminded me of the guy who killed his parents then threw himself on the mercy of the court because he was an orphan.

In their 1967 National Convention the American Legion passed Resolution Number 508 calling on the United States Government to conduct a "complete and thorough investigation" into the USS LIBERTY incident. This investigation would answer all of the questions surrounding the attack. In 1982 the American Legion withdrew this resolution. We have been unable to get any official reason from the American Legion as to why this was done.

Now you are telling us that the reason you will not publish a story about the USS LIBERTY is that there are "too many questions without answers and too much speculation on the events surrounding that incident."

How can the American Legion on one hand say that there are too many unanswered questions and on the other say that there should not be an investigation?

How can the American Legion say that they will publish an article "should complete facts be made known in the future" when in 1982 you took an active role in perpetuating the cover-up by withdrawing Resolution #508?

I am asking you, on behalf of the survivors of the attack, and the 34 who did not come back, to explain the inconsistent position The American Legion and The American Legion Magazine has taken with regard to the USS LIBERTY. Does the American Legion really want the questions surrounding the USS LIBERTY answered? If so, why was Resolution #508 withdrawn?

Sincerely,

Joseph L. Meadors  
President  
c/o Aramco, P.O. Box 1168  
Dhahran, SAUDI ARABIA

cc: Harrison Plum  
James M. Ennes, Jr.

THE AMERICAN  
**LEGION**  
MAGAZINE

P. O. BOX 1055 · INDIANAPOLIS, INDIANA 46206-1055 · (317) 635-8411

October 18, 1985  
34 - 97 - 34

Mr. Joseph L. Meadors, President  
U.S.S. Liberty Veterans Association  
c/o Aramco  
P. O. Box 1168  
Dhahran, Saudi Arabia

Dear Mr. Meadors:

As we recently indicated to other members of your association, The American Legion currently does not have a position on the USS Liberty incident and we do not think it advisable to publish an article on the Liberty incident at this time.

Sincerely yours,

*Michael La Bonne*

MICHAEL D. LA BONNE  
Editor

James M. Ennes

Research Papers



P. O. BOX 1055 • INDIANAPOLIS, INDIANA 46206-1055 • (317) 635-8411

## WRITER'S GUIDELINES

The American Legion Magazine, a recognized leader among national general-interest publications, is published monthly by The American Legion for its 2.5 million members. These military service veterans, working through 16,000 community-level posts, dedicate themselves to God and country and traditional American values; a strong national security; adequate and compassionate care for veterans, their widows and orphans; community service, and the wholesome development of our nation's youth.

We publish articles reflective of these aims and values to inform our membership and their families of significant current issues affecting our nation, the Free World and the way we live. The American Legion Magazine's primary focus is in the areas of national security, foreign affairs and contemporary problems and trends of national importance. However, we also report on a wide range of other subject matter including, but not limited to, analyses of key events in American history that have lessons for today; incidents that occurred in the wars of the 20th Century, and areas of general concern to all people, such as sports, hobbies, medicine and health, ethics and the arts.

We will consider purchasing interviews conducted with prominent national and world figures who address topics of current concern to our readership.

We place a premium on good taste, objectivity, accuracy, and tight and dynamic writing. Ground rules include no exposes, no partisan politics and no articles that ridicule the opinions, appearance or activities of any individuals or groups. We address only the issues, not the partisans involved.

### Format and Style

Articles published in The American Legion Magazine generally adhere to a three-part editorial format: (1) statement of the problem, (2) explanation of the impact of the problem, (3) solutions. We like to see these points summarized early in an article, then expanded as needed to include vivid examples, facts and expert opinion needed to report the story in a dynamic, interesting manner.

Articles should be "three dimensional" in that each should cover a topic's breadth in terms of its relationship to other areas; depth in terms of basic significance and ways the subject matter affects people and the nation, and time in terms of putting it into perspective with present and future events.

### Outline Required

Before being assigned an article, writers will be required to submit an outline showing the general thrust of the proposed article. The outline need not be long, but it must be thorough and it must demonstrate a writer's firm understanding of the proposed topic and the particular slant being recommended.

### Documentation

When articles are submitted, writers are required to include appropriate documentation of pertinent facts and, whenever possible, citations verifying that key persons quoted in the article have reviewed quoted material for accuracy. This is especially important when quoting people whose professional reputations could be damaged if misquoted or quoted out of context. Before the purchase of an article is authorized, a writer may be required to submit additional documentation and clearances as required by either the editor or the Legion's legal counsel.

### Rights Purchased

We purchase First North American serial rights, unless otherwise negotiated.

### Payment, Length, Queries

We generally pay from \$250 to \$1,200 depending on the complexity of subject matter and on our current needs. Kill fees and reimbursement of expenses are negotiable with writers working on assignment.

The minimum manuscript length is from 750 to 1,200 words for material written for specific departments; 1,500 to 1,800 words for general features, and up to 2,500 words for major, analytical features.

We report on queries within six weeks. Although we prefer queries, we will consider unsolicited manuscripts. Written queries are preferred to telephone calls.

### Return Of Materials

Queries, unsolicited manuscripts and art must be accompanied by a self-addressed, stamped envelope if the submitter desires that they be returned. We will not return submissions without a SASE. We cannot assume any financial liability for the loss of any submissions, whether requested or not.

### Samples

The best way to get a feel for our type of article is to read several issues of the magazine. Nominal cost - \$1.00 each.



P. O. BOX 1055 • INDIANAPOLIS, INDIANA 46206 • (317) 635-8411

### FACTS ON THE AMERICAN LEGION

Since its founding in 1919 by 1,000 war-weary yet idealistic veterans, The American Legion has been one of the most effective public-policy action forces on the American scene. Author of this century's most progressive piece of veterans' legislation -- the GI Bill of Rights -- the Legion is today America's foremost advocate of a strong national security. And through the years, The American Legion Magazine has been one forum in which these actions -- and the problems that made those actions necessary -- have been reported.

Chartered by Congress as a patriotic, community-service organization of honorably discharged war veterans, The American Legion is the nation's largest veterans organization, with more than 2.5 million members. These members, working through 58 Departments and 16,000 community-level posts located in every state, the District of Columbia and 28 foreign countries, are the personification of voluntarism. In 1983 alone, these Legionnaires awarded \$1 million in scholarships to America's youth; supported more than 2,500 Boy Scout units; donated 250,000 pints of blood; volunteered 750,000 hours helping disabled veterans and working in VA hospitals; and, along with their American Legion Auxiliary counterparts, donated more than \$1 million and countless hours to help sponsor 23,000 handicapped children in the Special Olympics.

The American Legion has its national headquarters in Indianapolis, with offices in Washington, DC, handling on a day-to-day basis matters dealing with national security, foreign relations, veterans rehabilitation and employment, and legislative matters. In addition to thousands of volunteers on the Legion's 12 national commissions and the committees assigned to them, the national organization employs nearly 300 full-time employees.

At the national level, the Legion's most visible activity is its work on behalf of veterans, their survivors and dependents, and its continuing advocacy of peace through a strong national defense. While the Legion's charter forbids endorsement or support by the organization for any party or political candidate, the Legion is active in public debate involving current national issues germane to the organization's founding principles, and is frequently called upon to present congressional testimony on foreign policy matters as well.

Representing not only America's 28 million living veterans and their families, but also a great cross-section of Americans, The American Legion has served the United States through six decades of social and economic change. It will continue to do so in the future.





P. O. BOX 1066 • INDIANAPOLIS, INDIANA 46206 • (317) 635-8411

### WHO READS THE AMERICAN LEGION MAGAZINE?

Readers of The American Legion Magazine include 2.5 million members of The American Legion; another 1 million members of the American Legion Auxillary; 4 million more professional associates, relatives and friends of Legionnaires, and thousands of additional leaders of government and industry, including all 535 members of Congress and top executives throughout local, state and federal government.

The average reader is a 55-year-old married man who owns his own home and may even own a second, vacation-type home. He's a family man, with a wife and two or three kids, of whom one or more also work full-time and another works part-time. He's slightly more likely to live in a suburban or rural area than he is to live in a city. He has a fair amount of disposable income, since he earns \$28,000 a year in a professional, managerial, proprietorial or other white-collar position. (However, 22.8 percent of readers earn over \$35,000 a year). He likes to go fishing, swimming and hunting, goes to the movies fairly frequently and is active around the house -- gardening, decorating and home repairs, mostly. He owns two cars, and may even own a truck.

He's a loyal reader, too, having read The American Legion Magazine for more than 17 years (almost 25 percent have read it for 30 years or more). He's likely to spend an hour or more reading his copy. He's reasonably well-educated: just under 76 percent of readers have graduated from high school, and 36 percent either have attended college or hold one or more undergraduate, graduate or advanced degrees.

Regardless of his educational background, however, he is a thoroughly aware, informed individual, who is as concerned about the quality of life in his own community as he is about the larger outside world. He is vitally interested in the security of the US, in foreign affairs and in advancing American interests and prestige worldwide. He is concerned with the adequate, compassionate treatment of veterans of the nation's wars, with the welfare of children of all ages and with the wholesome development of American youth generally.

He's politically active, as you'd expect of a US citizen with his breadth of interests and responsibilities. He's registered to vote (and he does vote), exercising his franchise as wisely as he knows how. He's as representative as he can be of traditional "grassroots" Americanism, and he's not in the least ashamed to wave the flag, to march in a parade, to salute the "old soldiers" of his and every other generation.

He's an American.

U.S. LIBERTY



ASSOCIATION

Alan White, Chairman

Joseph L. Meadows, President

Robert Casale, Vice President

P.O. BOX 789, WOODINVILLE,

Joyce Casale, Secretary/Treasurer

Paul N. McCloskey, Legal Advisor

James M. Ennes, Jr., Historian

WASHINGTON 98072

February, 1986

Fellow Survivors  
Former Crewmembers  
Valued Friends

A friend of mine (and supporter of ours) here in Dhahran, a Vice Commander of the Dhahran Memorial Division of China Post #1 of the American Legion, has made a suggestion and recommends we pursue it as quickly as possible.

His suggestion is to form a Memorial Division of China Post #1.

With this letter I am attempting to do two things: 1) briefly explain the unique position China Post #1 has in the American Legion, and 2) try to ascertain if there is any interest in establishing a Division.

In a nutshell, China Post #1 (with headquarters in Scottsdale, Arizona) is the closest to an at-large Post that there is in the American Legion. It is the only Post in which you can belong to it and another Post. Members need not live in the same geographic area. All you have to do to become a member is to be qualified for membership (or already a member) in the American Legion, pay your \$26 China Post #1 dues (in addition to the dues you already paid to your local Division if you are already an American Legion member) and be recommended by a current China Post #1 member.

I do not have to tell you the implications of establishing a Memorial Division. We would have access to a membership of over 2 Million American Legion members and would be able to recommend and support our own resolutions at their National Convention. I am sure you will agree an opportunity like this does not come along very often. But, bear in mind, this proposed Memorial Division is a part of the American Legion in every sense of the word. Along with the opportunity comes the responsibility that any American Legion member is familiar with.

According to a Vice Commander of China Post #1, the procedure to follow is:

1. Fill out the other side of this letter and mail it back to me. This will let me know you are interested in becoming a member.
2. Upon receipt of this letter, I will mail you a form to fill out.
3. Mail the form and money to me. (no cash, please. Checks made out to the American Legion)
4. When I get enough, I will mail them to the Post Commander of China Post #1 and let him know we are forming a Memorial Division.

For organizational purposes, I will suggest the same officers as are currently in office in the USS LIBERTY VETERANS ASSOCIATION, however, I would like to know if anyone else is interested in any of the posts available. Feel free to make your wishes known below.

I might be stealing a little thunder from the next edition of the USS LIBERTY NEWSLETTER, but we have also been invited by Mr. Howard E. Vander Clute, Adjutant General of the Veterans of Foreign Wars, to form our own USS LIBERTY SHIP OF THE VETERANS OF FOREIGN WARS. I haven't gotten any organizational material from the VFW yet so I don't know what the membership dues are. You must be qualified for membership in the VFW to qualify for membership in the USS LIBERTY SHIP OF THE VFW. Anyone on board the USS LIBERTY on June 8-9, 1967 is qualified because he is eligible for the Combat Action Ribbon.

Complete and mail this letter to me as soon as possible BY AIR MAIL at the following address:

Joe Meadors  
c/o Aranco, P.O. Box 1168  
Dhahran, Saudi Arabia

If you have some friends or relatives who might be interested, pass a copy of this on to them.

What you have to ask yourself is, "Is it worth \$26 to gain access to the 2,000,000+ members of the American Legion." I think it is and I'm willing to accept the responsibility of getting things started. Want you help?

Thanks,

VETERANS OF FOREIGN WARS  
OF THE UNITED STATES  
FOUNDED 1899



OFFICE OF  
DIRECTOR  
NATIONAL SECURITY AND FOREIGN AFFAIRS

October 20, 1982

V. F. W. MEMORIAL BUILDING  
200 MARYLAND AVENUE, N. E.  
WASHINGTON, D. C. 20002

Commander X. Bender Tansill  
4601 North Park Avenue  
Chevy Chase, Maryland 20815


Dear Commander Tansill:

The Veterans of Foreign Wars of the United States and all true patriots salute you and all others responsible for taking those actions which led to the proper marking of our honored dead from the USS LIBERTY.

The failure of our government unhesitatingly to respond to the calculated, repeated, and cowardly Israeli attacks on the LIBERTY during the 1967 Mid-East War was and is a national disgrace.

Again, our heart-felt thanks for keeping the faith.

Sincerely,

  
Phelps Jones, Col., USA (Ret.), Director  
National Security and Foreign Affairs

PJ/mst

# VETERANS OF FOREIGN WARS OF THE UNITED STATES



THE ADJUTANT GENERAL

November 7, 1985

Mr. Joseph L. Meadors, President  
c/o ARAMCO  
P. O. Box 1168  
Dhahran, Saudi Arabia

Dear Mr. Meadors:

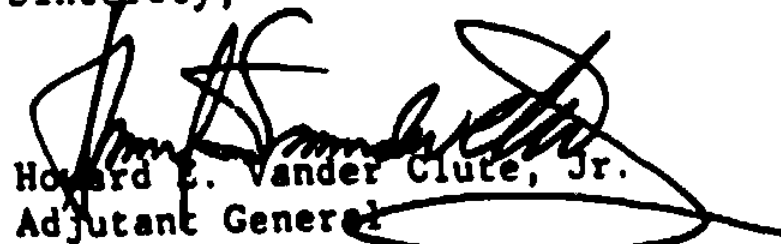
I am at a loss to understand why you have not had a reply from our Washington Office in regard to the status of your resolution in support of establishing a memorial honoring those lost on the USS Liberty. There is a possibility, however, that the correspondence went astray between this office and our Washington Office.

I am forwarding your most recent correspondence, along with a copy of my letter of April 8, to Cooper T. Holt, Executive Director of our Washington Office, requesting his response.

It appears that the delegates attending our 86th National Convention in Dallas, Texas, in August, did not consider any resolution in support of such a memorial.

As you are aware, all of our legislation objectives are administered to by our Washington Office staff. I assure you that Mr. Holt or an appropriate member of his staff will respond to your latest request for information.

Sincerely,

  
Howard E. Vander Clute, Jr.  
Adjutant General

HVC:jk

cc: Cooper T. Holt, Executive Director, VFW Washington Office

★ NATIONAL HEADQUARTERS ★

VFW BUILDING ● BROADWAY AT 34TH STREET ● KANSAS CITY, MISSOURI 64111 ● AREA CODE 816-756-3390

# VETERANS OF FOREIGN WARS OF THE UNITED STATES



THE ADJUTANT GENERAL

December 9, 1985

Joseph L. Meadors, President  
U.S.S. Liberty Veterans Association  
c/o Aramco  
P. O. Box 1168  
Dhahran, Saudi Arabia

Dear Mr. Meadors:

I am writing in response to your letter and in further reference to Resolution 685 adopted by the 84th National Convention of the Veterans of Foreign Wars.

Resolution 685 entitled "Establish Memorial Honoring Men Lost on U.S.S. Liberty" was submitted for the consideration of the delegates to the 84th National Convention by the Department of Illinois pursuant to its adoption by the Illinois Department Convention. The resolution was initiated by Post 2240.

Each year following our National Convention, the Commander-in-Chief convenes our National Legislative and Security Committees to review the resolutions adopted by the National Convention, and, based on their review, to recommend Legislative and Security Priority Goals representative of their assessment of the most pressing needs and desires of our membership. As you will see from the enclosure, our priority goals for 1984 did not address the resolve of Resolution 685 that a fitting memorial be established by the United States honoring those men lost on the U.S.S. Liberty while in the service of our country.

In view of the above, it would be appropriate, and I will be pleased to recommend to our Commander-in-Chief, that the Resolution to establish a memorial honoring men lost on U.S.S. Liberty be reintroduced at our National Convention in Minneapolis.

As you know, Naval personnel who served on the U.S.S. Liberty on 8 and 9 June 1967, established their eligibility for the award of the Combat Action Ribbon. Also, as you may be aware, holders of the Navy Combat Action Ribbon are recognized as possessing the requirements of eligibility for membership in the Veterans of Foreign Wars.

★ NATIONAL HEADQUARTERS ★

VFW BUILDING ● BROADWAY AT 84TH STREET ● KANSAS CITY, MISSOURI 64111 ● AREA CODE 816-786-3390

Joseph L. Meadors  
December 9, 1985

Page 2

It has occurred to me that members of your Association who are recipients of the Combat Action Ribbon, by virtue of their service on the U.S.S. Liberty on 8 and 9 June 1967, could be interested in membership in the Veterans of Foreign Wars. There is precedence for the chartering of SHIPS (in lieu of Posts) for units composed of Naval veterans. If you are interested in pursuing the organization of a U.S.S. Liberty Ship of the Veterans of Foreign Wars, I will provide the necessary organizational materials and will be pleased to assist in any way that I can to bring this about.

~~A VFW Ship comprising the eligible veterans of the U.S.S. Liberty would lend great force and influence in our accomplishing the objectives of the Resolution to memorialize those who were killed on the U.S.S. Liberty.~~

Sincerely,



Howard E. Vander Clute, Jr  
Adjutant General

HVC/B/mav  
Encl.

cc: George G. Gorin, Jr., Adjutant  
Department of Illinois, VFW  
2601 E. Stevenson Dr.  
Springfield, Illinois 62703

William D. Marshall, Commander  
VFW Post 2240  
2335 W. 111th Place  
Chicago, Illinois 60643

U.S.S. LIBERTY



ASSOCIATION

Stan White, Chairman

Joseph L. Meadors, President

Robert Casale, Vice President

P.O. BOX 789, WOODINVILLE,

Joyce Casale, Secretary/Treasurer

Paul N. McCloskey, Legal Advisor

James M. Ennes, Jr., Historian

WASHINGTON 20078

January 5, 1986

Howard E. Vander Clute, Jr.  
Adjutant General  
Veterans of Foreign Wars of the United States  
National Headquarters  
VFW Building  
Broadway at 34th Street  
Kansas City, MO 64111

Dear Mr. Vander Clute:

I was pleased to receive your letter of December 9.

We appreciate the fact that you will recommend Resolution #685 to establish a memorial honoring men lost on the USS LIBERTY be reintroduced at your National Convention in Minneapolis.

I am very interested in pursuing the organization of a USS Liberty Ship of the Veterans of Foreign Wars and would like you to air mail me the organizational material at your earliest possible convenience.

Sincerely,

  
Joseph L. Meadors  
President

c/o Aramco, P.O. Box 1168  
Dhahran, Saudi Arabia

cc: George G. Gosin, Jr.  
William J. Marshall



January 5, 1986

Dear Comrade Ennes:

Enclosed is a copy of correspondence received from National and a copy of Resolution 685. The letter explains, at least superficially, what happened to the resolution.

I plan to take the following action during January: Arrange a meeting with Commander Weigant of Lake Washington Post 2995 at our upcoming District 11 meeting on Jan. 10th. I will request floor time at his next post meeting to present a summary of the situation and request that we hold a joint meeting of our two posts at their post home in which we can have you present to talk and show pictures.

I will also include invitations to the District 11 Officer Corps and propose that we draft a new resolution for Dept. of Washington approval and forwarding on to National. After reading the Illinois Resolution I think we can re-write it with somewhat more impact.

I will keep in touch and arrange a meeting time which is convenient with you as soon as I work out arrangements with Commander Weigant.

Incidentally, I found a copy of your book at Kingsgate Library and just finished it about a week ago. I found it to be timely, well researched and very well written. I hope I can obtain a copy soon as I would like to pass it along to my dad who is a retired former Coast Guard officer. Although well up in years he still loves to keep up on current American history, especially that which involves Navy or Coast Guard activities.

Yours in Comradeship,

*Charles Fells*  
Charles Fells  
Commander, Post 6006  
Woodinville

# VETERANS OF FOREIGN WARS OF THE UNITED STATES



THE ADJUTANT GENERAL

December 30, 1985

Charles Fells, Commander  
VFW Post 6006  
21009 46th S.E.  
Bothell, WA 98021

Dear Commander Fells:

I am writing in response to your letter to State Commander Young of the Department of Washington in reference to Resolution 685 adopted by the 84th National Convention and the inquiry you received from Comrade James M. Ennes, Charter Member of Post 6006.

Resolution 685 entitled "Establish Memorial Honoring Men Lost on U.S.S. Liberty" was submitted for the consideration of the delegates to the 84th National Convention by the Department of Illinois pursuant to its adoption by the Illinois Department Convention. The resolution was initiated by Post 2240.

Each year following our National Convention, the Commander-in-Chief convenes our National Legislative and Security Committees to review the resolutions adopted by the National Convention, and, based on their review, to recommend Legislative and Security Priority Goals representative of their assessment of the most pressing needs and desires of our membership. Our priority goals for 1984 did not address the resolve of Resolution 685 that a fitting memorial be established by the United States honoring these men lost on the U.S.S. Liberty while in the service of our country and to our knowledge there has been no resolution of this matter.

Inasmuch as no action has been taken to date to establish a memorial honoring the men lost on the U.S.S. Liberty and since this resolution was not reintroduced at our last National Convention in Dallas, it would be appropriate for the Post, as suggested in your letter, to adopt a similar resolution so that this matter can be revived. I believe such a resolution would be supported by the Department of Washington Convention, and pursuant thereto, will be before our National Convention in Minneapolis.

★ NATIONAL HEADQUARTERS ★

VFW BUILDING ● BROADWAY AT 34TH STREET ● KANSAS CITY, MISSOURI 64111 ● AREA CODE 816-756-3390

Charles Fells, Commander  
VFW Post 6006


Page 2

Incidentally, in response to a letter from Joseph L. Meadors, President of the U.S.S. Liberty Veterans Association, I informed him that I would be pleased to recommend to our Commander-in-Chief that the resolution to establish a memorial honoring men lost on U.S.S. Liberty be reintroduced at our National Convention in Minneapolis.

I am enclosing for your information and use a copy of Resolution 685 that will be helpful if your Post chooses to support its reintroduction.

Best personal regards

Yours in comradeship,

  
Howard E. Vander Clute, Jr.  
Adjutant General

HVC/B/mav  
Encl.

cc: John Uram, Department Adjutant

James M. Ennes, Jr. Research Papers

APPROVED

Resolution No. 685

ESTABLISH MEMORIAL HONORING MEN LOST ON U.S.S. LIBERTY

WHEREAS, no known recognition has been given to the men who lost their lives aboard the U.S.S. Liberty operating in the Mediterranean Sea in 1967 due to Israeli aircraft action; now, therefore

BE IT RESOLVED, by the 84th National Convention of the Veterans of Foreign Wars of the United States, that a fitting memorial be established by the United States honoring those men lost on the U.S.S. Liberty while in the service of our country.

Submitted by Department of Illinois

To Committee on VETERANS SERVICE

Resolution No. 685

## THE USS *LIBERTY*: BACK IN THE NEWS

James M. Ennes Jr.

*Mr. Ennes was a lieutenant on the bridge of the USS Liberty on the day it was attacked by Israeli forces. His book on the subject, Assault on the Liberty (Random House, 1980), is a "Notable Naval Book" selection of the U.S. Naval Institute and was "editor's choice" when reviewed in The Washington Post in May 1980. The book is now in its fourth printing.*

**T**he ill-fated American intelligence ship USS *Liberty* has burst back into the news. And supporters of Israel are not happy about it.

This little-known subject, it seems, is finally coming out of the closet—albeit with some unintended help from Israel. Angry Americans are asking their Congressmen about the *Liberty*. Articles are appearing in military magazines after years of silence. News stories, editorials, letters to the editor and national talkshows mention the subject regularly. Former heads of various government agencies are starting to speak out. And a retired chairman of the Joint Chiefs of Staff has called upon the Congress "once and for all to clear up the unanswered questions surrounding this tragedy."<sup>1</sup>

On the fourth day of the 1967 Arab-Israeli six day war, Israeli naval, air and reconnaissance forces worked together to attack and almost sink the USS *Liberty*, a lightly-armed neutral ship in international waters. Thirty-four Americans died and

171 were wounded from a crew of 294. The cripple vessel had to be sold for scrap.

But the story vanished from the news like the political bombshell it still is. Israel swore the attack was a mistake, and no amount of evidence to the contrary made any difference. Not the testimony of crewmen. Not CIA reports that Moshe Dayan ordered the attack against a ship he knew to be American. Not CIA findings that it was planned in advance. Not the opinions of a presidential advisor that the Israeli excuse was unbelievable nor an official State Department finding that it was untrue, nor the opinion of Secretary of State Dean Rusk that the attack was deliberate.

All evidence paled alongside the sad reality that friends of Israel wielded power in the Lyndon Johnson White House.<sup>2</sup> Murder of Americans could be tolerated; embarrassment of Israel could not. So the truth about the USS *Liberty* was buried in top secret-files while crewmen and others who knew the story were coerced into silence.

<sup>1</sup>News conference, National Press Club News Room, December 11, 1985.

<sup>2</sup>For a comprehensive report on pro-Israeli influence on the Johnson administration, see Donald Neff, *Warriors for Jerusalem*, New York: Linden Press/Simon & Schuster, 1984.

For 18 years the story has simmered on the back burners of public consciousness—known to a few, denied by both governments, never fully reported in any news media. Newspaper articles have explored the subject briefly. Several books have been written. A number of government and military leaders have spoken out. Lawsuits under the Freedom-of-Information Act have brought ever more damning evidence into the open and persistent pressure by survivors has kept the story alive. But until recently the story of the USS Liberty has never received the important national coverage it deserves.

In 1984 however, the *Atlantic* magazine commissioned two leading Israeli journalists, Zeev Schiff and Hirsch Goodman, to write an article about the *Liberty* attack. This would be the first major American magazine to give the *Liberty* more than passing mention. From the start, unfortunately, there seemed little chance that this would be the objective account that the story calls for, exploring both sides and searching for the truth.

*Atlantic* is owned by Canadian Mortimer Zuckerman, whose goals for the magazine were outlined in a February 14, 1982, article in *The New York Times Magazine*. No articles would be allowed, said Zuckerman, that "challenge Israel's right to exist." That injunction may be open to interpretation, the magazine noted, citing an earlier \$10,000 Zuckerman grant to *The Nation*. Zuckerman cancelled the "no strings" grant when he objected to some of the reporting about Israel in *The Nation*.

Thus it was not surprising when word came from Israel that reporters Schiff and Goodman expected their piece to "thoroughly discredit everyone who has written about the USS *Liberty*." Clearly that was the intent of the article: to tell a story supporting the Israeli position and to attempt to refute the stories told by sur-

vivors and others who have previously investigated the affair.

Meanwhile, writer Stephen Green (*Taking Sides*, William Morrow & Co., 1984) appealed to *Atlantic* editors for a chance to review the Schiff/Goodman manuscript or to publish an opposing view. No deal, said the editors. No opposing view would be entertained until after publication of the Schiff/Goodman piece, and then only in the letters-to-the-editor section. Green appealed personally to publisher Zuckerman. Still no deal.

After several unexplained delays, the article finally appeared in the September 1984 issue of *Atlantic* under the title, "The Attack on the *Liberty*." Running to more than 10,000 words, it was an imposing spread. "Now new evidence throws light on this tragic accident," announced a subtitle, while an insert described the authors' credentials: "Hirsch Goodman is the defense correspondent of *The Jerusalem Post* and the Israel correspondent of *The Sunday Times* of London. Zeev Schiff is the defense and military-affairs editor of the Israeli daily newspaper *Haaretz* and a senior associate of the Carnegie Endowment for International Peace."

"Was the *Liberty* attacked intentionally?" the authors ask rhetorically in an opening paragraph. "Countless magazine articles and several books . . . have been written . . . but the mystery remains." Then, having presumably disarmed critics by sounding like open minded investigators, the authors proceed to present all the arguments for the defense, sidestepping the many contradictions, while ignoring the case for the prosecution.<sup>1</sup>

<sup>1</sup>Schiff and Goodman in a letter to this writer defend their approach by saying that their purpose was not to present a balanced account, but to report "what was happening in Israel."

"Mistakes are common in war," the authors write. "Such tragic accidents have happened to every army in the history of modern war. But many reasonable people have not been able to accept Israel's attack on the *Liberty* as such an accident."

As examples of such nonacceptance, they cite "Remember the Liberty" bumper stickers (distributed by a surviving *Liberty* crewman at his own expense) and a *New York Times* 1984 memorial announcement for the men who died in the attack.

"Some groups, believed by Israeli intelligence to be funded by the Arabs, want to keep the issue alive," write Schiff and Goodman.<sup>4</sup> Then they present a scenario of the attack which, if believed, would convince most readers that the attack was, indeed, another tragic accident of war.

#### THE "NEW EVIDENCE"

For almost eighteen years, the Israeli government has insisted publicly that the *Liberty's* presence in the area was unknown to Israel until after the attack—while admitting privately to the American government that the ship was correctly identified, and presenting an elaborate scenario to explain why the ship, after being correctly identified, was nevertheless attacked. This is the story, previously denied by the Israeli government, now told in the *Atlantic*.

According to this officially denied (but widely leaked and previously published) version, the *Liberty* was correctly identified by crewmen of a Nord reconnaissance aircraft eight hours before the attack and was properly marked on a chart in the

<sup>4</sup>Here the authors seem to be suggesting, even before the late-1985 spy scandal in which Jonathan J. Pollard was caught selling American military secrets to the Israeli government, that Israeli intelligence is active within the United States.

Israeli war room. Unfortunately, say the authors, a "Lieutenant Colonel 'L' ordered the marker removed from the battle control table" in order to keep the table "as uncluttered as possible."

That move, say Schiff and Goodman, wiped out all reference to the ship in the Israeli war room. When *Liberty* was again sighted several hours later, the sighting coincided with explosions then occurring at the nearby town of El Arish, and the now-unidentified *Liberty* was mistakenly presumed to be an enemy engaged in shore bombardment.

According to the *Atlantic* account, torpedo boats dispatched to investigate the mistaken reports of "shore bombardment" sighted the *Liberty* on radar twenty nautical miles northwest of El Arish and mistakenly plotted the ship's speed at thirty knots—which, under Israeli gunnery doctrine, made the target an enemy who could be fired upon. A second radar check was ordered. This time *Liberty* was mistakenly determined to be moving in an evasive course at 28 nautical miles per hour (knots).

Since 18 knots was also the top speed of the boats, "which were still twenty nautical miles away from the target," an air strike was called. According to Schiff and Goodman, two Mirage III C fighters on their way back to Israel from an air patrol over the Suez Canal were diverted to the target. The lead plane dropped to 3,000 feet and circled the ship twice

<sup>5</sup>Schiff and Goodman withhold the officer's name on the grounds that it is classified information. However, an unclassified official Israeli government report entitled "The Attack on the *Liberty* Incident" (published in 1982 by the Israel Defense Forces History Department in rebuttal to my book on the subject, and presented to senior officers of the U.S. Navy with a cover sheet proclaiming the article "the official version of the State of Israel") identifies the officer as a Commander—not Lieutenant Colonel—Lunz.

searching for identifying marks, while the second aircraft circled the target once. Two "cannons" could be seen on the fore-castle and the ship was determined not to be Israeli, but no markings could be seen.

The presence or absence of a flag, say the authors, is moot, since Israeli headquarters was left with the impression that the ship had no markings and acted on that basis.

**The conviction that it was no accident is unanimous among known survivors and is supported by people who held key government positions at the time of the attack. They speak out publicly and give their names.**

Each pilot strafed the ship four times before the arrival of two Super Mystère jets armed with napalm bombs. The Mystères made two bombing runs each, but only one bomb hit the ship.

At 2:27 p.m., torpedo boat T-204 asked "What ship?" by flashing light. *Liberty*, according to this account, refused to identify itself, insisting instead that the torpedomen identify themselves first.

After an exchange of gunfire, the boats fired five torpedoes. Four missed. One exploded just below the water line."

Still trying to sink the ship and also to establish her identity, we are told, the torpedomen crossed to the ship's left side, and while crossing the bow "noticed" the letters GTR on the hull of the ship. The time was 2:47. All firing ceased for fear the ship "could be Russian because of the letters on its hull."

At 3:20 p.m., after 33 more minutes of careful study from close range, the tor-

pedomen reported that the ship was American.

At 4:40 the Israelis offered help, which was refused.

At 5:04 the boats commenced their return to base.

At 5:50 the *Liberty* disappeared from their radarscopes.

Subsequent Israeli investigations concluded that "the attack on the ship was not conducted out of malice...no...was there any evidence of criminal negligence. It was a genuine mistake.

"To this day," the authors conclude, "the wounds have not healed. The issue resurfaces periodically, and with it the pain."

#### A PRESS BLITZ SPREADS THE ISRAELI VERSION

In what looked like a well-coordinated press blitz, the *Atlantic* article and excerpts from it were widely reprinted, often with headlines proclaiming, "New Evidence Shows Attack on American Ship was a Mistake." Excerpts from the article and interviews with the authors were filed with United Press International in New York, while *The Baltimore Sun* correspondent in Jerusalem filed a detailed excerpt that appeared in many American newspapers.<sup>6</sup> A reporter in Beirut filed an excerpt with the Associated Press. *The Jerusalem Post International Edition* reprinted the original article,<sup>7</sup> as did some other newspapers.

While some newspapers did publish rebuttal letters and interviews with *Liberty* survivors, most efforts to present the American side of the story met with stony silence. *The Sacramento Bee* angrily

<sup>6</sup>*The Boston Sunday Globe*, September 9, 1984, and others.

<sup>7</sup>*The Jerusalem Post International Edition*, October 6, 1984, page 13.



refused any rebuttal space. United Press International ignored requests to present the American side. *The Sunday Times* of London asserted that printing a rebuttal in the *Times* would be "disloyal" to their correspondent and that, in any case, Schiff and Goodman have "credentials" which others presumably lack.

#### REACTION TO THE ARTICLE

Letters to the editor published by the *Atlantic* in December, however, were uniformly critical of Israel for attacking the ship and of the magazine for publishing a one-sided account.

Among the letters published in December is one from me showing that *Atlantic's* "new evidence" is not new at all, has been officially discounted by the American government as false, and is overwhelmingly refuted by other, more compelling material. "Anyone studying the entire body of evidence," I wrote, "will reach the same conclusions."

Author Stephen Green writes, "To say that Goodman and Schiff are selective in their presentation . . . is an understatement. They seem unaware of literally hundreds of pages of detail [in other published sources]. . . . One would have expected the authors to at least remark on the dozens of inconsistencies between their story and the [U.S. Navy Court of Inquiry] report, even if they preferred to accept the version given by their Israeli sources."

"Simply outrageous . . . the heart aches over such duplicity from an 'ally,'" writes a reader. ". . . Savage and inexcusable," says another.

In a counter-rebuttal, Schiff and Goodman reply: "We have in our possession the verbatim transcripts of the dialogue between the Israeli Naval War Room and the attacking vessels, the verbatim dialogue between Israeli Air Force HQ and the pilots, classified documents from three

commissions of inquiry into the affair, the Yerushalmi Report, the testimony of all the major participants to the various commissions of enquiry, transcripts of our own interviews with the Israeli principals, and detailed charts."<sup>9</sup>

" . . . What Mr. Ennes claims . . . is not the issue. What is relevant is the sworn testimony of the captain of the Israeli torpedo boat, and those around him . . ."

A similar exchange of letters appeared in *The Jerusalem Post* and its international edition.<sup>10</sup> Here, however, Schiff and Goodman complain bitterly that criticism of their article amounts to a "personal attack" on the authors, and assert that "James Ennes has presented his own version of history."

"The picture we paint is not complimentary to Israel," the authors confess. "In fact, we were told by many in Israel that we did the country a disservice for having written on the subject at all. . . . The *Liberty* was not attacked with malice aforethought. That is a myth that Ennes has chosen to perpetuate."<sup>11</sup>

"It is time," say Schiff and Goodman, "that the cloak of historical respectability and investigative objectivity was lifted from Ennes."<sup>12</sup>

<sup>9</sup>This writer asked the two Israeli authors to release some of the material that might document their otherwise unsupported account. By letter the authors declined to do so on the ground that releasing their material would violate Israeli censorship laws.

<sup>10</sup>October 22, 1984.

<sup>11</sup>November 10, 1984.

<sup>12</sup>A standard tactic of critics of the *Liberty* story is to attempt to attribute the story exclusively to Ennes and then to attempt to discredit Ennes. As we shall see, however, Ennes did not invent this story. He is merely one of several telling the same story, including all known surviving crewmen, several authors and serious researchers, and many senior U.S. government officials of the era.

"Schiff and Goodman attempt to do this by "revealing" that Ennes in 1983 appeared in New

Some *Atlantic* readers cancelled their subscriptions to protest what they saw as unbalanced reporting. By February, however, the tone had changed. Here readers praised the scholarship of the article and lauded the magazine for publishing it. A former U.S. Marine officer asserted that only malice or special interest could cause one to conclude that Israel had deliberately attacked an American vessel, while a political science professor from Rutgers published his professorial opinion that the attack could not have been deliberate and a history professor from William Paterson College asserted that "Arab propagandists" are making "war through other means" by continuing "to exploit the *Liberty* incident."

Neither of the professors apparently looked beyond the one-sided *Atlantic* story. Neither questioned the fact that, except for some carefully selected background material, all of the "new evidence" cited by *Atlantic* came from Israel. No one apparently wondered why information from American government, military or intelligence sources was not included or why survivors of the attack were not questioned. No one, including the authors, apparently bothered to check the voluminous files of the Navy Court of Inquiry or the State Department or other public records or wondered why the official American records told a different story. No one asked *Atlantic* to provide sources or asked how they might be checked. And while the authors clearly did read my book

York City "on a platform with anti-Israeli propagandist Alfred Lilienthal and M.T. Mehdi of the American-Arab League," where he "left no doubt as to his sentiments" which they suggest are anti-Jewish. Although we know Lilienthal (who is a Jew) and Mehdi (who is an Arab) are honorable men with whom I would be proud to share a platform, neither man was on the platform described by Schiff and Goodman.

on the subject—they used it for much of their background material—they chose to ignore the evidence and testimony provided there.

### THE ASSOCIATED PRESS CHECKS IN

In New York, however, the Associated Press assigned veteran newsman David Smyth to look into both sides of the story. Smyth sought out several survivors of the attack, plus key military, intelligence and diplomatic leaders of the era and reviewed pertinent U.S. government files.

The story he found is quite different from that told in the pages of the *Atlantic*: Smyth discovered that, except for some names and other details, the story told by Schiff and Goodman is not new. It is the same story told privately by the Israeli government to top U.S. government officials and rejected by them in 1967.

The Israeli report was prepared by Israeli Military Judge Lieutenant Colonel Yes-hayahu Yerushalmi on July 21, 1967, and delivered by hand several days later to State Department Under Secretary for Political Affairs Eugene Rostow, along with urgent requests that it be withheld from the American public. There it was assigned to State Department legal advisor Carl F. Salans for review.

The Salans review was devastating to the Israeli excuse—so devastating that, along with the Yerushalmi report itself, it was classified Top Secret by U.S. government officials and locked away from public scrutiny.<sup>13</sup> The report finally surfaced in 1983, only because a Minneapolis citizen invested \$15,000 in legal action under

<sup>13</sup>See p. 104 for the complete text of the Salans report.

the Freedom of Information Act to pry it loose.<sup>14</sup>

The Yerushalmi report itself, the object of the sensitive analysis, is still officially withheld eighteen years later, even though it was leaked to *Liberty* survivors in 1980 and has been widely published.

### THE STATE DEPARTMENT DISCOUNTS THE ISRAELI EXCUSE

The Salans report cites several embarrassing discrepancies in the Israeli story:

1. Israel claims the ship was traced at 28 to 30 knots on an evasive course. The U.S. Navy inquiry, however, shows that the ship's top speed was 18 knots and that during the pre-attack period she held a constant five knot speed on a steady course.

2. Israel claims that the only prior knowledge of the ship was an aircraft sighting at 6:00 a.m. The Court of Inquiry, however, shows that the ship was reconnoitered by Israeli aircraft on eight occasions during daylight (most of which were very low-level flights which I personally observed).

3. Israel claims the attacking aircraft made three runs over the ship moments before the attack in attempts to identify it. The ship's commanding officer, however, and other crewmen (I was on the bridge at the time) insist that no pre-attack reconnaissance runs were made by the attacking aircraft.

4. Israel claims the torpedo boats approached the ship before attacking and asked for identification, but that the ship answered with an "AA" signal meaning "identify yourself first." Salans discounts

this report as contrary to sworn testimony of surviving crewmen.<sup>15</sup>

5. Israel claims that no flag or identification markings could be seen on the ship. The Navy Court of Inquiry established, however, that the ship's normal five-by-eight-foot colors flew at all times during and preceding the air attack, that they were quickly replaced after being shot down by the airplanes, and that an oversized seven-by-thirteen-foot flag was hoisted up five minutes before the start of the torpedo boat attack. *Liberty's* configuration and standard markings were clearly sufficient for identification, Salans notes. Her hull markings were clear and freshly painted. The ship's name appeared in English on the stern.

6. Israel claims the *Liberty* was mistakenly identified as the Egyptian freighter *El Quseir*. Salans notes, however, that *El*

<sup>14</sup>According to the Navy historian, "AA" is simply an attention-getting signal used to establish flashing light communications and has never meant "identify yourself." Even that point is moot, however, as *Liberty's* signalman reports that, although "AA" is a normal opening signal in flashing light communication, he dispensed with "AA" due to the urgency of the situation and simply flashed "USS LIBERTY, U.S. NAVY SHIP" and the ship's call sign over and over until he was wounded and his lamp was shot out by the torpedomen.

<sup>15</sup>The Israelis make no effort to explain how experienced reconnaissance pilots and several trained officers on three torpedo boats could fail to recognize *Liberty's* distinctive silhouette or to observe *Liberty's* clear and oversized markings and identification signals even after examining them at length from very close range. The "cannons" described by Schiff and Goodman were .50 caliber machine guns with barrels perhaps three feet long and not much thicker than a man's thumb. If we are to accept the *Atlantic* account, the pilots and later the torpedomen could see the tiny guns but could not see the ship's name in letters two feet high on the stern or the ten foot high markings on the ship's hull or the eight foot long and later the thirteen foot long American flag flying freely from the highest part of the ship's tallest mast.

<sup>14</sup>*James Miller vs the U.S. Department of State*, filed in 1981 in Federal District Court, Minneapolis, Minnesota.

*Quseir* was roughly one fourth *Liberty's* size, very differently configured, and lacked *Liberty's* unusual antenna array and hull markings. Perhaps unknown to Salans but certainly known to the Israelis, *El Quseir* was actually a 40-year-old horse carrier for the Egyptian cavalry and was then in Alexandria waiting to be scrapped. Salans notes that even long-time Israeli supporter Clark Clifford officially described the *El Quseir* excuse as "unbelievable."

**The Salans report does not contain an overall conclusion as to whether the attack was deliberate. Instead, the report is an item-by-item review of the main points of the Israeli excuse in which each Israeli argument is analyzed and rejected, point by point.**

7. The Top Secret State Department report notes that if the Israeli forces believed that their target had been moving at 30 knots, they should have known immediately that the *El Quseir*, which has a top speed of about 14 knots, was not their target.

8. The report notes that "any trained observer" should immediately have recognized that the *Liberty* was incapable of a shore bombardment and thus could not have been the target the Israelis were supposedly looking for.<sup>17</sup>

"They should also have noted that no ship of the *Liberty's* size or configuration could possibly approach 29 or 30 knots. Realizing that, it should have been clear that firing upon this "target" was contrary to Israeli gunnery doctrine, which permitted firing upon an unidentified ship near the scene of a shore bombardment only if the ship was a "high-speed target." Firing upon the *Liberty*, then, under

9. The report notes that if the first sighting of the *Liberty* by torpedo boats was at 1:41 p.m. as claimed, and the report was then transmitted to headquarters, rechecked and verified by the torpedo-men, retransmitted, a decision to attack then made, aircraft dispatched and the attack launched, all in the space of about fifteen minutes, then "no significant time was expended in an effort to identify the ship from the air before the attack was launched."<sup>18</sup>

#### WHAT THE DEPARTMENT OF STATE DID NOT KNOW

Carl Salans had only limited information to work with: the U.S. Navy Court of Inquiry (IC), which is deeply flawed and incomplete, and a report prepared for President Johnson by presidential advisor Clark Clifford (which has since vanished from government files).<sup>19</sup> Although the

these circumstances, would have been seen as a court-martial offense under Israeli military law. Also, although there was ~~no~~ explosion in the coastal village of El Arish during the morning, it is clear now and should have been clear then that there was no shore bombardment.

"The *Atlantic* account would partially explain that quick response by conveniently reporting that the aircraft were actually returning from an air patrol over the Suez and thus were already airborne. *Liberty* survivors, including this writer, however, recall that the attack was initiated by three (not two) Mirage aircraft that approached the ship from the northeast (Tel Aviv or Haifa), not from the southwest (Suez). The airplanes were fully loaded with eighteen large rockets visible under each wing. It is extremely unlikely that these aircraft ignored thousands of easy Egyptian targets in their desert patrol area, returning fully loaded just in time to attack the USS *Liberty*.

"According to Lyndon Johnson's press secretary George Christian, it was the Clifford report which persuaded President Johnson not to demand of the Israelis a better excuse for attacking the ship. According to Christian, even though the story was far from complete and other evidence was yet to come in, Clifford's report failed to provide "proof"

Salans report serves as a powerful indictment of the Israeli excuse, it would have been even more damning if Salans had interviewed *Liberty* survivors or had full access to Central Intelligence Agency records.

For instance, Salans had no way of knowing that the firing did not stop at 2:47 as the Israelis claim. The torpedo boats fired cannon and machine guns on the *Liberty* until 3:15, when they sank the ship's empty life rafts waiting in the water for evacuees.

Salans had no way of evaluating the Israeli claim that only four aircraft participated in the attack. Senior U.S. Navy officers estimated later that at least ten aircraft were required to inflict the 821 rocket and cannon hits the *Liberty* received.

Salans probably had no way of knowing that Israeli reconnaissance aircraft at 10:30 had been overheard by *Liberty* and other American radio intercept operators informing Israeli headquarters that they could see the ship's American flag.

He probably had no way of knowing that the Israeli claim of having picked up the *Liberty* on radar at 1:41 p.m. was physically impossible. At that time the boats were about 27 miles from the *Liberty*; due to the curvature of the earth, they could not have detected a ship the size of the *Liberty* from more than about 15 miles.<sup>20</sup>

that the Israelis attacked deliberately. Therefore, in order to preserve good relations with the Israelis, Johnson decided not to press them for a more satisfactory story while the good will was needed for the United States to arbitrate peace in the Middle East. Asked recently for more details of his mysteriously missing report, Clark Clifford claims to have no recollection of it whatsoever and claims not to recall participating in the emergency meetings dealing with the *Liberty*, even though there exist White House photographs of Clark Clifford in the situation room with President Johnson during the crisis.

<sup>20</sup>Even the official Israeli report "The Attack on

Salans overlooked an official Court of Inquiry finding that the Israelis jammed the ship's radio frequencies in an attempt to prevent her call for help. The selective jamming could not have been accomplished without prior knowledge that the ship was American.

Salans did not mention the Israeli claim that pilots (and later, torpedomen) feared that the letters "GTR-5" meant that they had been firing on a Russian ship. Surely the Israelis are aware that Soviet ships write their hull number in Cyrillic (rather than Roman) letters and Arabic numerals on the hull near the bridge, not on the bow.

And Salans could not have known that while he was preparing his report, CIA officials were informing members of the Defense Subcommittee of the House Committee on Appropriations that the attack was deliberate. According to Stephen Green, who interviewed chairman Robert L.F. Sikes of Florida and other committee members, the CIA learned a day before the attack that the Israelis had already decided to attack the *Liberty* if she operated in Israeli coastal waters because they could not tolerate an electronic eavesdropper in the area.

The Salans report does not contain an overall conclusion as to whether the attack was deliberate. Instead, the report is an item-by-item review of the main points of the Israeli excuse in which each Israeli argument is analyzed and rejected, point by point.

Although the conclusion seemed obvious, Washington reporter David Walsh tracked down Carl Salans recently to ask what conclusion he had drawn. "Oh, they

the *Liberty* Incident" acknowledges that the boat's maximum radar range is 12 to 15 miles and that their claimed detection at 22 to 27 miles is highly unusual. We submit that it is impossible.

knew the ship was American and attacked it deliberately," Salans said.

### SURVIVORS AND GOVERNMENT LEADERS SPEAK OUT

Reporter Smyth weighed the Salans report against the *Atlantic* article and then contacted survivors and the American officials who were most directly involved. His findings were reported in two important Associated Press wire service stories that appeared in about 300 American newspapers in September<sup>21</sup> and October<sup>22</sup> 1984, as well as in numerous newspapers overseas. Although coverage was far from universal, the story nevertheless reached millions of Americans for the first time, plus more readers in overseas versions, and it set the story straight in the large-circulation news media.

After summarizing the *Atlantic* account and citing key discrepancies, the Associated Press stories reported the opinions of both survivors and key leaders of the era:

*Liberty's* engineer officer, George Golden: "I had proof that they knew who

we were. We had monitored the communications between the Israeli planes and gunboats and their bases in which they referred to us as an American ship. I turned my proof over to an admiral, but I don't know what was done with it. The Court of Inquiry was a whitewash. There was also just too many people trying to hush our men up. Somebody higher up was putting a squeeze on our people not to say anything about the incident. The information I had showed it was not an accident, and our government knows this."

I, James Ennes, *Liberty's* officer-of-the-deck: "That very morning I had ordered a brand-new flag put up. It was streaming freely in a 12-knot wind."

*Liberty's* signalman, Russell David: "When [the flag] was shot down by Israeli plane, I put up a holiday ensign that was three times bigger. When the Israeli gunboats attacked, I kept flashing with my lamp 'U.S. NAVY SHIP' until my lamp was shot out and I was wounded. I knew then they wanted us all dead."

*Liberty's* chief radioman Wayne L. Smith: "The Israelis jammed five of our six radio circuits as we tried to call for help."

Richard Helms, CIA director at the time: "To say that it was an accident is drawing a pretty long bow, in view of the evidence."

Dr. Louis Tordella, who was National Security Agency Deputy Director: "I believe it was a deliberately planned attack."<sup>23</sup>

Dean Rusk, Secretary of State at the time: "I have never believed the Israeli explanation."

<sup>21</sup>Associated Press, September 2, 1984. "Liberty Controversy Still Hot." Version appeared in weekend editions of the Norfolk, Virginia, *Virginian-Pilot* and Charleston, South Carolina, *News and Courier* among others, but did not get much attention, probably because it was released late Friday evening after most Sunday papers had been made up.

<sup>22</sup>Associated Press, October 29, 1984. "Americans Report Israeli Version of 1967 Attack on Ship." This much longer version ran in about 300 American newspapers and captured top front-page billing in many, along with banner headlines. It was featured in *The Los Angeles Times*, *Houston Chronicle* and, in Spanish, in the Buenos Aires *La Nacion*, among others. Charleston's *News and Courier* ran the story along with a powerful lead editorial calling for an official reinvestigation to allow surviving crewmen to tell their side of the story. Few papers with strong pro-Israeli influence, however, such as the Seattle, Chicago, New York or Washington, D.C., newspapers, ran the story at all.

<sup>23</sup>Tordella and then-NSA Director General Marshall S. Carter both testified before the House Investigating Committee (mentioned above) that they considered the attack to have been deliberate. Their testimony, however, has so far resisted declassification efforts.

Former Joint-Chiefs-of-Staff Chairman Admiral Thomas Moorer, now a senior consultant at the Georgetown University Center for Strategic and International Studies: "It's ridiculous to say this was an accident. In the real world there is no way it could have happened" the way the Israeli journalists describe it. "Congress should investigate this matter, even now."<sup>24</sup>

### THE STORY WON'T GO AWAY

Those who would have us believe that the attack was a "tragic mistake" must certainly wish the *Atlantic* had never brought the subject up, and they now seem once more content to remain silent in the hope that the truth about the *Liberty* will fade quietly into oblivion. It will not. Every new demonstration of Israeli intransigence brings the *Liberty* back into public consciousness; every new Israeli theft of American intelligence or technology, every new revelation of undue Israeli influence on American institutions, every new Israeli demand for American weapons systems or American money, moves more Americans to demand a better accounting of the Israeli attack upon the USS *Liberty*. And each letter to a Congressman moves the government very slightly closer to telling the truth.

<sup>24</sup>Associated Press story "Admiral Charges Cover-up," September 7, 1985. *Navy Times*, December 9, 1985, and December 30, 1985.

"Why should people believe survivors of the attack and disbelieve the story told by the government of Israel?" we are asked recently by *Israeli Foreign Affairs*.<sup>25</sup>

Our answer: Because survivors are believable. The conviction that it was no accident is unanimous among known survivors and is supported by people who held key government positions at the time of the attack. They speak out publicly and give their names. Their stories agree with one another. What they say can be verified in sworn testimony and public records available from the government of the United States. The Israeli excuse, on the other hand, keeps changing. It conflicts with eyewitness accounts of survivors. It conflicts with most previous Israeli excuses. Israeli sources are anonymous or unavailable or hide behind pseudonyms. Meanwhile, the evidence behind the Israeli excuses is locked away in Israeli files, released only to apologists and friendly journalists. If the attack were accidental, as the Israelis claim, surely the Israeli government could come up with a believable excuse, documented with verifiable sources, consistent with sworn testimony of survivors and compatible with the firm laws of physics.

<sup>25</sup>*Israeli Foreign Affairs* is "an independent monthly research report on Israel's diplomatic and military activities world wide." Typical articles discuss Israeli arms sales to Iran, Israeli military links with South Africa, and the influence of Israel's Congressional lobby, AIPAC.

2,000 yards and that it was not possible for the *Liberty* to read the signals because of the intermittent blocking of view by smoke and flames. No reply signal was sent. Immediately after the *Liberty* was struck by a torpedo, the torpedo boats stopped at a range of approximately 500 to 800 yards and one signalled by flashing light in English "Do you require assistance?" Commander McGonagle testified that he had no means to communicate with the boat by light but hoisted "CODE LIMA INDIA." ("I am not under command" i.e., not able to control movements of ship.)

#### V. FLAG AND IDENTIFICATION MARKINGS

The Israeli report indicates that the fighter aircraft which reportedly made an initial pass over the *Liberty* was looking for a flag but found none; likewise no other identification mark was observed. ". . . Throughout the contact no American or any other flag appeared on the ship. . . ." (Elsewhere the report had indicated that at 1055 the ship had been identified as the *Liberty*, "whose marking was GTR-5.")

The Navy inquiry confirms by testimony of five members of the crew that they had personally observed the Ensign flying during the entire morning and up until the air attack. The Ensign was subsequently shot away during the air attack. Before the torpedo attack, a second Ensign was hoisted. The Navy report also found that "hull markings were clear and freshly painted."

The Clifford report noted that "the *Liberty's* U.S. Navy distinguishing letters and number were painted clearly on her bow. The *Liberty's* name was clearly painted in English on her stern. The ship's configuration and her standard markings were clearly sufficient for reconnaissance aircraft and waterborne vessels to identify her correctly. . . ." The report noted that at all times prior to the air attack the *Liberty* was flying her normal size American flag (5 ft. by 13 ft.) at the masthead. Five minutes prior to the attack by the torpedo boats, the *Liberty* put up a flag measuring 7 ft. by 13 ft. to replace the flag which had been shot down in the air attack.

#### VI. IDENTIFICATION OF SHIP AS "EL-KASIR"

The Israeli report indicates that shortly before the torpedo boat attack the torpedo boat Division Commander reported the certain identification of the vessel as an Egyptian transport ship named "El Kasir." Identification of the target was made both by the Division Commander and the commander of another torpedo boat. The Israeli Judge indicated in his decision that "on examining photographs of the two ships, I am satisfied that a likeness exists between them, and that an error of identification is possible, especially having regard to the fact, that identification was made while the ship was clouded in smoke."

The Clifford report noted, "That the *Liberty* could have been mistaken for the Egyptian supply ship *El Quseir* is unbelievable. *El Quseir* has one-fourth the displacement of the *Liberty*, roughly one-half the beam, is 180 feet shorter and is very differently configured. The *Liberty's* unusual antenna array and hull markings should have been visible to low-flying aircraft and torpedo boats. . . . Trained Israeli naval personnel should have been able easily to see and identify the larger hull markings on the *Liberty*."

#### ADDITIONAL OBSERVATIONS REGARDING ISRAELI REPORT

##### I. SPEED OF "LIBERTY" AND "EL KASIR" AS IDENTIFICATION FACTORS

The Israeli report states that the initial speed of the target reported by the torpedo



boat commander at 1341 hours as 30 knots was verified within minutes and confirmed as a speed of 28 knots. The report notes that it was the speed of the target which led to the final conclusion that there was no reason for surmising that the target could possibly be the *Liberty*.

The reported speed would have ruled out the "El Kasir" as the target, as well as the *Liberty* since the top speed of the "Kasir," published in *Janes Fighting Ships*, is in the range of 14 knots. The *Liberty's* top speed is 18 knots.

## II. FAILURE TO RELATE "LIBERTY" TO BOMBARDMENT CAPABILITY

The Israeli report emphasizes that the attack originated with reports that the El Arish area was being shelled from the sea. The implication of such reports was obviously that a ship capable of such shelling was present in the immediate offshore area, i.e., within gun range of the shore.

It would be clear to any trained observer that the armament aboard the *Liberty* was incapable of shore bombardment. It appears nevertheless that neither the aircraft, torpedo boats, nor the command headquarters to which they presumably report evaluated the ship's capability for shore bombardment.

## III. TIME SEQUENCE OF ATTACKS

The Israeli report indicates that it had been agreed that as soon as the torpedo boats located the target, aircraft would be dispatched. At 1341 hours the torpedo boat located the target. "A few minutes later," the dispatch of aircraft was requested. The first air attack occurred at approximately 1400 hours.

Assuming "a few minutes later" would mean four or five minutes, the request for aircraft must have occurred about 1345. One may infer from the fact that within a period of approximately 15 minutes, the request was transmitted, received, a command decision made, aircraft dispatched, and the attack launched, that no significant time was expended in an effort to identify the ship from the air before the attack was launched.

## IV. ATTACK BY TORPEDO BOAT AFTER "DO NOT ATTACK" ORDER

The Israeli report confirms that during the final attack by aircraft the marking "CPR-5" was noted on the hull and an order was transmitted to the torpedo boat division not to attack. The order was recorded in the log book of the flag boat at approximately 1420 hours. The torpedo boats nevertheless began their attack run at approximately 1428. The Division Commander later "claimed that no such message ever reached him." The Deputy Commander testified that "he received the message and passed it on to the Division Commander."

## II. Preamble to the Charter, Cooperation Council for the Arab States of the Gulf

~~The States of the United Arab Emirates, the State of Bahrain, the Kingdom of Saudi Arabia, the Sultanate of Oman, the State of Qatar, and the State of Kuwait,~~

~~Being fully aware of their mutual bonds of special relations, common characteristics and similar systems founded on the Creed of Islam; and Based on their faith in the common destiny and destination that link their peoples; and in view of their desire to effect coordination, integration and interconnection between them in all fields; and~~

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## DOCUMENTATION

### I. The *Liberty*: Discrepancies between Israeli Inquiry and U.S. Navy Inquiry

*This is an exact duplicate of a document prepared on September 21, 1967, by Carl F. Salans, the legal adviser of the Department of State for Secretary of State Dean Rusk and Under Secretary for Political Affairs Eugene V. Rostow. The document was classified TOP SECRET until January 24, 1983, when it was declassified and released in response to a \$15,000 law suit filed in Minneapolis Federal District Court after the State Department refused to release it under the administrative provisions of the Freedom of Information Act.*

As you requested, we have compared the decision of the Israeli Judge, dated July 21, 1967, with the findings of the U.S. Navy Court of Inquiry, and the Clifford Report, concerning the *Liberty* incident.

The following discrepancies are noteworthy:

#### I. SPEED AND DIRECTION OF THE "LIBERTY"

The Israeli report indicates that the torpedo boat Division Commander reported and reconfirmed the target's (*Liberty's*) speed at 28 to 30 knots and that it had changed its navigational direction shortly after 1341 hours.

The U.S. Navy inquiry established that the *Liberty* had been on a steady course at 5 knots from 1132 hours until the attack.

#### II. AIRCRAFT SURVEILLANCE

The Israeli report indicates that a ship was reported in the area by reconnaissance aircraft at 0600 and that another report was received of a contact between an Israeli aircraft and a surface vessel about 0900.

The Navy Court finding of facts, plus testimony of various members of the crew indicate reconnaissance over-flight of the *Liberty* at 0515, 0850, 1030, 1056, 1126, 1145, 1220, and 1245.

#### III. IDENTIFICATION BY ISRAELI AIRCRAFT

The Israeli report indicates that the fighter aircraft carried out a run over the ship in an effort to identify it.

The Navy Inquiry reports no such identification run. Commander McGonagle testified that he observed one air-reconnaissance flight approximately five to six miles from the ship at an altitude of 7,000 feet. He did not see it approach the ship. Within a couple of minutes, a loud explosion was heard from the port side of the ship, apparently resulting from a rocket launched by a second aircraft.

#### IV. IDENTIFICATION BY TORPEDO BOATS

The Israeli report indicates that the torpedo boats approached the *Liberty* in order to establish visual contact and to identify it, and that in addition, the Commander of the torpedo boats signalled the *Liberty* requesting its identification. The *Liberty* reportedly answered, "Identify yourself first," and opened fire on the torpedo boats.

Commander McGonagle's testimony indicated that the only signals from the torpedo boats were those made during the high-speed approach from a distance of approximately

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MANUAL OF  
THE NAVY JUDGE ADVOCATE GENERAL

THESE ARE THE RULES GOVERNING  
CONDUCT OF COURTS OF INQUIRY

THEY SHOW THAT THE NAVY  
COURT IN THE LIBERTY CASE

DID  
NOT  
FOLLOW  
THE  
RULES!

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FOLDER 26

## Chapter II

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## 0201 GENERAL

a. *Definitions.*

(1) An "administrative fact-finding body" is any one of a number of administrative, as distinguished from judicial, entities, including single individuals functioning as such, which is employed to collect and record information respecting some subject.

(2) A "JAG Manual Investigation" is an administrative fact-finding body constituted under any portion of the regulations set forth in chapters II through X of this manual.

b. *Functions.*

(1) The primary function of all administrative fact-finding bodies constituted under these regulations is to search out, develop, assemble, analyze, and record all available information relative to the matter under investigation. Such bodies are required to formulate clearly expressed and consistent findings of fact.

(2) The collateral function of a court of inquiry and, when expressly so directed by the convening authority, a formal fact-finding body, is to afford a hearing, of the nature and scope prescribed, to any person whose conduct or performance of duty is subject to inquiry or who has a direct interest in the subject of the inquiry.

c. *Purpose.* The primary purpose of all administrative fact-finding bodies constituted under these regulations is to provide convening and reviewing authorities with adequate information upon which to base decisions in the matters involved. These bodies are administrative and not judicial; their reports are, therefore, purely advisory; their opinions, when expressed, do not constitute final determinations or legal judgments; and their recommendations, when made, are not binding upon convening or reviewing authorities.

d. *Privacy Act compliance.* When an individual is requested by a Government representative to supply personal information, it is mandatory that there be compliance with subsection (e) (3) of the Privacy Act of 1974 (5 U.S.C. § 552a) in accordance with section 0308 and Appendix A-3-a.

## 0202 NEED AND IMPORTANCE

a. *General.* The collection and preservation of important information by fact-finding bodies convened under these regulations are vitally necessary and useful in a great many respects. Some of the purposes served are described in the following subsections.

b. *Efficient command or administration.* Fact-finding reports may provide convening and reviewing authorities with information essential to the efficient operation of the fleet, its readiness, or improved administration of the Department of the Navy. The reports are also routed to interested bureaus, systems commands and offices of the Navy Department. The reports thus may become the basis for various actions of importance, such as:

(1) Reevaluation of operational practices or standards.

(2) Redesign and improvement of material or equipment.

(3) Modification or adoption of instructions, regulations, and procedures.

(4) Timely and accurate reply to inquiries concerning incidents of legitimate public interest, with accompanying improved public relations.

c. *Proper disposition of claims for or against the Government.* See chapters XX through XXIV.

d. *Redress of injuries to property.* See Article 139, UCMJ and chapter X.

e. *Administrative determinations respecting personnel and former personnel.* Reports of fact-finding bodies provide the basis for making administrative determinations respecting personnel and former personnel. Examples of such determinations within the service are: Whether the time required for treatment of an illness or injury must be "made up" after what should otherwise have been the end of an enlistment or period of obligated active service because such illness or injury is held to have been due to the individual's own misconduct; whether an illness or injury is the result of "intentional misconduct or willful neglect" within the meaning of disability.

**FACT-FINDING BODIES**

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separation statutes; whether an illness or injury was incurred in the line of duty while *employed* on inactive duty training or active duty for training;

whether, and in what degree or, commendatory or adverse action respecting an individual should be

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taken. Examples of administrative determinations outside the service are entitlement of dependents of deceased personnel to dependency and indemnity compensation, based upon whether the evidence of record (not findings or opinions) indicates the death to have been due to the individual's willful misconduct; and whether personnel accountable for funds or property may be eligible for relief from personal liability for losses, based upon affirmative showings of record that there was no negligence of commission or omission on the part of the accountable persons which may have caused or contributed to the loss. Rights as a party (see chapter III) to formal fact-finding proceedings are accorded persons to afford them an opportunity to assure that all matter favorable to them is set forth on the record to be available in connection with any future administrative determination.

### 0203 INVESTIGATIONS UNDER SPECIAL REGULATIONS

a. *General.* In addition to the investigations required by these regulations, various other investigative efforts are required by other regulations. A single incident requiring investigation may require only an investigation in accordance with these regulations or may require only investigation under other regulations not included herein. On the other hand, an incident may require investigation under both these regulations and other regulations, in which case, dependent upon the other regulation involved, separate proceedings may be required or combined proceedings may be permissible. Care must be exercised in determining what investigations may be required and to what extent these investigations may be combined. The following broad guidelines are set forth to assist in making this determination.

b. *Single-purpose investigations.* If the only requirement is for an investigation under regulations not included herein, then those regulations alone should govern and an administrative fact-finding body under these regulations should not be convened. For example, if there is no other basis for investigation than prospective disciplinary action, a preliminary inquiry under paragraphs 32b and 33a, MCM, or a pretrial investigation under Article 32, UCMJ and paragraph 34, MCM should be conducted without recourse to the proceedings of a fact-finding body under these regulations.

c. *Special situations wherein JAG Manual investigation contraindicated or to be conducted and report prepared and routed separately and apart from other required procedures.* A JAG Manual investigation should normally not proceed at the same time as a law-enforcement type of investigation by the Federal Bureau of Investigation, Naval Investigative Service, local police department, command investigative unit, or armed services police unit. This will avoid interference with law-enforcement type investigations.

d. *Noncombinable investigations.* An administrative fact-finding body under these regulations may be required and ordered in addition to, but not in lieu of, certain inquiries, the proceedings of which are controlled by other regulations. For example:

- (1) Situation reports prescribed by articles 0739 and 0743, U.S. Navy Regulations, 1973, or other situation reports prescribed by bureau manuals or Departmental regulations.

- (2) Investigations conducted by the Naval Investigative Service pursuant to SECNAV Instruction 5430.13 series. See 0212.

- (3) Investigations conducted by an inspector general or his assistants.

- (4) Hearings conducted pursuant to the Disability Evaluation Manual (NAVSO P-1990).

- (5) Investigation of aircraft accidents pursuant to OPNAVINST P3750.6 series.

- (6) Administrative letter reports respecting security violations prescribed by OPNAVINST 5510.1 series.

### 0204 TYPES OF ADMINISTRATIVE FACT-FINDING BODIES

a. *General.* On the basis of membership, there are three types of administrative fact-finding bodies that may be constituted under these regulations: courts of inquiry, boards of investigation, and single individual investigations. On the basis of procedure, there are two types of administrative fact-finding bodies: formal and informal. A *formal* fact-finding body is one which utilizes a formal hearing procedure, ordinarily



takes all testimony under oath, often maintains a verbatim record of all evidence, and may be authorized to designate parties. On the other hand, an *informal* fact-finding body normally employs the preliminary inquiry method of gathering evidence, using telephone inquiries, correspondence, and informal interviews to assemble the required information conveniently and expeditiously; it shall not be authorized to designate parties.

b. *Courts of inquiry.* The principal distinguishing features of a court of inquiry are as follows:

(1) It consists of at least three commissioned officers as members and a commissioned officer as counsel for the court.

(2) It is convened by a written appointing order.

(3) It must take all testimony under oath and record all proceedings verbatim regardless of whether such is directed in the appointing order.

(4) Persons subject to the UCMJ whose conduct is subject to inquiry must be designated parties.

(5) Persons subject to the UCMJ or employed by the Department of Defense who have a direct interest in the subject of inquiry must be designated parties upon their request to the court.

(6) It possesses the power to subpoena civilian witnesses (see Article 47 UCMJ which provides for prosecution in U.S. district court for failing to appear, to testify, or to produce evidence).

c. *Formal fact-finding bodies.* The principal distinguishing features of a formal fact-finding body (other than a court of inquiry) are:

(1) It consists of one or more commissioned officers as members or members.

(2) It is convened by a written appointing order.

(3) The appointing order may direct that the body take all testimony under oath and/or record all proceedings verbatim.

(4) It utilizes a formal hearing procedure.

(5) Persons whose conduct is subject to inquiry or who have a direct interest in the subject of the inquiry may not be designated parties unless such designation is expressly authorized in the appointing order.

(6) It does not possess the power to subpoena witnesses (unless convened under Article 139, UCMJ and chapter X of this Manual).

d. *Informal fact-finding bodies.* The principal distinguishing features of an informal fact-finding body are:

(1) It may consist of one or more officers, senior enlisted persons, or civilian employees of the Department of the Navy as member or members.

(2) It may be convened orally or in writing.

(3) It is ordinarily not directed to take testimony under oath or to record testimony verbatim.

(4) It utilizes informal procedures in collecting evidence.

(5) It shall not designate any person as a party to the investigation.

(6) It does not possess the power to subpoena witnesses.

#### 0205 SELECTION OF TYPE AND DESIGNATION OF PARTIES

a. *Selection of type.* The several types of fact-finding bodies described in the preceding section have been prescribed to accommodate the variety of situations which must be investigated in the naval service. Thus, the type of fact-finding body to be ordered should be determined in large measure by the powers which the fact-finding body will require, the paramount purposes of the inquiry, the relative seriousness of the subject of the inquiry, the probable complexity of the factual issues involved, and other such factors. Much must be left to the judgment and discretion of officers in command. In general, how-

ever, the following guidelines should be considered in the selection of the type of fact-finding body to be employed. Where it appears that the incident under investigation involves substantial loss of life or where significant international or legal consequences may be involved, either a court of inquiry or a formal board of investigation, depending generally upon whether the power to subpoena civilian witnesses is involved, should be considered. Other serious incidents requiring investigation, such as grounding of a ship, collision, flooding, and other major afloat casualties, particularly if significant loss of life resulted, should ordinarily be investigated by a formal board or formal single officer investigation, but in such cases the requirement of a verbatim record need not invariably be imposed. In other less serious cases, an informal fact-finding body will ordinarily be adequate. In any case in which there is doubt as to the type of fact-finding body which should be ordered, the matter may be referred to a superior in command for determination.

b. *Designation of parties.* In connection with the selection of the type of fact-finding body to be convened, the desirability of designating parties and affording the persons so designated all of the rights of a party should be considered. In general, the designation of parties before JAG Manual investigations is unnecessary because other regulations, which provide for further judicial or administrative proceedings before adverse action may be taken against an individual (see section 0304d), contain adequate safeguards to protect the rights of persons so involved. If, however, the subject matter of the inquiry involves such disputed issues of fact that a risk of substantial injustice to a person or persons would exist if he or they were not afforded the rights of a party during the investigation, a court of inquiry or a formal fact-finding body which is expressly authorized to designate parties should be ordered. In other cases, subject to the considerations set forth in the preceding subsection, a formal fact-finding body which is not authorized to designate parties or an informal fact-finding body will suffice.

#### 0206 CONVENING AUTHORITY—POWER TO ORDER

a. *Courts of inquiry.* Any person authorized to convene a general court-martial, or any other person

designated by the Secretary of the Navy for that purpose, may convene a court of inquiry (Article 135, UCMJ).

b. *Other fact-finding bodies.* Any officer in command may order a board of investigation or a one-man investigation, either formal or informal. The appointing order of a fact-finding body other than a court of inquiry may be issued or subscribed by an officer who holds a delegation of authority for such purpose from the convening authority. For the purposes of these regulations, "officer in command" means an officer authorized to convene any type of court-martial under Articles 22, 23, or 24, UCMJ, or authorized to impose disciplinary punishment under Article 15, UCMJ, including officers in charge. However, only a commanding officer empowered to convene a special court-martial, or superior authority, may order an investigation which involves redress of injury under Article 129, UCMJ.

#### 0207 CONVENING AUTHORITY—RESPONSIBILITY TO ORDER

a. *General considerations.* The officer in command of the unit or activity concerned is primarily responsible for initiating an investigation into an incident arising in his command. If the command is an afloat command, the investigation of incidents occurring ashore may be conducted by another appropriate command when the afloat command so requests and certifies that conduct of the investigation by the afloat command would not be feasible. In case of doubt as to who should convene the fact-finding body, the matter shall be referred to the area coordinator (normally the district commandant) who shall resolve the issue and ensure that any required investigation is conducted.

b. *Incidents far removed from location of command.* Activities required to make investigations under these regulations are often geographically far removed from the scene of incidents for which they have investigating responsibility. A typical situation of this kind is one where personnel are injured or die under doubtful circumstances at a place distant from the activity to which they are assigned (see section 0804) or where mobile activities are required to move from the locality of an incident before a thorough investigation can be completed. In such cases, com-

manding officers and officers in charge may refer the incident which is subject to investigation to another officer qualified to order the appropriate fact-finding body if the investigation can be more expeditiously accomplished by a different activity. In such situations the commandant of the naval district in which the incident occurred, or comparable authority, should be requested to cause the appropriate investigation to be conducted. The request shall contain all available information such as: Time, place, and nature of the incident; full names, grades, service numbers, and leave status of naval personnel involved; names and addresses of all known witnesses; all available evidence and statements; and copies of all reports of the incident made to the Navy Department or other superior authority under existing regulations.

c. *Incidents involving injuries.* If a member of the naval service is injured and is admitted to a naval hospital, the commanding officer of the hospital shall, if no investigation is being made of the incident, promptly report the matter to the commandant of the naval district in which the incident occurred or other comparable authority. The commandant or other comparable authority shall take action to insure that, if required (see chapters relating to line of duty/misconduct and claims), the necessary investigation is made. Similarly, if a dependent or a member of the uniformed services is injured under circumstances involving a third person, and is furnished hospital, medical, surgical, or dental care at government expense, the agency, facility, or individual who provided such care shall promptly notify the cognizant action JAG designee (see section 2401c) so that he may ensure that, if required, the necessary investigation is made.

d. *Incidents involving more than one command.* Whenever more than one activity is involved in an incident requiring investigation, a single investigation should be conducted if practicable. Such an investigation may be convened by the officer in command of any of the activities concerned and all activities concerned shall cooperate in the expeditious conduct of the investigation. If any difficulty or dispute arises in the convening of such an investigation, the matter should be referred to the common superior of all officers involved. If there is reason to believe that the conduct or performance of duty of the officer in command of any activity involved in the incident may be subject to inquiry, the common superior of

all the officers involved should convene the investigation. For example, when a collision occurs between ships of different type commands, a single investigation should be convened by the command superior in the operational chain of command. Whenever a single investigation of an incident involving more than one activity is conducted, all activities involved shall provide all available information to the activity conducting the investigation.

#### 0208 DISSOLUTION

A fact-finding body is considered dissolved when its duties have been completed, and no formal order to that effect is necessary.

#### 0209 THE RECORD OF PROCEEDINGS-- GENERALLY

a. *Content.* The record of proceedings or the investigative report must be made as complete as possible to ensure preservation of evidence relating to the incident investigated and to give authorities in the Department of the Navy an adequate basis on which to take action. Illustrative facts which should be established and supported by enclosures in particular situations are outlined in chapter IX. These suggestions, however, are not all inclusive. Any information that will aid understanding or help reviewers weigh the evidence should be included. Except for facts of which a court may take judicial notice (see paragraph 147, MCM), an administrative fact-finding body should not arrive at findings of fact which are not supportable by evidentiary enclosures or personal observation.

b. *Copies.* Each copy of the record of proceedings or investigative report must be complete within itself and should contain all enclosures and exhibits. Sufficient complete copies should be prepared to fulfill the requirements of section 0211c.

c. *Classification.* Because of the wide circulation in the Department of the Navy of records of some investigations, classified information should be omitted unless inclusion is essential. Information inherently not of a classified nature, although derived from classified messages, shall be paraphrased without identifying the original message by date-time group. A record or report containing information so derived

need not be classified for this inclusion alone, provided that the information paraphrased is not classified. When classified matter is necessarily included in the record of proceedings or an investigative report, the record or report shall be assigned the classification of the highest subject matter contained therein. Encrypted versions of messages shall not be included in or attached to records of proceedings or investigative reports in which the content, substance, or purport of such message is divulged, regardless of the classification given the record or report. See Department of the Navy Security Manual for Classified Information, OPNAVINST 5510 1 series.

\*d. *Privacy Act compliance.* When an individual is requested by a Government representative to supply personal information, it is mandatory that there be compliance with subsection (e)(3) of the Privacy Act of 1974 (5 U.S.C. § 552a) in accordance with section 0308 and Appendix A-3-a. The record of proceedings must reflect the foregoing compliance.

#### 0210 THE RECORD OF PROCEEDINGS ACTION BY CONVENING AND REVIEWING AUTHORITIES

##### a. *Intermediate routing.*

(1) The record of proceedings or report of a fact-finding body shall be forwarded to and reviewed by the convening authority and appropriate superior authorities in the chain of command. No precise rule can be laid down as to the identity of appropriate superior authorities in the chain of command. The subject matter of the inquiry and the facts found will dictate the routing of the record or report for review. The record or report should be made available to all superior commanders who have a direct official interest in the recorded facts.

(2) District commandants and other area coordinators of shore-based activities and immediate or subarea coordinators are considered to have a direct official interest in records or reports of investigations conducted by shore activities within the area of their cognizance and relating to a subject matter affecting their area coordination, command responsibility, or claims adjudicating authority, and, unless they direct otherwise, should be included as reviewing authorities whether or not in the chain of command.

(3) All flag and general officers in command may publish categories of subject matter of investigations which are of direct official interest to them and

to their subordinates, and may direct that investigations involving other categories of subject matter be given exceptional intermediate routing. For example, a type commander might direct that investigations involving solely line of duty or misconduct determinations be routed directly to him, by-passing all echelons of authority between him and the convening authorities.

\* b. *Review and forwarding.* The convening authority and each field authority to whom the record of proceedings or report is routed shall transmit it by endorsement which will generally effect one of the following actions:

(1) Forward the record or report commenting that it contains no matter of direct official interest to the authority and that it is therefore transmitted without comment or recommendation.

(2) Return the record or report for further inquiry, noting any incomplete, ambiguous, or erroneous action of the fact-finding body or a prior reviewing authority.

(3) Return the record or report for further corrective action, stating in detail the inadequacy or incompleteness noted.

NOTE: The authority who convened the fact-finding body has the primary responsibility to ensure that the investigation record is in compliance with the Privacy Act of 1974 before the record is forwarded. See section 0308. The officer exercising general court-martial jurisdiction who reviews the JAG Manual investigation record has the responsibility to review the record for compliance with the Privacy Act of 1974, and if the investigation fails to comply, he shall return it to the convening authority for remedial action prior to forwarding it to the Judge Advocate General.

(4) Forward the record or report setting forth appropriate comments and recording approval or disapproval, in whole or in part, of the proceedings, findings, opinions, and recommendations. For the benefit of subsequent reviewing authorities, each shall state clearly what action he has taken, or will take, and/or his recommendations as a result of matters contained in the record. If the investigative body is also conducting a claims investigation, the reviewing authority's action will be governed by the applicable provisions of chapters XX through XXIV of this Manual; if the investigating body is also acting as a

board for redress of injuries to property, the reviewing authority's action shall be governed by chapter X of this Manual; or if the investigating body is inquiring into the loss, compromise, or subsection to compromise of classified information, the reviewing authority's action will be governed by chapter 8 of the Department of the Navy Security Manual for Classified Information, OPNAVINST 5510.1 Series.

*c. Disciplinary action.* Except where an individual has been fully accorded the rights of a party before a court of inquiry or a formal fact-finding body, non-judicial punishment may not be predicated exclusively upon the proceedings of a fact-finding body (see section 0101d), nor may the record of proceedings or report of such fact-finding body be used in lieu of a formal pre-trial investigation as authorized by Article 32 (c), UCMJ. Nevertheless, whenever punitive or nonpunitive disciplinary action is contemplated, initiated, or taken respecting any person as the result of the incident which was the subject of inquiry, such action (its specific nature, including current status) shall be noted in the endorsement of the reviewing or reviewing authority. Punitive letters of censure or copies or recommended drafts thereof shall be included in an investigative report as enclosures. Nonpunitive letters or copies, or recommended drafts thereof, are private in nature and shall not be included as enclosures in an investigative report, but shall be separately forwarded to the appropriate commander for issuance.

*d. Additional information.* Each reviewing authority's action will include any information known or reasonably ascertainable at the time of the review concerning actions taken or being taken in the case but not contained in the record or previous endorsements.

#### 0211 THE RECORD OF PROCEEDINGS AND COPIES—DISPOSITION

*a. Routing.* Except as indicated below, the complete original record or report of every JAG Manual investigation shall be routed to the Judge Advocate General, Navy Department, Washington, D. C. 20370, in accordance with the intermediate routing provided in section 0210. Except when they have a direct official interest in the recorded facts and should be included as a via addressee, the routing of the record to other commands, bureaus and offices of the Navy

Department will be accomplished by the Judge Advocate General.

#### *b. Special Routing.*

(1) Records or reports of investigations which involve Marine Corps personnel and relate to shortages of public property or public funds, or contemplated or accomplished disciplinary action shall be forwarded to the Judge Advocate General via the Commandant of the Marine Corps.

(2) Records or reports of investigations into the loss of Government property entrusted to an accountable officer shall be routed as prescribed in section 0909c.

(3) Records or reports of investigations which involve lost, missing, damaged, or destroyed property of the Marine Corps shall be routed to the Commandant of the Marine Corps as prescribed in paragraphs 10414 and 10415, Marine Corps Supply Manual.

(4) Records or reports of investigations which involved loss, compromise, or subsection to compromise of classified information shall be routed as prescribed in paragraph 46-104B, Department of the Navy Supplement to the DOD Information Security Program Regulations, OPNAV INST 5510.1 series.

(5) If a record of investigation is to be used as a pretrial investigation pursuant to Article 32(c), UCMJ, and the original is desired in connection with a trial by general court-martial, the original shall be retained in the field for such purpose and a complete certified copy shall be forwarded to the Judge Advocate General via appropriate authorities.

(6) If a record or report of investigation involves a claims matter or redress of injuries to property under Article 139, UCMJ, see chapter X and chapters XX through XXIV as appropriate.

#### *c. Routing of copies.*

(1) One complete copy of the record or report of investigation shall be forwarded with the original for each intermediate reviewing authority. Additionally, if a shore command conducted the investigation upon request of an afloat command, as provided in

sections 0207a and 0804, information copies of the investigation record or report shall be forwarded to interested afloat commands. With respect to the right of a party to the investigation to receive a copy, see section 0304f.

(2) In serious cases and in cases in which the convening authority considers that the Navy Department should have advance information, he shall forward an advance copy to the Judge Advocate

General. Additionally, if the record or report of investigation involves a possible admiralty claim, an advance copy shall be forwarded as soon as possible to the Judge Advocate General (Admiralty Division). Respecting records or reports of investigation which may involve Medical Care Recovery Act claims, see section 2406c.

(3) U.S. Navy convening authorities shall, when security classification permits, forward an

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**FACT-FINDING BODIES**

advance copy of the record or report of investigation as soon as practicable in cases involving inquiry into material damage to a ship, submarine, or Government property (except aircraft) to: Commander, Naval Safety Center, Naval Air Station, Norfolk, Virginia 23511. U.S. Navy commanders subsequently reviewing such record or report shall forward advance copies of their endorsements as above. In cases of aircraft accidents advance copies of investigations and endorsements thereon will be forwarded to Commander, Naval Safety Center only upon his specific request.

(4) In cases involving postal losses or offenses, an advance copy of the record or report of investigation shall be forwarded by the convening authority to the Chief of Naval Operations (Postal Affairs Section). See paragraph 6202, U.S. Navy Postal Instructions, OPNAVINST 2700.14 series.

**0212 INVESTIGATIONS BY NAVAL INVESTIGATIVE SERVICE**

The investigative jurisdiction and responsibilities of the Naval Investigative Service (NIS) and the field components thereof are set forth in SECNAVINST 5430.13 series. Officers in command are cautioned to comply meticulously with the provisions and spirit of that instruction. Matters pertaining to espionage, sabotage, subversive activities, fraud against the Government, and major violations of the UCMJ are included within the jurisdiction of NIS. Where the investigative service of NIS is utilized, the officer in command shall take appropriate measures to preserve evidence and to ensure that any other phases of investigation do not compromise or otherwise impede the investigative activities of NIS. In the event the officer in command deems it necessary to proceed with inquiry by a fact-finding body prior to the completion of the investigative phase by NIS, he shall first communicate with the local NIS office and establish coordination of the investigative effort. Should the NIS office object to the initiation of the inquiry by a fact-finding body, the matter should be referred to the appropriate commandant of the naval district or comparable authority for resolution.

**0213 PRELIMINARY INVESTIGATION OF MAJOR INCIDENTS**

a. *General.* The investigation of major incidents is sometimes complicated by the premature appoint-

ment of a court of inquiry or other formal investigative body. Without ascertaining the sequence of events and which witnesses can give enlightening testimony, the proceedings are made longer and more difficult as the result of lack of preparation prior to formal hearings. The purpose of all investigative proceedings is to inform authorities of the Department of the Navy fully and concisely as to the incident, its causes, and the responsibility therefor.

b. *Suggested procedure.* In major incidents it may be advisable to order immediately an informal one-officer investigation or informal board of investigation to ascertain the seriousness of the incident, to interview all witnesses, and to prepare a summary of their testimony. The convening authority may direct in his appointing order (oral or written) that the investigative body submit an interim oral report by a specified date. At the time of the oral report, the informal investigation may be terminated and the investigative effort directed into a court of inquiry or other formal investigation. Summaries of testimony or evidence developed in the informal investigation may be used as an aid by the later investigative body. Inasmuch as all courts of inquiry and most formal boards of investigation directed to inquire into major or complicated incidents have appointed counsel, consideration should be given to detailing the officer who conducted the informal investigation to assist counsel for the court or board.

c. *Function.* It is not the function of such preliminary investigation to fix responsibility for the incident or event. Its duties are to obtain statements of witnesses and to inform the convening authority as to the identity of the witnesses and the extent to which they can testify to pertinent facts.

**0214 AUTHORITY TO ADMINISTER OATHS**

A person on active duty appointed to perform investigative functions or to serve as counsel for an administrative fact-finding body within the meaning of these regulations is empowered to administer oaths in the performance of his duties. See Article 136, UCMJ.

## Chapter III

# PARTIES AND WITNESSES

### 0301 PARTIES—DEFINITIONS

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- b. Subject to inquiry
- c. Direct interest

### 0302 DESIGNATION OF PARTIES

- a. Courts of inquiry
- b. Formal fact-finding bodies
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- b. Right to counsel
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### \*0308 ADVICE REQUIRED BY THE PRIVACY ACT



## 0301 PARTIES-DEFINITIONS

a. A "party" is an individual who has properly been designated as such in connection with a court of inquiry or a formal fact-finding body.

b. A person's conduct or performance of duty is "subject to inquiry" when the person is involved in the incident or event under investigation in such a way that disciplinary action may follow, that his rights or privileges may be adversely affected, or that his personal reputation or professional standing may be jeopardized.

c. A person has a "direct interest" in the subject of inquiry:

(1) When the findings, opinions, or recommendations of the fact-finding body may, in view of his relation to the incident or circumstances under investigation, reflect questionable or unsatisfactory conduct or performance of duty; or

(2) When the findings, opinions, or recommendations may relate to a matter over which the person has a duty or right to exercise official control.

## 0302 DESIGNATION OF PARTIES

## a. Courts of inquiry.

(1) Any person subject to the UCMJ whose conduct or performance of duty is subject to inquiry shall be designated a party before a court of inquiry.

(2) Any person subject to the UCMJ or employed by the Department of Defense who has a direct interest in the subject of inquiry shall, upon his request to the court or convening authority, be designated a party before a court of inquiry.

(3) Any member of the Naval or Marine Corps Reserve not subject to the UCMJ by virtue of his status whose conduct or performance of duty is subject to inquiry may, upon his request to the court or convening authority, be designated a party before a court of inquiry.

(4) No other person may be designated as a party unless expressly authorized by the Secretary of the Navy (Judge Advocate General).

## b. Formal fact-finding bodies.

(1) When authorized by the convening authority, any member of the naval service subject to the UCMJ whose conduct or performance of duty is subject to inquiry may be designated a party before a formal fact-finding body constituted under these regulations.

(2) When authorized by the convening authority, any member of an armed force other than the Navy and Marine Corps subject to the UCMJ; any person employed by the Department of Defense; or any member of the Navy or Marine Corps Reserve not subject to the UCMJ by virtue of his status, whose conduct or performance of duty is subject to inquiry may, upon request to the fact-finding body, be designated a party before a formal fact-finding body constituted under these regulations.

(3) No other person may be designated as a party unless expressly authorized by the Secretary of the Navy (Judge Advocate General).

c. Informal fact-finding bodies. No person may be designated as a party before informal fact-finding bodies constituted under these regulations.

d. Who may designate. Parties may be designated by the convening authority of a court of inquiry or formal fact-finding body, by any court of inquiry, or by a formal fact-finding body when expressly authorized by the convening authority, subject to the following considerations:

(1) When parties are to be designated, and it is apparent at the time of the issuance of the appointing order that a person or persons must or should be designated, the convening authority should include such designation in the appointing order. His power to designate continues during the entire proceedings before a court of inquiry or formal fact-finding body.

(2) If at any time during the course of an investigation by a court of inquiry or by a formal fact-finding body authorized to designate parties it appears to the court or body that any person not previously designated should be so designated, that person shall or may (see section 0302a and b) be informed of that conclusion, be designated a party, and be informed of and accorded his rights as such.

e. *Effect of designation.* The purpose and effect of designating an individual a party before a fact-finding body is to afford him a hearing respecting possibly adverse information concerning his conduct or performance of duty or relating to a matter over which he has a duty or right to exercise official control. The majority of investigations, although inquiring to some degree into the conduct or performance of duty of persons, result in relatively few instances in which adverse action is taken without separate administrative or judicial proceedings. The separate hearings in such cases are much more efficient and frequently are fairer to the person involved. Accordingly, as provided in section 0205b, it is generally undesirable to designate parties to investigations unless the subject matter of the inquiry involves such disputed issues of fact that a risk of substantial injustice to the person would exist if he were not afforded the rights of a party during the investigation.

#### 0303 CHANGE IN STATUS OF A PARTY

If it no longer appears that a person previously designated as a party is involved in a material degree in the matter under investigation, his designation as a party may be withdrawn by the court of inquiry or formal fact-finding body upon application of that party, or upon the court or fact-finding body's own initiative.

#### 0304 RIGHTS OF A PARTY

\*a. *General.* A person duly designated a party before a fact-finding body shall be advised of and accorded the following rights:

- (1) To be given due notice of such designation.
- (2) To be present during the proceedings, but not when the investigation is cleared for deliberations.
- (3) To be represented by counsel. See subsection b below.
- (4) To examine and to object to the introduction of physical and documentary evidence and written statements.

(5) To object to the testimony of witnesses and to cross-examine witnesses other than his own.

(6) To introduce evidence.

(7) To testify as a witness.

(8) To refuse to incriminate himself, and, if accused or suspected of an offense, to be informed of the nature of the accusation and advised that he does not have to make any statement regarding the offense of which he is accused or suspected; and that any statement made by him may be used as evidence against him in a trial by court-martial.

(9) To make a voluntary statement, oral or written, to be included in the record of proceedings.

(10) To make an argument at the conclusion of presentation of evidence.

(11) To be properly advised concerning the Privacy Act of 1974. See section 0308 and Appendix A-3-a.

*NOTE: In courts of inquiry only, a party shall be advised of and accorded two additional rights:*

(12) To challenge members of the court of inquiry for cause stated to the court, Article 135(d), UCMJ; section 0414 of this Manual.

(13) If charged with an offense, to be a witness at his own request and not to be called as a witness in the absence of his own request.

#### b. *Right to counsel.*

(1) The party is entitled to be represented during the proceedings of the court or investigation by civilian counsel provided by himself at no expense to the Government; by military counsel provided by the Government at no expense to the party. Such military counsel shall be of his own selection if reasonably available; or by military counsel appointed for him by appropriate military authority. Upon request for appointed military counsel, counsel qualified under Article 27(b), UCMJ should be appointed, if practicable, and must be appointed if the court or investigation is to be used as a pretrial investigation required by Article 32, UCMJ. There are no special legal qualifications required of civilian counsel provided by the party himself or of military counsel selected by him. In any case in which the court or

investigation is to be used as an investigation under Article 32, UCMJ and the party introduces non-lawyer civilian counsel or requests non-lawyer military counsel, he must be carefully advised that he is entitled to the appointment of military lawyer counsel and that proceeding without lawyer counsel will be considered a waiver of this right. Appointed military counsel will be provided for a civilian party only under one of the following circumstances:

(a) The civilian party is in a status in which he might be subject to trial by court-martial, and the court of inquiry or investigation may be used as a pre-trial investigation under Article 32, UCMJ.

(b) Doubt exists as to the mental or physical competency of the civilian party, and he is not represented by counsel who seems capable of adequately protecting the party's interests.

(c) The convening authority directs such action on the ground that under the peculiar circumstances of the case, the interests of the Government would be best served by making military counsel available to represent the civilian party.

(2) It is the duty of counsel to represent the party to the best of his ability and to protect and safeguard the interests of the party by all honorable and legal means. If counsel for a party is absent, a court of inquiry or formal investigation shall not proceed until his return, or until new counsel for the party is retained by him or appointed for him. However, the party may waive his right to have counsel present provided the party understands his right to counsel and the effect of the waiver. The explanation of this right and any waiver thereof shall be reported verbatim in the record.

(3) When directing that a court of inquiry or formal investigation be conducted, and the medical officer states that a member to be designated a party is incompetent due to injuries or disease and will remain so for at least 60 days, the convening authority will ensure that a qualified lawyer counsel is appointed to represent the party during the proceedings of the court or investigation. Such counsel is obligated to exercise all the rights of the party as though the party were present.

c. *Explanation of rights.* At the outset of the proceeding of a court of inquiry or formal fact-finding body, all parties so designated shall be informed of the rights set forth in section 0304a, and shall be asked if explanation is desired regarding any of such rights. Further explanation shall be provided to any party who requests it. Counsel for any party may waive such information and explanation by stating to the investigative body that the party to the proceeding has been fully informed and understands his rights as a party. Upon designation of a person as a party during the course of the investigative proceeding, the same course shall be followed as regards information and explanation as to rights, and a waiver may similarly be made by counsel.

d. *Examination of previous record by party designated during proceedings; recall of witnesses.* The record of proceedings to the point the investigation has progressed will be made available for examination by a newly designated party and his counsel. Such a party may request that specified witnesses who have previously testified be recalled for cross-examination. If circumstances do not permit the recalling of a witness, evidence may be obtained from him by means of a sworn statement. In the absence of compelling justification, investigative proceedings shall not be suspended pending the obtaining of any such statement.

e. *Previous testimony of witness thereafter designated as a party.* Any testimony given by a person as a witness prior to his designation as a party remains in the record and is considered and used thereafter without regard to his subsequent designation as a party.

f. *Person on witness stand when designated party.* If a person is on the witness stand at the time he is designated a party, or is thereafter called as a witness, see section 0305 for the procedure to be followed.

g. *Failure to accord rights.*

(1) In cases where nonjudicial punishment is contemplated on the basis of the record of a court of inquiry or formal fact-finding body before which the accused was not designated a party or accorded the

rights of a party, the procedures shall be as prescribed in section 0101d.

(2) In cases where an adverse determination respecting the contracting or incurrance of a disease or injury in line of duty or as the result of misconduct is contemplated on the basis of the record of a court of inquiry or formal fact-finding body before which the person concerned was not designated a party or accorded the rights of a party, the procedures shall be as prescribed in section 0815.

(3) In cases where a general court-martial is contemplated respecting an accused, the record of a court of inquiry or formal fact-finding body before which the accused was not designated a party or accorded the rights of a party may not be used in lieu of a formal pretrial investigation of the offenses charged against the accused. See Article 32(c), UCMJ.

(4) In cases where charges have been brought against an accused before a court-martial, military commission, or other tribunal which is required fully to observe the rules of evidence as prescribed in the UCMJ and in chapter XXVII of the MCM, sworn testimony contained in the record of proceedings of a court of inquiry before which that accused was not designated a party or accorded the rights of a party may not be received in evidence by that court-martial, military commission or tribunal unless such testimony is admissible independently of the provisions of Article 50, UCMJ.

h. *Waiver of rights of a party.* Waiver of rights listed in section 0204a which involve notice, information, or advice to be given a party (except regarding an offense of which accused or suspected), may be effected only by explicit statement on the record by party or his counsel. Advice as to the nature of any offense of which accused or suspected, advice as to the right to refrain from making any statement regarding such offense, and advice as to the possible use against him of any statement in a trial by court-martial may not be waived. See Article 31b, UCMJ. Any other right is conclusively waived by the party's failing to exercise it, unless he has made, upon the record, a request to exercise it and such request has been denied.

i. *Right to a copy of the record.* A party to an investigation is not entitled to a copy of the record or

any part thereof, unless the record is to be used as a pretrial investigation under Article 32, UCMJ and trial of the party by general court-martial has been ordered. Consideration should be given to conducting a separate pretrial investigation when the record or report of the investigation contains either classified material or any unclassified material which might be of assistance in the prosecution or support of a claim against the United States. If a letter of reprimand or other non-judicial punishment is imposed, see section 0101f (7) concerning the right of the individual concerned to have access to a copy of the record.

#### 0105 WITNESSES

a. *Calling witnesses.* Although only courts of inquiry and boards convened for the redress of injuries to property (see Article 139, UCMJ and chapter X) have powers to subpoena witnesses, all administrative fact-finding bodies convened under these regulations may request civilian witnesses to attend, whether or not they are connected in any way with the naval service, and may request cognizant commanding officers to make members of the Armed Forces and persons employed by the Department of Defense available to testify. No fact-finding body is confined to any Federal reservation in its quest for relevant testimony.

b. *Competency of witnesses.* Any party or other person charged with an offense relating to the matter under investigation shall be a competent witness before a court of inquiry only at his own request. 18 USC 3481. A person is charged with an offense when he has been formally accused by indictment or information, or by the preferring of charges and specifications pursuant to Article 30, UCMJ. Subject to this statutory limitation, any party or other person, regardless of whether charged with or suspected of an offense, is competent as a witness before any formal or informal fact-finding body, and may be called whether or not he requests to be a witness.

c. *Compulsory self-incrimination prohibited.*

(1) No witness shall be compelled to incriminate himself or to answer any question the answer to which may tend to incriminate him; nor shall he be compelled to make any statement or produce evidence if the statement or evidence is not material to any issue under investigation and may tend to

degrade him. See Article 31 (a) and (c), UCMJ; paragraph 150, MCM. The fact-finding body should advise an apparently uninformed witness of his right to decline to answer any question which might tend to incriminate him.

(2) If a person called as a witness before a court of inquiry or formal board of investigation is suspected of or is charged with an offense, he shall be informed of the nature of the offense and the subject matter of the inquiry. He shall also be advised that he does not have to make any statement or give any testimony regarding the offense of which he is suspected or accused and that any statement or testimony made by him may be used as evidence against him in any subsequent trial. Article 31 (b) UCMJ. After being so informed, the right to refrain from testifying regarding the offense of which he is suspected or charged must be claimed by the witness. Despite assertion of such a right, however, the witness may be questioned on matters other than the offense of which he is suspected or charged.

(3) If a person suspected or charged with an offense is required as a witness in connection with an informal investigation, the procedure set forth in 0606d(2) will be followed.

\*d. *Privacy Act compliance.* When an individual is requested by a Government representative to supply personal information, it is mandatory that there be compliance with subsection (e)(3) of the Privacy Act of 1974 (5 U.S.C. § 552a) in accordance with section 0308 and Appendix A-3-a.

#### 0306 WARNING REQUIRED BEFORE REQUESTING STATEMENTS REGARDING DISEASE OR INJURY

A member of the Armed Forces may not be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury that he has. Any such statement against his interests, signed by a member, is invalid. 10 USC 1219. Any person in the Armed Forces, prior to being asked to sign any statement relating to the origin, incurrence, or aggravation of any disease or injury that he has suffered, shall be advised of his right not to sign such a statement.

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The spirit of this section will be violated if a person, in the course of a JAG Manual investigation, obtains the member's oral statements and reduces them to writing, unless the above advice was given first.

#### 0307 WARNING WITNESSES

The fact-finding body in its discretion may direct witnesses who are subject to naval authority, not to discuss their testimony with other witnesses or persons who have no official interest in the matter until the investigation is completed. Other witnesses may be requested, in a similar manner, not to discuss their testimony. This warning may be given to ensure that the matter before the fact-finding body can be fairly heard and to eliminate the possibility that disclosures of the substance of the testimony may influence the testimony of witnesses still to be heard.

#### \*0308 ADVICE REQUIRED BY THE PRIVACY ACT

a. *Privacy Act statements for JAG Manual investigations and claims investigations.* Pursuant to SECNAVINST 5211.5 series and the Privacy Act of 1974 (5 U.S.C. § 552a), the following procedures shall be applicable to JAG Manual investigations [chapters II through X] and claims investigations [chapters XX through XXIV], including letter reports and form reports.

(1) *Advice required.* When any individual is requested by a person acting on the Government's behalf to supply personal information about himself in the course of a JAG Manual investigation or claims investigation, the person making the request shall first provide the individual, in duplicate, a Privacy Act statement containing the particular information prescribed in SECNAVINST 5211.5 series. The original is to be signed by the individual and appended to the record of the investigation, and the copy should be retained by the individual. If the information is requested in an interview or hearing, the Privacy Act statement should also be orally summarized and explained as necessary to ensure that the individual fully understands it. The requirement for a Privacy Act statement is cumulative to other

applicable warnings or advisements required by the provisions of the Manual, and warnings under Article 31, UCMJ, and related court decisions, where applicable.

(2) *"Personal information" defined.* Personal information is information about an individual that is intimate or private to the individual, as distinguished from information related solely to the individual's official functions. It ordinarily includes, for example, information pertaining to an individual's financial, family, social, and recreational affairs; his medical, educational, employment, or criminal history; or information that identifies, describes, or affords a basis for inferring personal characteristics, such as finger or voice prints or photographs. It ordinarily does not include such information as the time, place, and manner of, or reasons or authority for, an individual's execution or omission of acts directly related to the duties of his Federal employment or military assignment.

(3) *Social Security numbers.* An individual, even though a member or employee of the naval service, should not be requested to provide his social security number in connection with a JAG Manual investigation or claims investigation. This will obviate the need for giving the individual a social security number statement, which is generally required when an individual is requested to furnish his social security number, because JAG Manual investigations and claims investigations do not fall under the strict definition of "personnel," "finance," or "medical" records, as these terms are used in SECNAVINST 5211.5 series. The number can generally be obtained from other available records if necessary in a particular investigation.

(4) *Privacy Act statement contents.* Appendix A-3-a is a format which is intended to include every item of information that would be required for a Privacy Act statement in connection with any JAG Manual investigation or claims investigation. It should be used as a basis for tailoring a specific Privacy Act statement appropriate to the particular purposes and subject matter of each investigation and the role of the particular party or witness in relation to the matter under investigation.

(5) *Local forms.* Locally-prepared forms utilizing the format in Appendix A-3-a are authorized. Copies of local forms for Privacy Act statements prepared for use in JAG Manual investigations shall be filed on a current basis with the Judge Advocate General (Code 21). Those prepared for use in claims investigations shall be filed with the Judge Advocate General (Code 14C).

b. *Reviewing authorities*

(1) It is essential that each investigative record reflect that a good faith effort was made to comply with SECNAVINST 5211.5 series and the Privacy Act of 1974, and that the record contain the Privacy Act statement for each party or witness from whom personal information was obtained on or after 27 September 1974. Any indication of noncompliance shall be explained either in the preliminary statement or the forwarding endorsements. The officer exercising general court-martial jurisdiction (or, in the case of a claims investigation, the appropriate officer designated as an adjudicating authority) has the responsibility to ensure that remedial action, as appropriate, is taken to rectify noncompliance indicated in the investigative record prior to forwarding the record to the Judge Advocate General.

(2) If there is a reasonable possibility that an individual's interests may be adversely affected by the outcome of the investigation and no Privacy Act statement, or a substantially defective Privacy Act statement, was given to that individual, remedial action is required. Such remedial action may be effected by sending a letter to the individual, via his commanding officer in the case of an active-duty member or currently-employed Navy civilian employee, or by certified mail (return receipt requested) in other cases, informing him that he was not fully advised of his rights under the Privacy Act before he provided personal information about himself to the JAG Manual or claims investigation. The letter shall also include:

(a) A sufficient Privacy Act statement;

(b) Advice that the individual may, within thirty days following the date of the letter, withdraw

all or part of the personal information that he provided about himself to the JAG Manual or claims investigation, and may provide new or additional information; and

(c) Advice that if no action is taken by the individual within the thirty-day period, the personal information provided by the individual to the JAG Manual or claims investigation will be considered with all other information collected during the course of the investigation.

(c) *Records of disclosures.* Appendix A-2b is recommended for use, as required, in recording and accounting for disclosures or information about identifiable individuals from records that are collected, used, or maintained pursuant to directives under the cognizance of the Judge Advocate General. Local reproduction is authorized.

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## Chapter IV

# COURTS OF INQUIRY

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## 0401 STATUTORY AUTHORITY

Article 135, UCMJ (10 USC 935) concerning courts of inquiry is quoted as follows:

"(a) Courts of inquiry to investigate any matter may be convened by any person authorized to convene a general court-martial or by any other person designated by the Secretary concerned for that purpose, whether or not the persons involved have requested such an inquiry.

"(b) A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

"(c) Any person subject to this chapter [UCMJ] whose conduct is subject to inquiry shall be designated as a party. Any person subject to this chapter [UCMJ] or employed by the Department of Defense who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

"(d) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

"(e) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath to faithfully perform their duties.

"(f) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

"(g) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

"(h) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu

of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel."

## 0402 APPOINTING ORDER

a. *Authority to convene.* As noted in the foregoing section, any person authorized to convene a general court-martial or any other person designated for that purpose by the Secretary of the Navy may convene a court of inquiry.

b. *Form of appointing order.* Courts of inquiry are appointed by an appointing order signed by the convening authority. The appointing order shall be in official letter form addressed to the president of the court. When circumstances warrant, a court of inquiry may be convened on oral or message orders. Written confirmation of oral and message orders will be issued in each case. Message orders and all confirmations of orders shall be included in the record of proceedings of the court.

c. *Contents of appointing order.* The appointing order of a court of inquiry shall name the president, the members, and the counsel. When appropriate, it shall designate parties to the inquiry. It shall specify the time and place for initial meeting. It shall recite the specific purposes of the inquiry and shall contain explicit instructions as to the scope of the inquiry. Inasmuch as the information developed by the court is used not only by the convening authority but in many cases by authorities remote from his command, the appointing order should contain ample instructions to ensure the accomplishment of the purposes for which the court was convened. The court shall be directed to report findings of fact. If the convening authority desires, he may also direct that opinions and recommendations be submitted. The appointing order may in appropriate cases provide for the appointment of reporters and interpreters. For an example of an appointing order for a court of inquiry, see Appendix 4a.

d. *Seniority of members.* No member of a court of inquiry should be junior in rank to any officer designated a party in the appointing order. Should an officer senior to any member be designated a party during the proceedings, the convening authority shall be notified so that he may revise the membership in

accordance with the seniority principle, if practicable. Whenever it has not been practicable to adhere to the seniority principle in membership, the convening authority shall state the reasons therefor in his action on the record of proceedings. The seniority principle is not applicable to counsel.

e. *Amendments.* The convening authority may amend the appointing order at any time to change the membership of the court of inquiry, to limit or increase the scope of the inquiry, to name additional parties, or to provide additional instructions. An example is contained in Appendix 4b.

f. *Advance copies.* On occasion, it may be advantageous to forward an advance copy of the appointing order to interested superiors so that they may be apprised of significant occurrences and actions being taken in connection therewith.

#### 0403 DUTIES OF THE PRESIDENT

a. *General.* The president shall administer the oath to the counsel for the court, preserve order, and decide upon matters relating to the routine business of the court. He may recess or adjourn the court to meet at a time or place as will be most convenient and proper.

b. *Rulings.* Should a member object to the president's ruling on any matter, a vote shall be taken in closed session and the decision of the majority shall govern. In case of a tie vote, the decision of the president shall govern except as to challenges of members. See section 0414b.

c. *Obtaining information.* Whenever it appears desirable to members of the court that certain information be elicited or developed in the interest of establishing or clarifying any matter, the president will so advise counsel for the court and may direct counsel to call witnesses, to pursue further lines of questioning or to adduce other evidence. The president and other members of a court may examine witnesses upon completion of examination by counsel.

#### 0404 MEMBERS

a. *Attendance.* The attendance at the proceedings of a court of inquiry becomes the primary duty of an

officer appointed a member. No member shall fail in his attendance at the designated time and place unless prevented by illness, ordered away, or excused by competent authority.

b. *Absence.* The court may, in the absence of a member, proceed with the inquiry only if authorized and directed to do so by the convening authority. Unless at least three members and a majority of the total membership are present, no business other than an adjournment shall be transacted. If it appears that a member will be absent for more than a short period of time and the absence reduces the court to less than three members, the convening authority shall be advised. He shall appoint additional members to ensure that at least three members will be present. Any substituted or additional member appointed shall examine the record of the proceedings conducted prior to his sitting as a member, and the fact of such examination shall be noted on the record. After such examination, each substituted and additional member shall participate fully in the subsequent proceedings of the court and in its deliberations relative to findings of fact, opinions, and recommendations.

c. *Temporary absence.* When a member of a court who has been temporarily absent returns, the record of that part of the proceedings conducted in his absence shall be examined by him, and such examination noted in the record. Such temporary absence does not preclude that member's full participation in the deliberations of the court relative to findings of fact, opinions, and recommendations.

#### 0405 COUNSEL FOR THE COURT

a. *Requirement.* The appointment of counsel for the court is required. Whenever practicable, counsel should be qualified under Article 27(b), UCMJ. Assistant counsel for the court may be appointed. If an understanding of the matters under inquiry involves a high degree of technical knowledge, convening authorities are encouraged to appoint an officer who possesses this technical knowledge as assistant counsel. Assistant counsel need not be qualified under Article 27(b), UCMJ.

b. *Duties.* Counsel for the court shall call witnesses and conduct the direct examination of all witnesses except those requested or called by a party.

He shall arrange for a place for the court to meet, and for the assistance of reporters, interpreters, orderlies, and clerical assistants. He shall administer the oath or affirmation to all members, reporters, interpreters, and witnesses. He shall also supervise the recording of the proceedings and the preparation of the record. He shall ensure that the Privacy Act is fully complied with prior to requesting an individual to supply personal information. See section 0308 and Appendix A-3-a.

c. *Responsibility.* The primary responsibility of counsel is to exploit all practicable sources of information in order to bring out all the facts in an impartial manner without regard to the favorable or unfavorable effect on persons concerned.

d. *Absence of counsel.* If the counsel for the court is absent and there is an appointed assistant counsel, he may, in the discretion of the court, act as counsel and the proceedings may continue. Otherwise, the court shall adjourn, report the absence to the convening authority, and await the return of counsel or the appointment of a new counsel.

#### 0406 PARTIES

See chapter III for provisions relating to parties, their rights, and their counsel.

#### 0407 REPORTERS AND INTERPRETERS

a. *Reporters.* The reporters appointed to record the proceedings of a court of inquiry may use longhand, shorthand, or a mechanical or sound recording device. A verbatim record of the proceedings shall be compiled, subject to exceptions authorized in section 0435.

b. *Interpreters.* In all courts of inquiry where testimony is to be given in other than the English language, an interpreter shall be appointed. Prior to the assumption of his duties the interpreter shall satisfy the court that he is fully conversant with the language to be interpreted and that he has a good command of the English language. If it appears to the court that the interpreter is experiencing difficulty in interpreting, or if there is an objection by a party that the interpreter is not fully and correctly interpreting, the court shall immediately inquire into the matter. If it appears that the interpreter is not able to interpret accurately and intelligently, the court shall report this

to the convening authority and request that a competent person be appointed. Until the appointment of another interpreter, no further interrogation of the witness whose testimony is to be interpreted shall be undertaken.

#### c. *Appointment.*

(1) If additional expense to the Government is involved in the employment of reporters or interpreters, the convening authority should follow the procedure set forth in section 0110 of this Manual.

(2) The details of the appointment of reporters or interpreters will not be set forth in the record of proceedings. Only the name of such individual and the fact that he was sworn to undertake his particular duties need be shown.

#### 0408 GENERAL PROCEDURE

A court of inquiry is governed generally by the principles of military law, applying procedural rules analogous to those for trials by general courts-martial where appropriate and not otherwise prescribed. The court should refer to the Manual for Courts-Martial, Court Martial Reports, and other authoritative legal publications for guidance. However, the mission of the court shall be given primary consideration in the determination of procedural questions not expressly covered in these regulations.

#### 0409 PRELIMINARY PROCEDURES

A court of inquiry shall assemble at the place and, as nearly as practicable, at the time named in the appointing order. The court may adjourn, when desirable, to any place as may be convenient to the court. The members shall take their seats in the same order as on courts-martial. Courts of inquiry are usually cleared until the order constituting them and the instructions contained in the appointing order have been read and the manner of proceeding decided. Normally counsel for the court will not withdraw when the court is cleared for preliminary procedures.

#### 0410 MEETING OF THE COURT

a. *Sessions.* The proceedings will be public unless the convening authority or the court, for security reasons or other good cause, directs that the entire proceedings or any portion thereof be closed to the public. The fact that the inquiry is not open to the

public does not require exclusion of the parties to the inquiry or their counsel. If the matter to be heard requires a security clearance and individual counsel has not been granted such clearance, the convening authority shall be advised thereof; see section 0921, Department of the Navy Security Manual for Classified Information, OPNAVINST 5510.1 series, with respect to necessary security clearance of personnel and procedures if such a person or civilian counsel is not so cleared, section 0140b of this Manual shall be followed.

b. *Clearing the court.* The court may be cleared at any time for deliberation or consultation, whereupon the parties and their counsel will withdraw. Counsel for the court will also withdraw unless requested to remain. During an open hearing when numerous spectators are present, the court may withdraw to another room for deliberation or consultation.

c. *Spectators—publicity.* As a general rule, the public will be permitted to attend open sessions of a court of inquiry. During any session of the court the taking of photographs in the courtroom or broadcasting of the proceedings from the courtroom (radio or television) shall not be permitted.

#### 0411 RECESS AND ADJOURNMENT

Courts of inquiry may recess or adjourn for such period as may be necessary without permission of the convening authority. However, if the adjournment is for more than three days, the convening authority shall be informed by the president.

#### 0412 RULES OF EVIDENCE

The court is not bound strictly by the rules of evidence prescribed for trials by court-martial. Admissibility of relevant evidence, notwithstanding a legal exclusionary rule, is a matter of discretion. Nevertheless, the court must enforce constitutional and statutory personal privileges, and a general observance of the spirit of the rules contained in chapter XXVII, MCM, will promote orderly procedure and ensure a full, fair, and impartial investigation. The rights of witnesses and parties shall be carefully safeguarded.

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#### 0413 PRESENCE OF PARTY AND COUNSEL

a. *At organization of court.* As soon as the court has determined the manner of proceeding and whether the court will be open or closed to the public, each party named in the appointing order shall be called before the court. Parties may be called individually, in groups, or all together. Any party represented by counsel may appear before the court with counsel at this time, and counsel may enter waiver of record of either or both the reading of the appointing order and advice as to rights (except as to a party suspected of an offense) as to the party or parties represented by him. Unless waived, the appointing order shall be read to the party or parties before the court. The rights of a party, as set forth in section 0304, shall be fully explained by the counsel for the court. The record may state simply that the appointing order was read or the reading thereof waived, but advice as to rights shall be reported verbatim. If any party is not represented by counsel and desires such representation, the court shall recess until counsel is obtained. If it is essential that the court take testimony which might otherwise become not conveniently obtainable, then, in lieu of recessing, the court shall appoint counsel (qualified under Article 27(b), UCMJ) to represent the party until he can obtain the attendance of counsel of his choice, and proceed with the taking of such testimony.

b. *Waiver.* A party to a court of inquiry may waive his right to be present during any portion of the proceedings. This waiver must be intelligently and knowingly made by the party or his counsel and the court shall carefully consider such waiver prior to proceeding in the absence of a party. Likewise, where the party is represented by counsel, the party may waive the presence of his counsel at any session of the court. In the event of the absence of a party or his counsel, the record shall show such absence and the express waiver by the party. The record shall also affirmatively show the beginning and the end of the absence of any party or his counsel.

#### 0414 CHALLENGE

a. *The right.* Any member of a court of inquiry may be challenged at any time during the proceedings

for cause stated to the court. The court will not receive a challenge to more than one member at a time. After disclosing his ground for challenge, the party may examine the member concerning that ground. This examination may or may not be under oath, at the discretion of the challenging party, but it shall be recorded verbatim. Counsel for the court may cross-examine the challenged member. After such examination and cross-examination, any other evidence bearing on the cause for challenge will be heard.

b. *Decision on challenge.* The burden of establishing the ground for challenge is on the party who made the challenge. The challenged member withdraws when the court is cleared to determine the challenge. A majority or tie vote disqualifies the challenged member. The court decides the challenge according to the preponderance of the evidence. A sustained challenge is immediately reported to the convening authority. If it reduces the number of members below three, the court will adjourn until the convening authority appoints another member. If the membership is not reduced below three, the court may proceed with its inquiry unless otherwise directed by the convening authority.

#### 0415 OATHS

a. *Reporter.* Every reporter shall, before entering upon his duties, make an oath or affirmation, administered by counsel for the court, in the following form:

"You swear (or affirm) that you will faithfully perform the duties of reporter to this court. So help you God."

b. *Court members.* Before the court begins the inquiry prescribed by the appointing order, counsel for the court shall administer to the members the following oath or affirmation:

"You, AB, CD, and EF, do swear (or affirm) that you will faithfully perform all the duties incumbent upon you as members of this court, and that you will examine and inquire, according to the evidence, into the matter now before you without partiality. So help you God."

c. *Counsel.* When the oath or affirmation has been administered to the members, the president of the court shall administer the following oath or affirmation to the counsel for the court, and his assistant counsel, if any (Counsel for the parties are not sworn):

"You swear (or affirm) that you will faithfully perform the duties of counsel (assistant counsel) for this court. So help you God."

d. *Interpreter.* Every interpreter shall, before entering upon his duties, make oath or affirmation, administered by counsel for the court, in the following form:

"You swear (or affirm) that you will faithfully perform the duties of interpreter to this court. So help you God."

e. *Challenged member.* If a challenged member is to be examined under oath as to his fitness to serve, counsel for the court shall administer the following oath or affirmation:

"You swear (or affirm) that you will answer truthfully to the questions touching your competency as a member of the court in this case. So help you God."

f. *Witnesses.* All persons who testify before the court shall be examined on oath or affirmation, administered by counsel for the court before they first testify, in the following form:

"You swear (or affirm) that the evidence you shall give in the matter now under investigation shall be the truth, the whole truth, and nothing but the truth. So help you God."

**NOTE:** In the administration of an affirmation, the word "affirm" is used in lieu of "swear." The words "so help you God," should be omitted in (1) administering an affirmation to one who does not believe in a Supreme Being; or (2) administering an affirmation to one whose individual religious belief forbids both his use of the word "swear" and a reference to the Supreme Deity in a secular proceeding.

**0416 ORDER OF PRESENTATION**

Witnesses are usually called for examination in the following order: Witnesses called by the counsel for the court; witnesses called by a party; witnesses called by counsel for the court in rebuttal; witnesses called by a party in rebuttal; and witnesses requested by the court. The order of examining each witness is usually direct examination, cross-examination, redirect examination, recross-examination, and examination by the court. Each witness will then be permitted to make a statement relating to matters pertinent to the inquiry not previously brought out in his testimony. Thereafter, counsel for the court or counsel for the parties will be permitted to examine the witness further concerning these matters as well as any matters touched upon in examination by the court. The foregoing order of presentation need not be followed when the court, in the exercise of its sound discretion, feels that a deviation therefrom will secure a more effective presentation of the evidence. However, such deviation shall not be permitted to prejudice the interests of any party to the inquiry.

**\*0417 ATTENDANCE OF WITNESSES**

It is the duty of counsel for the court to arrange for the attendance of all witnesses, both military and civilian. Witnesses may be summoned to appear and be examined before courts of inquiry in the same manner as provided for courts-martial. The provisions paragraph 115, MCM and sections 0138-0139 of this Manual are applicable except that terminology peculiar to courts of inquiry will be understood to apply where appropriate. A warrant of attachment (see paragraph 115, MCM) shall not be issued by a court of inquiry without prior approval of the Secretary of the Navy (Judge Advocate General).

**\*0418 INTERVIEWING WITNESSES**

Counsel for the court, any party, and counsel for any party are not precluded from interviewing any witness at any time, regardless of whether such witness has previously testified. The Privacy Act of 1974 must be complied with if an individual is asked by counsel for the court to supply personal information. See section 0308 and Appendix A-3-a.

**0419 EXCLUSION OF WITNESSES**

Witnesses other than a party ordinarily should be excluded from the courtroom except when they are testifying. In some cases expert witnesses may not be able to testify in an informed manner unless they are fully aware of all the circumstances surrounding the incident under inquiry. In such instances, and where the expert witness cannot give direct testimony concerning the incident, it is necessary to allow such expert to be present during the open sessions of the court in order that he may be sufficiently advised of the facts to give informed testimony as to the technical aspects of the incident. In these instances, the record must affirmatively show that the witness was present during the testimony of other witnesses.

**\*0420 EXAMINATION OF WITNESSES**

After a witness has been sworn, he should be informed of the nature of the inquiry unless it appears that he has been previously so informed. The court should protect every witness from improper questions, harsh or insulting treatment, and unnecessary inquiry into his private affairs. To prevent the false shaping of testimony through collusion, coercion, or other means, the court may request or direct a witness (see section 0307) to refrain from discussing his testimony or prospective testimony with other witnesses or any other person not having an official interest in the inquiry. See sample record of a court of inquiry in Appendix 4c(6) for form of instruction. See section 0305d regarding the Privacy Act of 1974.

**0421 AFFIDAVITS**

a. *Conditions for use of affidavits.* When the testimony of a witness is desired by a court of inquiry, but it appears that the witness resides or is beyond the State, Territory, Commonwealth, or District of Columbia in which the court is sitting, or beyond the distance of one hundred miles from the place where the court is sitting; or that the witness, by reason of age, sickness, bodily infirmity, imprisonment, military necessity, non-amenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place where the court is sitting; or that the present whereabouts of

the witness is unknown, an affidavit of such witness may be received in evidence by the court.

b. *Situations in which depositions are desired.* If a situation arises in which it would be desirable to take a deposition pursuant to oral or written interrogatories, this may be accomplished in such manner as the court of inquiry may deem preferable after hearing presentations by counsel for the court and any party concerned. If there is any likelihood that the deposition might be required in a subsequent court-martial proceeding, the procedures should comply with paragraph 117, MCM and guidelines prescribed in decisions of the Court of Military Appeals.

\*c. *Privacy Act compliance.* The Privacy Act shall be complied with if an individual is requested by a Government representative to supply personal information in an affidavit. See section 0308 and Appendix A-3-a.

#### 0422 DOCUMENTARY EVIDENCE

The original of a document or writing is superior in evidentiary value to a copy. This is true even as regards modern photographic duplications which are susceptible to tampering through such devices as masking or page substitutions. Often, it is not feasible to incorporate originals in court of inquiry records due to such factors as inconvenience involved in obtaining them, or their required retention in official files, or for use in a subsequent court-martial or civil court proceeding. In such cases the records of proceedings should reflect the location of the original; contain the most reliable copy practically obtainable; and indicate how its reliability was established, e.g., certificate of custodian of official records or comparison of copy with original document by counsel and/or members of the court of inquiry. A court of inquiry may receive a proffered copy of a document, noting upon the record at the time that later assurance of the veracity and authenticity of the document will be submitted to the court or to the convening or reviewing authorities for attachment to the record.

#### 0423 CLASSIFIED MATERIAL

See section 0209c of this Manual.

#### 0424 EXHIBITS

a. *General.* Exhibits will be numbered in the sequence in which they are received in evidence. It is ordinarily impracticable to attach real evidence (physical objects such as weapons, clothing, pieces of equipment, etc.) to the record. Such exhibits should be clearly and accurately described in the record by testimony or other means (photographs, for example) so that they may be considered properly on review.

b. *Custody.* At the conclusion of the inquiry, articles received in evidence should be delivered to the convening authority (his designated representative), to be preserved for subsequent use as evidence if disciplinary action is to be taken. When final action has been taken in the case, the articles shall be returned to their rightful owners. If the owners are not known appropriate disposition may be made of them.

c. *Copies.* When original deck logs, bell books, or other naval records are received as exhibits, an accurate copy will be substituted when the record is prepared for submission. If damage of an admiralty nature is involved, the procedure set forth in chapter XII shall be followed.

#### 0425 COMMUNICATIONS WITH THE CONVENING AUTHORITY

If at any time during the course of the proceedings it should appear, from the evidence adduced or otherwise, that circumstances exist in the light of which the convening authority might consider it advisable to enlarge or restrict the scope of the inquiry, to alter the composition of the court (whether by augmentation or substitution), or to cancel or otherwise modify any instruction set forth in the appointing order, a report should be made to the convening authority. The court may include recommendations in this report. The convening authority may take such action on this report as he, in his discretion, deems appropriate. Copies of all such communications and replies should be appended to the record.



**0426 VISITING SCENE OF INCIDENT**

When practicable, it may be desirable to visit the scene of the incident. Usually no testimony is taken at the scene, the sole purpose being to acquaint the court with the physical characteristics of the scene. The court should normally be accompanied to the scene by counsel for the court, the parties and their counsel, and the reporter, but any party may waive attendance by either or both himself and his counsel.

**0427 STATEMENTS OF THE PARTIES**

Regardless of whether a party has previously testified as a witness, he may make an unsworn statement to the court after all the witnesses have testified and before the arguments. The party may not be cross-examined upon this unsworn statement. Counsel for the court or any of the other parties to the inquiry may, however, introduce evidence to rebut any statements of fact contained therein. The statement may be oral or written, and may be made by the party or his counsel. The statement should be factual, not argumentative, in nature.

**0428 ARGUMENTS**

After the testimony and statements by the parties, if any, the counsel for the court and the counsel for the parties shall be permitted to present argument if they so desire. The impartial role of the counsel for the court required by section 0405c shall not be abandoned. If counsel for the court presents argument, his remarks should be in the nature of a summation of the evidence rather than partisan advocacy. The counsel for the court has the right to make the opening argument and if any argument is made on behalf of a party, the closing argument. The court may set any reasonable limitation on the length of arguments.

**0429 REPORT BY THE COURT**

After all the evidence is in and all statements and arguments have been received, the court shall declare the inquiry closed. The court will then consider the evidence, statements, and arguments, and the instruc-

tions contained in the appointing order shall be carefully re-examined and scrupulously followed. At the request of the court, counsel therefor shall assist in the preparation of the findings of fact, opinions, and recommendations, or any part thereof. The report of findings of fact, opinions, and recommendations shall become a part of the record.

**0430 FINDINGS OF FACT**

The court, after deliberating on the evidence received during the inquiry, shall first proceed to record the facts found which constitute a concise description of the matter investigated. Care shall be taken to state only facts. The findings of fact shall include only those facts which the court believes the evidence establishes, and nothing further. A fact need not be proved beyond a reasonable doubt to be listed as such; believable evidence in the record to support the finding is adequate. See Appendix 4e(1).

**0431 OPINIONS**

If opinions are called for in the appointing order or required by regulations, the court shall list all of its opinions drawn from and supported by the facts. Depending upon the nature of the inquiry and the provisions of the appointing order, opinions include inferences drawn from the facts; opinions as to performance of duty by individuals concerned or as to performance of functions by equipment involved; and opinions required by regulation. For guidance as to what opinions must be expressed and opinions which will not be required or expressed in specific situations, see chapters VIII and IX and Appendix 4e(2).

**0432 RECOMMENDATIONS**

When the appointing order calls for recommendations the court shall make such recommendations as are specifically directed and any others that, in its opinion, are appropriate and advisable in view of the nature of the facts found and opinions expressed. If any member of the court recommends trial by court-martial, a charge sheet, signed and sworn to by a member who has so recommended, shall be prepared and submitted to the convening authority with the record of proceedings. See paragraph 29, MCM. If a punitive letter of reprimand or admonition is recommended,

a draft of the recommended letter will be prepared and forwarded with a record of proceedings. If a non-punitive letter is recommended, a draft will be prepared and separately forwarded to the appropriate commander for issuance, but will not be included as a part of the record of proceedings. See Appendix A-1-a, A-1-b(1), A-1-c(1), and A-4-c(2).

#### 0433 DISAGREEMENT AMONG MEMBERS

The report of the court shall be based upon the opinion of the majority. If a member does not concur with the findings, opinions, or recommendations of a majority of the court, he shall append his minority report to the record and state explicitly the parts of the majority report with which he disagrees and the reasons therefor. The minority report may also include additional findings of fact, opinions, or recommendations. See Appendix 4e(2).

#### 0434 OBLIGATION OF SECRECY

Although not prohibited by his oath, no member or counsel for the court, or other person officially connected with the inquiry, shall disclose or publish any findings, opinions, or recommendations of the court or of the individual members without prior approval of the Secretary of the Navy (Judge Advocate General).

#### 0435 PREPARATION AND SUBMISSION OF THE RECORD

a. *Composition.* The record of proceedings of a court of inquiry shall include the original appointing order and any other communications from the convening authority. It shall contain the verbatim testimony of all witnesses and all proceedings of the court, except that, in the discretion of the court, arguments presented on behalf of the Government and any party to the inquiry may be summarized. Routine proceedings of the court may, however, be described in the past tense as actions taken in lieu of present tense recording of language actually used by participants; but this shall not include advice provided as to the rights of parties or statements or actions of parties respecting the exercise or waiver of such rights. The findings of fact, opinions, and recommendations shall be included as well as documents and exhibits received in evidence by the court. See section 0424. A copy of the findings of fact, opinions, and recommendations shall be prefixed to the record. See sample record in Appendix 4d.

b. *Signing and authenticating.* All concurring members shall sign the record immediately under the findings of fact, opinions, and recommendations. This includes an officer who participated in only part of the proceedings (provided he participated at the time of the findings). Such limited participation shall be disclosed in the record of proceedings. In the case of a minority report, the respective reports must be signed by the members of the court concurring therein. The proceedings shall be authenticated by the signatures of the president and counsel for the court. In case the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president, and in case the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel (Art. 135h, UCMJ). See Appendix 4e(3).

c. *Forwarding.* The record of proceedings, together with the number of complete copies required by the circumstances, shall be forwarded to the convening authority by the president using a short letter of transmittal. See Appendix 4b

\* *Privacy Act compliance.* When an individual is requested by a Government representative to supply personal information, it is mandatory that there be compliance with subsection (e)(3) of the Privacy Act of 1974 (5 U.S.C. § 552a) in accordance with section 0308 and Appendix A-3-a. The record of proceedings must reflect the foregoing compliance.

#### 0436 ACTION OF THE CONVENING OR REVIEWING AUTHORITY ON THE RECORD

See section 0210 and Appendix 4c of this Manual.

#### 0437 SAMPLE RECORD

The sample record of proceedings of a court of inquiry in Appendix 4d may be used as a guide in the conduct of the proceedings of a court of inquiry. Nothing in the sample record, however, shall be considered as authority to depart from the provisions of this chapter. Deviations from the sample proceedings, when not inconsistent with the provisions of this chapter, may be made when appropriate and necessary to execute the primary mission of fact-finding more effectively. When procedural steps are taken which are not covered in the sample record, the provisions of appendix 8, MCM may be consulted for general guidance.

**Chapter V**  
**FORMAL FACT-FINDING BODIES**

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**0514 CHALLENGE**

## PART A - FORMAL BOARDS

## 0501 COMPOSITION

A formal board of investigation shall consist of two or more commissioned officers. When practicable, the senior member should be at least a lieutenant commander in the Navy or a major in the Marine Corps.

## 0502 APPOINTING ORDER

a. *Authority to convene.* For persons authorized to convene a formal board of investigation, see section 0206b of this Manual.

b. *Form of appointing order.* Formal boards of investigation are convened by an appointing order signed by the convening authority. The appointing order shall be in official letter form addressed to the senior member of the board. When circumstances warrant, a formal board may be convened on oral or message orders. Written confirmation of oral or message orders will be issued in each case. Message orders and all confirmations of orders shall be included in the record of proceedings.

c. *Contents of appointing order.* The appointing order of a formal board of investigation shall name the members and, when appropriate, separate counsel and parties. It shall specify the time and place for initial meeting. It shall recite the specific purposes of the inquiry and shall contain explicit instructions as to the scope of the inquiry. Inasmuch as the information developed by the investigative board is used not only by the convening authority but in many cases by authorities remote from the command, the appointing order should contain ample instructions to ensure the accomplishment of the purposes for which the investigation was convened. All formal boards shall be directed to report findings of fact. If the convening authority desires, he may also direct that opinions and recommendations be submitted. The appointing order may direct the administration of oaths to witnesses and the verbatim recording of the proceedings. In addition, it shall in every case state whether the formal board is or is not authorized to designate parties to the investigation. This authorization may be withheld despite the fact that the convening authority has, in the appointing order itself, designated a party or parties. This authoriza-

tion may be granted broadly or it may be limited; that is, the formal board may be empowered to designate as a party any person whose conduct or performance of duty may be subject to inquiry (subject to the limitations contained in subsection 0302b), or it may be empowered to designate parties from a specified class of persons, for example, officers. The appointing order may provide for the appointment of reporters and interpreters.

d. *Seniority of members.* In those instances where the convening authority has designated or has authorized a formal board to designate parties, no member of the board should be junior in rank to any duly designated party. Should an officer senior to any member be designated a party during the proceedings, the convening authority shall be notified so that he may revise the membership in accordance with the seniority principle, if practicable. Whenever it has not been practicable to adhere to the seniority principle in membership, the convening authority shall state the reasons therefor in his action on the record of proceedings. The seniority principle is not applicable to counsel except when the junior member of a formal board is also acting as counsel.

e. *Amendment.* The convening authority may amend the appointing order at any time to change the membership of the formal board, to limit or increase the scope of the inquiry, to name additional parties, or to provide additional instructions.

f. *Advance copies.* On occasion it may be advantageous to forward an advance copy of the appointing order to interested superiors so that they may be apprised of significant occurrences and actions being taken in connection therewith.

## 0503 DUTIES OF THE SENIOR MEMBER

a. *General.* The senior member shall preserve order, decide upon matters relating to the routine business of the board. He may recess or adjourn the board to meet at a specified time and place.

b. *Rulings.* Should a member object to the senior member's ruling on any matter, a vote shall be taken in closed session and the decision of the majority shall govern. In case of a tie vote, the decision of the senior member shall govern.

## SPECIFIC TYPES OF INCIDENTS

0903

(6) Type, model, and bureau number of aircraft involved.

(7) A description of flight path and maneuvers of the aircraft during flight, including manner of descent and impact.

(8) The positions of external control surfaces, landing gear, canopy, etc., during the flight.

(9) The presence, condition, and use of safety, communication, escape, and survival equipment.

(10) A post-accident examination of the aircraft and a detailed description of all damage to the aircraft, including wreckage diagrams, disassembly and inspection reports, wreckage photographs, and data on engine, fuselage, and control surfaces.

(11) An examination of the scene of the accident with complete information as to its precise location and a detailed description of the extent of any damage to Government or private property.

(12) A description of rescue operations employed.

(13) Instructions in effect at the time of the accident concerning procedures relating to the particular flight (including applicable local and regional flight rules governing the flight).

(14) The status of all personnel aboard, i.e., whether pilot, co-pilot, member of the crew, or passenger.

(15) Performance data on aircraft in question under prevailing wind, weather, and temperature conditions.

(16) All deaths resulting from the accident and the precise medical cause thereof (substantiated by medical records, autopsy, and death certificate).

(17) The cause, nature, and extent of any injuries suffered as a result of the accident (substantiated by medical records), including misconduct-line of duty determinations in the case of injuries to naval personnel, if directed.

(18) The role of other aircraft in the occurrence.

(19) The roles of supervisory, support, and controlling personnel.

d. *Other Federal agency participation.* Participation of Civil Aeronautics Board (CAB) or the Federal Aviation Agency (FAA) is covered by OPNAVINST 3750.16 series.

## 0903 VEHICLE ACCIDENTS

a. *Basic matters.* If the subject matter of the investigation involves any motor vehicle accident, the following facts are important and should be covered in the fact-finding report, if applicable:

(1) Speed of vehicles involved as evidenced by testimony of witnesses, skid marks, condition of roads, and the damage to the vehicles.

(2) Road factors, including all road characteristics, natural obstructions to the driver's vision, and traffic signs.

(3) Other vehicles, including any part played by them in creating the conditions that resulted in the accident.

(4) Traffic conditions at the scene of the accident and their effect on the accident.

(5) Traffic laws and regulations in force pertinent to the accident, including required safety devices.

(6) Light and weather conditions and their effect on driving conditions.

(7) Mechanical condition of the vehicles involved.

(8) Physical condition of the driver, or drivers including sobriety, fatigue and exhaustion, and the effect of their physical condition on the accident.

(9) Driving experience of the driver or drivers.

(10) Safety devices installed and whether they were being used at the time of the accident.

b. *Passengers.* The following information should be provided with respect to passengers:

(1) Conduct of passengers and the effect thereof on the driver.

(2) Prior relationship of passengers and driver which is relevant to knowledge by any passenger of any impairment of the driver (which may have caused the accident) at the time the passenger entered or had a reasonable opportunity to leave the vehicle.

(3) Safety devices installed and whether they were being used at the time of the accident.

#### 0904 EXPLOSIONS

a. *General.* The report of the fact-finding body should cover the cause and responsibility for the explosion, the extent of injuries to personnel, the damage to property and probable monetary amount thereof, and all other relevant circumstances.

b. *Specific facts.* The following information should be included in the record, if applicable.

(1) Date, time of day, place, and probable causes.

(2) Kind of explosives or ammunition and the quantity involved.

(3) Time intervals, if measurable, between explosion.

(4) Existence of barricades and effect upon them; the existence of any hill, forest, or other object intervening between the site of the explosion and the areas affected.

(5) Weather and atmospheric conditions and their effect on shock waves.

(6) Range and extent of damage. Where feasible, maps or photographs should be included, upon which all or most of the following data may be shown:

(a) Radius of complete destruction.

(b) Radius of structural damage beyond economical repair.

(c) Radius of repairable structural damage.

(d) Radius of general glass breakage.

(e) Distances to which significant missiles were projected (include kind and weight).

(f) Distance between locations, if explosions occurred at more than one location.

(g) Distances between ships and other vessels or structures affected and distances to nearby ships or structures not affected.

(7) Approximate shape and dimensions of crater, including depth and kind.

(8) Personnel involved and the extent of their involvement.

(9) If claims are involved, see applicable chapters XII and XX through XXIV.

#### 0905 LOSS OR STRANDING OF A SHIP OF THE NAVY

a. *General.* The evidence from which the findings of fact are derived should include all pertinent logs, charts, orders, and regulations. The condition of the sea and weather, the rate and direction of the tidal stream, the time of the tide, and other factors involving natural elements should be stated. Any mechanical or electronic deficiency or failure in the ship pertinent to the loss or stranding should be investigated and reported. The primary objects of the investigation should be to ascertain the cause and individual responsibility for the loss or stranding and the damage resulting therefrom. See section 0907b concerning loss or stranding as a result of enemy action.

b. *Determination of ship's position.* Investigation should be made as to whether the proper chart provided by the Department of the Navy was used, whether the position of the ship at the last favorable

opportunity was accurately determined and, if not, when it was last accurately ascertained. In appropriate cases, a competent officer, not attached to the ship involved and not a member of the fact-finding body, should be directed to work up the reckoning of the ship from the data available to enable the investigative body to fix the true position of the ship at the time of her taking the ground. The officer appointed to perform this duty should be called as a witness and, upon the offering of his written work in evidence, be subject to cross-examination as to the accuracy thereof. The track of the ship so determined, as well as her position when aground, as determined by cross bearings taken from the log book or by other means, should be laid off on the chart by which she was navigated.

c. *Navigation in pilot waters.* If land was sighted and the distance estimated before the ship struck, it should be ascertained what steps were taken during the time land was in sight to correct the ship's course and speed. The extent to which applicable instructions (e.g., those contained in Coast Pilot or Sailing Directions) were observed should be particularly noted.

d. *Procedure in case of loss of a ship.* Whenever inquiry is made into the loss of a ship, the investigative body should call for the official report of the commanding officer of such ship, containing the narrative of the disaster. This report should be read to the investigating body in the presence of the commanding officer and of such of the surviving officers and crew as can be assembled and should be appended to the record or report of investigation.

#### 0906 COLLISIONS

a. *General.* In the event of a collision involving a naval vessel or damage caused by a naval vessel to any shore structure, fish net or trap, buoy, or similar foreign object which results in property damage or personal injury, the appropriate officer in command should ensure that a fact-finding body is ordered to determine the responsibility for the accident, the extent of injuries to personnel, the damage and probable cost thereof, and other attendant circumstances. The record of a fact-finding body appointed to investigate a collision should contain the name, grade, class of service, permanent home address,

length of service, and marine experience of each material witness to the collision. See section 1203b with respect to the possible use of a letter report in minor cases which are of interest only from an admiralty claim standpoint.

b. *Collision with vessels or damage caused by naval vessels to property other than that of the U.S. Navy.* The appropriate officer in command should, in addition to complying with the admiralty claims procedure (chapter XII), ensure that an appropriate fact-finding body is ordered to investigate the incident. No officer, pilot, or agent of a non-Navy vessel involved in a collision with a naval vessel shall be designated a party or accorded the rights of a party without the concurrence of the Secretary of the Navy (JAG). Such person may be afforded an opportunity to appear and give evidence as a witness, and while testifying he may be represented by counsel. Neither the witness nor his counsel has a right to be present when other witnesses testify. The non-Navy witness or his counsel may be furnished only with a copy of that portion of the record containing his testimony and any other matter derived solely from such testimony. Ordinarily, the proceedings of the fact-finding body ordered to investigate the incidents described in the heading of this subsection should be in closed session in order to safeguard the interests of the Government. See section 1203b with respect to the possible use of a letter report in minor cases which are of interest only from an admiralty claim standpoint.

c. *Damage to Navy vessels or property caused by non-Navy vessels.* Incidents involving damage to Navy vessels or property caused by non-Navy vessels or floating objects should be investigated in accordance with subsections a and b above.

d. *Other sources of guidance.* See (Admiralty Claims), chapter XII.

#### 0907 ACCIDENTAL OR INTENTIONAL FLOODING OF A SHIP

a. *Scope of investigation.* In cases of grounding, collision, or structural or material failure which involve accidental or intentional flooding of parts of a naval ship, the report of the fact-finding body should contain the following information:

(1) Draft forward and aft and list of ship before and after damage. These drafts may have to be estimated from drafts recorded on departure from last port and on arrival in port after damage.

(2) General distribution and amounts of variable weights, particularly fuel and water, before damage.

(3) Compartments flooded and the rapidity of flooding of individual compartments, if available.

(4) Cause of flooding of each compartment; that is, whether the flooding was due directly to damage to structure or due to deficiencies of structure or closures such as doors, hatches, valves, vent closures, etc.

(5) The material condition of readiness in effect at the time of the casualty.

(6) Summary of steps taken to control damage and to correct list or trim.

(7) Performance of installations, such as flood control, automatic door and hatch closures, etc.

(8) Extent of damage (hull, machinery, electronics supplies, cargo, etc.) including description and value thereof.

\* *b. Enemy action.* A JAG Manual investigation is not required for loss, damage, or flooding of a naval vessel or craft as a direct result of enemy action. The loss, damage, or flooding of a naval vessel or craft is a direct result of enemy action when it is due to hostile action or to an unknown cause in a hostile area. The foregoing does not dispense with the requirement of a JAG Manual investigation solely because the loss, damage, or flooding occurs in the course of combat operation, such as a collision when leaving port or returning port caused by hostile forces. Further, a JAG Manual investigation is not precluded when deemed appropriate by operational or administrative commanders; nor does the foregoing affect the inherent right of such commanders to investigate in order to gather, evaluate, or verify the facts of a combat engagement when enemy action has resulted in loss, damage, or flooding of a naval vessel or craft. This subsection relates to JAG Manual investigations only and does not affect any other reporting requirement, such as reports required under articles 0739

and 0743, U.S. Navy Regulations, 1973. See also section 0203d of this Manual.

#### 0908 PRETRIAL INVESTIGATION

*a. Investigation of charges.* If practicable, when a court of inquiry or formal fact-finding body is convened to investigate an incident which is likely to result in general court-martial charges, it should be provided with sworn charges and directed to investigate the charges in accordance with Article 32, UCMJ and paragraph 34, MCM.

*b. Investigation prior to charges.* If a JAG Manual investigation of the subject matter of an offense was conducted before the accused was charged with the offense, the investigation may be used in lieu of an investigation of the charges under Article 32, UCMJ providing:

(1) The accused was present at such investigation and was:

(a) advised of the offense of which suspected and of his right to be represented by counsel (see section 0304b) at the investigation;

(b) informed of his rights under Article 31, UCMJ;

(c) given full opportunity to cross-examine witnesses against him if they were available; and

(d) given full opportunity to present anything he desired in his own behalf, either in defense or mitigation;

(2) All statements of witnesses were given under oath or affirmation unless such requirement was waived by the accused; and

(3) The accused, after being informed of the formal charge against him, did not demand further investigation of the charges. In the event of such demand, opportunity shall be given to the accused to recall witnesses for further cross-examination and to offer any other evidence in his behalf. See paragraph 33e(1), MCM. This may be done by additional proceedings of the court of inquiry or formal investigation, or by referring the case to a single investigating officer to hear and record such



27

James M. Ennes, Jr. Research Papers

HIGHLIGHTS  
OF  
MILLER  
VS

DEPT OF STATE

James M. Ennes, Jr. Research Papers

FOLDER 27

United States Court of Appeals  
FOR THE EIGHTH CIRCUIT

\_\_\_\_\_  
No. 84-5161  
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James Miller,

Appellant,

v.

United States Department  
of State,

Appellee.

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On Appeal from the United  
States District Court  
for the District of  
Minnesota.

Submitted: September 12, 1985

Filed: December 30, 1985

Before ROSS, McMILLAN, and ARNOLD, Circuit Judges.

ARNOLD, Circuit Judge.

This case arises under the Freedom of Information Act (FOIA), 5 U.S.C. §552. Plaintiff James Miller requested certain information from the State Department. When, after the passage of a year, he had received only a handful of documents, and repeated inquiries to Department officials had borne no fruit, he filed this suit in the District Court,<sup>1/</sup> seeking injunctive re-

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<sup>1/</sup> The Hon. Robert G. Renner, United States District Judge for the District of Minnesota.

rief against the Department and certain named employees<sup>2/</sup> and also recovery of his costs of suit, including legal fees. After receiving evidence in the form of affidavits, the District Court granted summary judgment to the State Department on the ground that its response to Miller's request had been adequate under the statute. The District Court also denied Miller recovery of his legal fees. From that order, plaintiff appeals. We affirm as to the grant of summary judgment but reverse with respect to attorney's fees and remand for further consideration in the District Court.

I.

Plaintiff Miller, an amateur historian, requested on 23 July 1981 the following information from the State Department:

- (a) All State Department documents relating to the attack on the U.S.S. Liberty on 8 June 1967 by Israel.
- (b) Any documentary evidence which demonstrates that this attack wasn't deliberate.

Internal documents and documents between the U.S. and Israel are both requested . . . . I assume that there were documents through Dec. 1980 when Israel agreed to compensation for the U.S.S. Liberty itself.

Correspondence involving compensation to victims of this attack is not requested.

Appendix at 7.<sup>3/</sup>

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<sup>2/</sup> The District Court dismissed the complaint as to the individual defendants, holding that only the Department of State itself is a proper defendant in this FOIA action. Plaintiff does not contest this holding on appeal.

<sup>3/</sup> The U.S.S. Liberty, a United States Navy vessel, was bombed, strafed, and torpedoed by units of the Israeli Defense Force on 8

On 21 August 1981, the State Department advised Mr. Miller that a search was under way for the documents which he had requested. During December of that year, Miller twice called the State Department to check on his request. During at least one of those conversations, he mentioned an earlier FOIA request on the same subject by one James Ennes. On 15 January 1982, after he had written the Department complaining of the delay in processing his request, he was informed that the Ennes file (containing 163 documents) had been located. The State Department employee who wrote him forwarded seven of the documents from that file and stated that any other releasable documents would follow as soon as the file was organized. The official indicated that since the Ennes request had been broader than Miller's,<sup>4/</sup> few of the papers would be responsive to Miller's request. Miller was also told at this time that a search had been initiated several months earlier for documents related to Israeli compensation for the loss of the ship. (This information would have been outside the scope of the 1977 Ennes request, and therefore would not have been in the file assembled for it.)

On 26 February 1982, Miller wrote the State Department requesting the entire contents of the Ennes file<sup>5/</sup> that defendants said they had located, and indicating his intention to file an

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June 1967. Thirty-four members of the American military were killed and 75 were wounded in the incident, which was later held to have been an accident.

<sup>4/</sup> Mr. Ennes, who was injured in the Liberty incident, had requested personal information on his claim under the Privacy Act (5 U.S.C. 552a), and had also requested information on individual compensation claims, which was not within Miller's initial FOIA request.

<sup>5/</sup> Defendant State Department makes much of the "confusion" engendered by this change in Miller's request. However, as appellant pointed out in oral argument, the alteration in the request appears to have been an attempt by Miller to accommodate to the difficulties which the Department appeared to be having in sorting out the medical claims documents in the Ennes file.

appeal if the documents were not released by 31 March 1982. On 7 April 1982, after hearing nothing more from the State Department on his request, Miller filed an appeal with the Department under 5 U.S.C. §552(a)(6). Acknowledging his letter on 21 April 1982, the Department declined to process his appeal because the requested material had not been "formally denied" to him. In this letter, the Department explained its tardiness as the result of "an imbalance of requests and available resources." Miller heard no more from the Department until after he filed this lawsuit in the District Court on 23 June 1982.

Miller's complaint sought (1) a declaration that the defendants' failure to respond promptly to his FOIA request constituted a denial of the documents and estopped them to assert that he had not exhausted his administrative remedies; (2) a mandatory injunction compelling the defendants to release the documents which he had requested; (3) production of an itemized index identifying each document withheld under an exemption to the Act, and justifying such withholding; (4) recovery of attorneys' fees and costs under §552(a)(4)(E); and (5) that the District Court order the Office of Personnel Management to investigate the defendants' "arbitrary, capricious, and dilatory behavior" for the purpose of considering whether disciplinary measures might be appropriate against individual State Department employees, as authorized by 5 U.S.C. §552(a)(4)(F).

Three months after this complaint was filed, the State Department provided Miller with copies of 56 documents from the previously-released "Ennes" file. After Miller filed a motion for a pretrial conference, the defendants released a total of 231 additional documents and other agencies released four documents which had been referred to them by the defendants. All of these documents were in addition to the ones which had been released to Mr. Ennes under his earlier and "broader" request under FOIA and the Privacy Act. In February 1983, Miller's motion for discovery

was heard. Release of 31 additional documents followed, even though the defendants resisted the motion for discovery. A Miller motion to compel discovery in April 1983 was followed by three more documents. In May 1983 the defendants moved for summary judgment and averred that "all of the information relevant to this request is being released in full."<sup>6/</sup> Yet at least 35 additional documents trickled in in succeeding releases by the State Department. By the end of September 1983, over two years after Miller's initial FOIA request and fifteen months after filing of this lawsuit, the State Department had released to him a total of 367 documents.<sup>7/</sup>

On 27 April 1984, the Magistrate filed his report and recommendation (App. at 135-50), to which Mr. Miller objected in a detailed brief. On 11 July 1984, the District Court entered an order granting summary judgment to the defendants and denying Miller the recovery of attorney's fees.

## II.

Appellant appeals the grant of summary judgment on two grounds: First, that the District Court erred in finding that plaintiff had failed to raise a substantial issue of fact as to the adequacy of the State Department's search for the documents which he had requested and as to the good faith of the government affidavits which explained the search and the delays which accompanied it; and second, that the Court erred in accepting the

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<sup>6/</sup> First Friedman Affidavit, App. at 25.

<sup>7/</sup> This total is derived from our examination of the portion of the record which is available to us in Appellant's Appendix. The exact total is somewhat uncertain. Miller states in his brief (at 24) that he ultimately received 362 documents. However, in his objections to the Magistrate's Report (App. at 151-89), he uses three different figures, ranging from 363 to 375. The confusion could have resulted from duplicate documents or from re-releases.

State Department's justification for withholding all or part of some documents under the FOIA's national-security exemption.

A.

Summary judgment is available to the defendant in a FOIA case when the agency proves that it has fully discharged its obligations under FOIA, after the underlying facts and the inferences to be drawn from them are construed in the light most favorable to the FOIA requester. Weisberg v. U.S. Department of Justice, 705 F.2d 1344, 1350 (D.C. Cir. 1983). In order to discharge this burden, the agency "must prove that each document that falls within the class requested either has been produced, is unidentifiable, or is wholly exempt from the Act's inspection requirements." National Cable Television Ass'n, Inc. v. Federal Communications Comm'n, 479 F.2d 183, 186 (D.C. Cir. 1973). The adequacy of an agency's search for requested documents is judged by a standard of reasonableness, i.e., "the agency must show beyond material doubt . . . that it has conducted a search reasonably calculated to uncover all relevant documents." Weisberg, 705 F.2d at 1351. But the search need only be reasonable; it does not have to be exhaustive. See, e.g., Shaw v. U.S. Department of State, 559 F. Supp. 1053, 1057 (D.D.C. 1983). An agency may prove the reasonableness of its search through affidavits of responsible agency officials so long as the affidavits are relatively detailed, nonconclusory, and submitted in good faith. Goland v. Central Intelligence Agency, 607 F.2d 339, 352 (D.C. Cir. 1978), cert. denied, 445 U.S. 927 (1980). It was the intent of Congress that agency affidavits be accorded substantial weight in national-security cases, see S. Rep. No. 1200, 93d Cong., 2d Sess. 12, reprinted in 1974 U.S. Code Cong. & Ad. News 6285, 6290. "[T]hese affidavits are equally trustworthy when they aver that all documents have been produced or are unidentifiable as when they aver that identified documents are exempt." Goland, 607 F.2d at 352.



Despite this weight to be accorded to agency affidavits, the burden remains on the government to demonstrate that it has thoroughly searched for the requested documents where they might reasonably be found. If the agency has not made this showing, then the requester can avert a motion for summary judgment merely by demonstrating some reason to think that the document would have turned up if the agency had looked for it, e.g., by showing that the document originated with the agency or that the agency is set up to retrieve just that kind of document. See Weisberg, 705 F.2d at 1351. But once the agency has shown by convincing evidence that its search was reasonable, i.e., that it was especially geared to recover the documents requested, then the burden is on the requester to rebut that evidence by a showing that the search was not in fact in good faith. Id. Summary judgment would be improper if the adequacy of the agency's search were materially disputed on the record, for such a dispute would indicate that material facts were still in doubt.

The State Department in this case furnished affidavits by responsible officers setting out in detail the search procedure used in responding to Miller's request.<sup>8/</sup> As these officials explained, the State Department maintained no separate file on the subject "U.S.S. Liberty," at least prior to 1973. Before that date, State Department Central Files were indexed by fairly broad "concept terms." In order to retrieve documents on the U.S.S. Liberty incident, department personnel searched manually through the subject-matter files which were most likely to contain such material. Two such sets of subject-matter files were initially screened for Liberty documents: "POL 27 Arab-Israel" and "PS 8-4 U.S.-Israel." "POL 27" indicated "military operations"; "PS 8-4" covered "seizures and damages."<sup>9/</sup> The

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<sup>8/</sup> See, e.g., First affidavit of Frank M. Machak, App. at 58-81; Second affidavit of Jack Friedman, App. at 83-99.

<sup>9/</sup> First Machak affidavit, App. at 61.

search covered these files for the years 1967 to 1973. "The POL 27 Arab-Israel" file for the years 1967 to 1969 alone contained about 20,000 documents;<sup>10/</sup> presumably the other files were also large. As documents relating to the Liberty incident were located in these files, they were removed for more detailed screening; each one was assigned a sequence number for the purposes of this FOIA request. Ultimately, a total of 619 documents were retrieved and numbered as a result of this and subsequent searches.<sup>11/</sup>

Documents which had entered the State Department Central Files subsequent to 1973 were cross-indexed in a computer system by subject-matter, proper name, organization, and other categories.<sup>12/</sup> For these materials, retrieval was possible under the category "U.S.S. Liberty" (assuming, of course, that all documents had been properly cross-indexed when they were first placed in the files) without laborious manual screening. In addition, the Department searched organizational files outside of the Central Files<sup>13/</sup> and located a few Liberty-related documents, which were also included within the sequence numbered 164-619.

After retrieval of documents from the files, each document was reviewed to ascertain whether it was within the scope of Mr. Miller's request.<sup>14/</sup> During this substantive review, documents which did not in fact relate to the Liberty incident were set aside, as were documents which were not responsive to

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<sup>10/</sup> Id.

<sup>11/</sup> The first 163 documents in the sequence were the "Ennes" file, which apparently had been maintained separately after Mr. Ennes's FOIA request in 1977. See App. at 75.

<sup>12/</sup> First Machak affidavit, App. at 61.

<sup>13/</sup> First Machak affidavit, App. at 74-75.

<sup>14/</sup> Second Friedman affidavit, App. at 84-86.

Miller's request, such as individual compensation claims.<sup>15/</sup>  
Documents which were duplicated in the file were also removed.<sup>16/</sup>

After substantive review of the retrieved documents, each document was reviewed in order to determine whether it should be withheld under one of the statutory exemptions under the FOIA. Documents which were deemed to be withholdable were removed from the sequence. Ultimately, Mr. Miller received about 367 out of a numbered sequence of 619 pieces. The processing procedure outlined above explains, at least facially, the numbering gaps which the appellant points to as evidence of "missing" and presumably unaccounted-for documents.

Since the State Department has provided affidavits which set out in detail and in non-conclusory terms the steps which the Department took in searching for the materials requested by Miller, it is incumbent on the Appellant to raise a substantial and material factual issue in regard to the reasonableness of the search. This can be done either by contradicting the defendants' account of the search procedure or by raising evidence of the defendants' bad faith. See, e.g., Brinton v. Department of State, 636 F.2d 600, 606 (D.C. Cir. 1980), cert. denied, 452 U.S. 905 (1981). Miller has sought to do this by (1) evidence of existing but unreleased and unaccounted-for documents; (2) evidence that the Department released a number of documents long

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<sup>15/</sup> As noted above, Miller's initial FOIA request specifically excluded these materials. In February 1982, he amended his request to include all material which had been released under the Ennes request, but in August of that year indicated that he still did not want individual medical claims materials. See Second Friedman affidavit, App. at 86. However, when the plaintiff complained that the Department was deliberately withholding relevant material from the Ennes file, these medical claims documents were reprocessed and released to him. Third Friedman affidavit, App. at 104-05.

<sup>16/</sup> First Friedman affidavit, App. at 24.

after it had averred by affidavit that all responsive documents had been released; and (3) evidence of the Department's delay in responding to his request.

Miller asserts that he has repeatedly identified for the State Department particular documents which were internally referred to in documents released to him. He argues that the fact that these referenced documents were not sent to him indicates an inadequate search on the part of the State Department. Essentially, he is attacking the competency of the search method because it did not uncover known and identified documents. However, the standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials. The fact that a document once existed does not mean that it now exists; nor does the fact that an agency created a document necessarily imply that the agency has retained it. Thus, the Department is not required by the Act to account for documents which the requester has in some way identified if it has made a diligent search for those documents in the places in which they might be expected to be found; it is not necessary "to create a document that does not exist in order to satisfy a [FOIA] request." Yeager v. Drug Enforcement Administration, 678 F.2d 315, 321 (D.C. Cir. 1982). Moreover, the filing system which an agency uses is designed in most instances to serve its internal needs; in responding to a FOIA request, the agency is required to make a diligent effort calculated to uncover the requested document but need not restructure its entire system in order to satisfy the request. See McGehee v. Central Intelligence Agency, 697 F.2d 1095, 1100 (D.C. Cir. 1983), modified in part on reh'g, 711 F.2d 1076 (D.C. Cir. 1983). The competence of a records search must be determined in relation to the circumstances of the case. If the appellant is able to show circumstances indicating that further search procedures were available without the Department's having

to expend more than reasonable effort, then summary judgment would be improper. See Founding Church of Scientology v. National Security Agency, 610 F.2d 824, 834 (D.C. Cir. 1979). The State Department here set out in detail the search methodology used to recover relevant documents. It explained that for documents filed before 1973 retrieval by reference was impracticable, although retrieval by subject matter (the method used) could be expected to locate relevant referenced documents. For documents generated after 1973, the Department was able to, and did, locate internally referenced material through computer search. Appellant has not shown here that other reasonable means would have satisfied his request. He alleges that the search was insufficient because the Department did not do all that it could; we agree with the District Court however, that it did all the Act required.

Miller also argues that the affidavits of State Department officials were internally contradictory and artfully contrived to mislead as to the existence of undisclosed documents. In particular, he points out that the State Department on more than one occasion during the course of this matter suggested or openly asserted that all relevant documents had finally been released - only to disgorge, upon further prodding, additional documents. For instance, on 15 January 1982, before this lawsuit was filed, the Department informed Mr. Miller that it had located 160 Liberty documents and that "[n]ot very many of these relate directly to the attack and the reasons for it."<sup>17/</sup> Although this statement certainly carried the implication that there would not be many materials responsive to Mr. Miller's request, the statement when read in context clearly refers to the Ennes file, which subsequent affidavits showed was searched first by the Department in order to provide Miller with some documents he

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<sup>17/</sup> Blair P. Hall letter, App. at 10.

could use while the rest of the search was being completed.<sup>18/</sup>

A subsequent statement in the first Friedman affidavit, which was filed with the defendants' motion for summary judgment, is more troublesome. Friedman indicated that of over 500 documents retrieved in the search, only 269 were responsive to the request<sup>19/</sup> and that with the exception of one classified document, "all of the information relevant to this request is being released in full . . ."<sup>20/</sup> Clearly, the Department was stating here that the well was dry and that it had completed its search and released all that it could release. But over the next four months between 34 and 40 additional documents came to light and were belatedly released to Miller. He asserts that the tardy release of these documents is evidence of bad faith on the part of the Department and that this evidence is sufficient to raise a factual issue and avert summary judgment.

While the discovery of additional documents is evidence that the search was not thorough, Goland v. Central Intelligence Agency, 607 F.2d 367, 370 (D.C. Cir. 1979) (opinion modified per curiam), cert. denied, 445 U.S. 927 (1980), such discovery is not conclusive of agency bad faith. It may be indicative of administrative inefficiency, see Perry v. Block, 684 F.2d 121, 129 (D.C. Cir. 1982), or it may, as in this case, indicate reluctant diligence by the agency under the goad of persistent litigation by a determined plaintiff. We note that the number of documents released after the Friedman declaration that all documents had been released is small when compared with the total; the record also shows that many of these documents were

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<sup>18/</sup> First Machak affidavit, App. at 74.

<sup>19/</sup> See App. at 24. Apparently, the 269 documents did not include the "Ennes" documents previously released to Miller.

<sup>20/</sup> App. at 25.

outside the scope of Mr. Miller's original request but were added later when he apparently broadened his request.<sup>21/</sup> The Department's explanation of the release of these documents is plausible. The fact that they were in fact released after Mr. Miller broadened his request seems to us to be evidence of good faith and diligence rather than bad faith and dilatoriness. See Goland, 607 F.2d at 355.

Appellant points to the long delay he experienced in receiving these documents as more evidence of State Department bad faith. We agree that the Department's response to his FOIA request left something to be desired. The progress which was made in processing the request can at best be described as glacial, particularly before the lawsuit was filed.

The State Department explains its behavior as being the result of overwork or understaffing.<sup>22/</sup> A large portion of the work of the Department personnel who process FOIA requests involves responding to information requests from the Department itself or from other government agencies. Approximately 24,000 such requests are processed each year. Since these requests are in the ordinary course of ongoing government operations, it is understandable that they receive priority processing. FOIA requests are dealt with in chronological order as they are

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<sup>21/</sup> See First Machak affidavit, App. at 63-64 and passim; Second Friedman affidavit, App. at 86; and Third Friedman affidavit, App. at 104-05. Thirteen of these documents were Department responses to Congressional inquiries on behalf of constituents. They were initially thought to have been outside the scope of Miller's request. Two were similar responses to inquiries from citizens. Three were letters from Congressmen, which arguably were also outside the scope of the original request. Six were documents from the Ennes file which dealt with injury and death claims. One document was initially thought to be a duplicate. The remainder were Ennes documents which through administrative error were not screened for release initially.

<sup>22/</sup> First Machak affidavit, App. at 59.

received but after intragovernment requests are satisfied. Approximately 4,500 FOIA requests are received each year. Defendant claims that the crush of work has resulted in a continuous backlog of about 3,000 FOIA requests at any time, with resulting delays in the processing of individual requests.

Whether the backlog and delays result from understaffing or from misapplication of resources or from bureaucratic inertia is a matter of concern for State Department managers, but it is immaterial to our decision here, for none of these things by itself would constitute bad faith as to this plaintiff's request. Delay alone is significant only to the extent that evidence shows that the delay resulted from bad-faith refusal to cooperate. Appellant has shown us the delay and has concluded that it resulted from bad faith. However, that delay, when considered in the light of the ultimate disclosure of the documents which Miller requested and the State Department's tardy but eventually complete accounting of its search, is not enough to impugn the credibility of the affidavits which the Department submitted. Once the agency has demonstrated that it has made a reasonably thorough search in the places where the documents are likely to be found, and has accounted for the documents, and the requester has failed to show that such a search was not made, then the federal courts have no further statutory duty to perform under the Act.<sup>23/</sup> We agree with the District Court that the defendants have documented an adequate search under the Act, and affirm the summary judgment on that point.

B.

Miller asserts that the State Department improperly exempted from disclosure twelve documents on the basis of FOIA exemption

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<sup>23/</sup> This is apart from the matter of attorneys' fees, which we take up in Part IXI infra.



(b) (1), the national-security exemption.<sup>24/</sup> He states that the Department applied the wrong Executive Order in classifying these documents and claims that the fact that final classification in some instances did not occur until 1983, some sixteen years after the Liberty incident, points to agency duplicity. He appeals the District Court's order declining to order production of the classified documents for an in camera review of the propriety of the classification decision.

The national-security exemption is designed to accommodate the government's need for protecting sensitive materials to the general duty to disclose imposed by FOIA. Since the exemption runs counter to the dominant objective of the Act, the exemption is to be narrowly construed. Davis v. Central Intelligence Agency, 711 F.2d 858, 861 (8th Cir. 1983), cert. denied, 104 S. Ct. 1307 (1984). When an agency seeks to withhold release of government documents under this exemption, the court is required to determine de novo the propriety of the agency's decision. See 5 U.S.C. §552(a)(4)(B). But since the agency has unique insight into the adverse effects which might result from public disclosure of certain classified information, substantial weight must be accorded to its affidavit justifying exemption. Military Audit Project v. Casey, 656 F.2d 724, 738 (D.C. Cir. 1981). However, the burden remains on the government to prove the propriety of the exemption. Since the government is in the best position to explain its exemption of particular documents and the party seeking disclosure presumably does not know the contents of those documents, the government cannot adequately carry its burden through "barren assertions" that the document is exempt. See Founding Church of Scientology v. National Security Agency, 610 F.2d 824, 831 (D.C. Cir. 1979). Instead, it

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<sup>24/</sup> 5 U.S.C. §552(b)(1)(A) exempts from disclosure matters "specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy . . ."

generally is necessary for the agency to provide affidavits which justify the claimed exclusion of each document by correlating the purpose for exemption with the actual portion of the document which is alleged to be exempt. See Vaughn v. Rosen, 484 F.2d 820, 827-28 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). In the present case, the State Department provided a series of affidavits explaining in detail the reasons why twelve of the documents sought by Mr. Miller contained material which might damage the national security if it were released. This is sufficient to carry the Department's burden of proof unless the plaintiff can show that the affidavits were submitted in bad faith. Cox v. United States Department of Justice, 570 F.2d 1302, 1312 (8th Cir. 1978). No such showing is made here.

Miller claims that the Department applied the wrong Executive Order in determining that these documents were not subject to disclosure. The Order in effect when Miller first made his request (E.O. 12065, 3 C.F.R. 150 (1979)) contained, with some qualifications, an automatic declassification schedule of six years for all documents except those marked "top secret." Id. at §1-4, 3 C.F.R. at 193. However, the Department applied Executive Order 12356, 3 C.F.R. 166 (1983), which removed the automatic declassification schedule and left the decision to declassify to the discretion of agency officials. Id. at §3.1, 3 C.F.R. at 171-72.

We find Miller's objections on this point to be insubstantial. While the courts apply the Executive Order which was in effect when the classifying official finally acted, see Lesar v. United States Department of Justice, 636 F.2d 472, 480 (D.C. Cir. 1980), the agency has the power to reclassify at any time. Id. The agency may also apply a new Executive Order which becomes effective during pendency of the lawsuit, since to deny it that power would defeat the purpose of the FOIA exemption by forbidding the government from responding to changes in national-

security needs. See Afshar v. Department of State, 702 F.2d 1125, 1136 (D.C. Cir. 1983). Miller points out that the State Department never acted to classify some of these documents until after they were requested by him, some sixteen years after the Liberty incident. He argues, with some logic, that the statement of the Department that these documents contain sensitive national-security material ought not be accepted as trustworthy when the same documents apparently lay in the files unexamined for such a long period. The inference is not persuasive enough to carry the day. It would be unwise to forbid the agency to re-examine documents which may have been overlooked at an earlier time, since to do so would run counter to the purpose of the exemption. The mere fact of delay in classification by an agency is insufficient to justify disclosure of information which may be damaging to the national security, so long as the substantive standards of the appropriate Executive Order were applied by the agency when the decision to classify was ultimately made. See Baez v. United States Department of Justice, 647 F.2d 1328, 1332-33 (D.C. Cir. 1980).

We hold that the District Court properly applied the law in granting the defendants' motion for summary judgment and in denying plaintiff's motions for in camera inspection of classified documents.

### III.

Even though we hold that the plaintiff has not shown a disputable factual issue as to whether the defendants responded in good faith to his request, the conclusion seems inescapable that but for the plaintiff's persistent prosecution of his claim he would not have received the documents which he did. A review of the chronology of this case is illuminating. In January of 1982, the plaintiff received seven documents which had been released to James Ennes, an earlier FOIA requester. The State

Department indicated at that time that screening of the file was almost complete and that few other documents would be responsive to Miller's request, noting that the Ennes request had been broader than Miller's. Mr. Miller received no more documents from the Department until after he filed suit in June of 1982. Then, in September of that year he received 36 additional documents from the Ennes file. In October, plaintiff made demand for a pretrial conference, and in November he received 72 documents, these being material that had never been released to Ennes. One hundred sixty-one new documents arrived in January of 1983 as Miller continued to press his lawsuit. As pretrial motions and briefs were filed, more documents were disgorged, even after the defendants had repeatedly stated that they had sent all that were responsive. In all, Miller received 367 documents from the State Department prior to the District Court's decision in this case; all but seven of these were received after he filed the suit. It is significant that Mr. Miller ultimately received over double the number of documents that Mr. Ennes did, even though the Ennes request was perceived by the State Department as broader than Miller's. We note that Ennes also filed a lawsuit over his FOIA claim, but that he pressed his suit pro se.

Congress amended the FOIA in 1974 to authorize the award of attorneys' fees to parties who had "substantially prevailed."<sup>25/</sup> In doing so the Congress left to the traditional equitable discretion of the trial court the decision whether such fees should be awarded in any particular case. Fenster v. Brown, 617 F.2d 740 (D.C. Cir. 1979). However, the discretion of the District Court is not absolute. Once a plaintiff has shown

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<sup>25/</sup> This passage reads in full: "The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed." 5 U.S.C. §552(a)(4)(E).

himself to be "eligible" for attorneys' fees, the court must determine whether he is "entitled" to such an award, see Church of Scientology v. Harris, 653 F.2d 584, 587 (D.C. Cir. 1981), and this determination is reviewable for abuse of discretion.

A FOIA claimant is eligible for an award of attorneys' fees if he has substantially prevailed through his lawsuit. It is not necessary that the claimant have received a favorable judgment in order to have prevailed. But if the plaintiff has not received favorable judgment, then he must show, first, that prosecution of the action could reasonably be regarded as necessary to obtain the information, and, second, that the existence of the lawsuit had a causative effect on the release of the information. Ginter v. Internal Revenue Service, 648 F.2d 469, 471 (8th Cir. 1981). The facts set out above support a finding that this suit was necessary to force the release of the documents. The facts also support a finding that Mr. Miller's persistent litigation of his FOIA claim was the principal cause of the Department's eventual diligence in releasing these documents. This conclusion is not inconsistent with our holding in Part II, supra, that the State Department in the end responded adequately and in good faith to Mr. Miller's request, since that holding deals with the adequacy and good faith of the Department's belated search after it was prodded into action by this lawsuit. In these circumstances, Mr. Miller is eligible for reasonable attorneys' fees under the Act, and the District Court's implicit finding to the contrary is not plausible.

Having found that Miller was eligible for attorneys' fees, the court is required to determine his entitlement by considering all relevant factors. This decision is ultimately within the sound discretion of the trial court, but that discretion can be abused if the court fails to consider properly the relevant factors and document its reasoning sufficiently to provide a basis for decision. LaSalle Extension University v. FTC, 627

F.2d 481, 485 (D.C. Cir. 1980). Among the factors which the court should consider when determining a prevailing litigant's entitlement to attorneys' fees under FOIA are: (1) the benefit to the public to be derived from the case; (2) commercial benefit to the complainant; (3) the nature of the complainant's interest in the records which he seeks; and (4) whether the government's withholding of the records had a reasonable basis in law.<sup>26/</sup> Id. at 483.

Probably the most important consideration in determining entitlement to fees in a FOIA case is the benefit to the public which is to be derived from release of the information sought. The underlying purpose of FOIA is to ensure that government is conducted in the open. Congress intended the public to have the maximum access to government records that was consistent with maintenance of national security and orderliness of government operations. Media requesters have an obvious claim to acting in the public interest, but that role is not to be denied to private parties such as Mr. Miller and other researchers and writers who seek to shed light on the actions of the government and the underlying circumstances of newsworthy events. The defendants protest that there is minimal public value in disclosure of information related to the Liberty incident, since it happened over eighteen years ago. Appellees' Brief 43-44. We strongly disagree. There is considerable public value in any disclosure which adds significantly to the fund of information which citizens may use in making political choices, see Blue v. Bureau of Prisons, 570 F.2d 529, 533-34 (5th Cir. 1978), and litigation which results in such disclosures is additionally beneficial when

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<sup>26/</sup> The source of these criteria is S. Rep. No. 854, 93d Cong., 2d Sess. 19 (1974), quoted in Fenster v. Brown, 617 F.2d 740, 742 n.4 (D.C. Cir. 1979). Although the criteria were deleted from the bill in its final form, the deletion apparently resulted from a sense that existing law already recognized these factors and that a formal reiteration of them in the statute would be unnecessary. See Fenster, 617 F.2d at 742-43 n.4.

it causes a government agency to take seriously its responsibilities under FOIA. Cuneo v. Rumsfeld, 553 F.2d 1360, 1366 (D.C. Cir. 1977).

A second factor, the commercial benefit to the claimant, is an inverse of the first. To the extent that the requester seeks government information primarily for private gain, his FOIA action is a matter of his own concern and expense and not of advocacy to serve a public interest. It was not the purpose of Congress to subsidize essentially private disputes with the government. Cuneo, 553 F.2d at 1368. Since the appellees do not allege that Miller is pursuing any commercial advantage through his request for government information, this factor is also in Miller's favor.

Similarly, the third factor (the nature of the complainant's interest in the records) must be resolved in favor of the plaintiff. When the FOIA requester acts on behalf of an articulated public interest, or when he seeks information for disinterested scholarly purposes, he is more likely to be furthering the purposes of FOIA than when his primary interest is to advance a purely personal goal. See Blue v. Bureau of Prisons, 570 F.2d 529, 534 (5th Cir. 1978); Nationwide Building Maintenance, Inc. v. Sampson, 559 F.2d 704, 712 (D.C. Cir. 1977). Appellees concede that Miller's interest in the records in this case is primarily scholarly. Appellees' Brief 44.

A fourth criterion which must be weighed in determining entitlement to fees is whether the government's withholding of the requested information had a reasonable basis in law. The State Department asserts that it had a sound reason for withholding the national-security material and certain other exempt documents (which are not subjects of this appeal). We agree with that contention, but it applies only to a few documents. The real issue here is whether the Department had a

colorably reasonable legal basis for withholding for periods of up to two years the 360 or so documents which eventually were released as a result of this lawsuit. The Department has explained that these documents were not produced more quickly because of a combination of factors, including processing backlogs, confusion, and administrative error. While these reasons are plausible, and we do not find them to be evidence of bad faith on the part of the Department, they are practical explanations, not reasonable legal bases. The FOIA does not contain a statutory exception for administrative inefficiency. When a private citizen is obliged to seek legal services in order to wrest from the government information which the government had no legal reason to withhold from him, he is entitled under the Act to be reimbursed for the cost to which he has been put.

We hold that Mr. Miller substantially prevailed in his objective of acquiring from the State Department the documents which were the subject of his FOIA request. He prevailed because his vigorous prosecution of this lawsuit compelled the Department to take his request seriously. Having prevailed, Miller was eligible to recover attorneys' fees and the costs of his suit. We conclude that the District Court abused its discretion in its assessment of the four factors relevant to the award of fees. We therefore remand to the District Court for a determination of the proper amount of fees and costs to be awarded.

Affirmed on the merits, vacated and remanded with respect to attorneys' fees and costs.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.



No. 64-5161

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

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JAMES MILLER,

Plaintiff-Appellant,

v.

UNITED STATES DEPARTMENT OF STATE,

Defendant-Appellee.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

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PETITION FOR REHEARING

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RICHARD K. WILLARD  
Acting Assistant Attorney General

FRANCIS X. HERMANN  
United States Attorney

LEONARD SCHAITMAN  
JOHN S. KOPPEL  
Attorneys, Appellate Staff  
Civil Division, Room 3617  
Department of Justice  
9th & Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
Telephone: (202) 633-5459

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

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No. 84-5161

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JAMES MILLER,

Plaintiff-Appellant,

v.

UNITED STATES DEPARTMENT OF STATE,

---

Defendant-Appellee

---

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

---

PETITION FOR REHEARING

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INTRODUCTION

At the outset, defendant wishes to state that it considers the Court's decision on the merits in this action to be thorough and well-reasoned. It is only because defendant believes that the Court's decision reversing the district court's denial of attorney's fees does not accord sufficient deference to the district court's determination that plaintiff is not eligible for an award of fees that defendants feel constrained to petition the Court for rehearing.

In its slip opinion, this Court affirmed the district court's decision granting summary judgment for defendant on the merits of this action under the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, but reversed the district court's denial of attorney's fees under the FOIA, 5 U.S.C. 552(a)(4)(E), because the Court drew different inferences from the chronology of this litigation. In reversing the denial of fees on this basis, however, the Court has exceeded the narrow scope of review of district court factual determinations, notwithstanding the Supreme Court's recent pronouncement that "[w]here there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous." Anderson v. Bessemer City, 105 S. Ct. 1512 (1985). Accordingly, defendant respectfully petitions the Court to vacate its reversal of the district court's denial of attorney's fees.

#### STATEMENT

The history of this litigation is fully set forth in this Court's slip opinion (2-5). Defendant does not take issue with the Court's recitation of the facts; defendant maintains only that in reversing the district court's denial of fees, the Court improperly substituted its own view of the history of the litigation for that of the district court, even though the district court's determination was based upon a "permissible view of the evidence."

Specifically, this Court concluded that plaintiff "substantially prevailed" in this action because the timing of defendant's document releases to plaintiff indicated "reluctant

diligence by the agency under the goad of persistent litigation by a determined plaintiff" (slip op. 12). The Court stated that the record "support[s]" this finding (*id.* 19). The district court, however, had carefully articulated the criteria for an award of attorney's fees under the FOIA and concluded that "[c]learly, the plaintiff has not met the criteria necessary to support such an award" (App. 199-202). There was ample support in the record for this determination, especially since the magistrate to whom the case had been assigned had previously recognized that delays in releasing material to plaintiff were due to defendant's administrative backlog in processing FOIA requests and to the ever-changing nature of plaintiff's FOIA request (App. 140-41, 148-49). This Court nonetheless saw fit to draw inferences from the chronology of the litigation contrary to those drawn by the district court, and to state that the district court's finding that plaintiff had not "substantially prevailed" was "not plausible" (slip op. 19), although the latter court's view had ample support in the record --as this Court conceded elsewhere in its opinion (slip op. 12-14, 22).<sup>1</sup>

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<sup>1</sup> Indeed, the Court stated, with respect to material released after plaintiff filed suit, that "[t]he Department's explanation of the release of these documents is plausible" (slip op. 13). The Court reiterated this view elsewhere in its opinion (slip op. 22).

#### ARGUMENT

In Anderson v. Bessemer City, 105 S. Ct. 1504 (1985), the Supreme Court emphasized the limited scope of court of appeals' review of the district court's factual determinations. In reversing the Fourth Circuit's ruling and reinstating the district court's decision,<sup>2</sup> the Court stressed that "[w]here there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous." Id. at 1512; see also Perfetti v. Commissioner of Internal Revenue, 762 F. 2d 638, 640 (8th Cir. 1985); Braaflood v. Board of Governors, No. 85-3648 (9th Cir. December 25, 1985) (reproduced in addendum). This Court should heed the Supreme Court's admonition in Anderson by vacating part III of its decision reversing the district court's denial of attorney's fees in this action, since the district court's determination that plaintiff is not eligible for an award of fees under the FOIA plainly was based on a "permissible view" of the evidence.

As this Court recognized, the district court's decision to award or deny fees under the FOIA is reviewable under an abuse of discretion standard, but "the discretion of the District Court is not absolute;" plaintiff must satisfy both the "eligibility" and "entitlement" criteria of the FOIA attorney's fee provision. Slip op. 18-19. It is the "eligibility" test which is the focal point of the dispute in this case.

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<sup>2</sup> Anderson was a Title VII case in which the court of appeals reversed as clearly erroneous the district court's finding that plaintiff was a victim of discrimination.

As the Court also recognized (ibid.), plaintiff is only eligible for an award of fees under the FOIA if he "substantially prevailed" in the lawsuit. Furthermore, for a FOIA plaintiff to be eligible for fees, it is not enough that the plaintiff has received documents after the suit was filed, Ginter v. Internal Revenue Service, 648 F. 2d 469, 471 (8th Cir. 1981);<sup>3</sup> as the Court stated (slip op. 19), a plaintiff has "substantially prevailed" only if the suit: (1) was reasonably necessary to obtain the information; and (2) had a substantive causative effect on the production of the requested information. It is the plaintiff's burden to demonstrate that he "substantially prevailed." Finally--and most importantly for purposes of this case--"the findings of the district court on whether the plaintiff has 'substantially prevailed' are to be

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<sup>3</sup> See also Weisberg v. Department of Justice, 745 F. 2d 1776, 1495-98 (D.C. Cir. 1984), in which the court of appeals vacated the district court's conclusory holding that the plaintiff had "substantially prevailed" simply because he received thousands of pages of material in the course of the litigation. There, as here, the government took the position that the plaintiff had received documents during the litigation as the result of the administrative processing of his request, and that much of the material that the plaintiff received was actually outside the scope of his request. Similarly, in Stein v. Department of Justice, 662 F. 2d 1245, 1261-52 (7th Cir. 1981), and Cox v. Department of Justice, 601 F. 2d 1, 6 (D.C. Cir. 1979), the court of appeals affirmed the district court's holding that the plaintiff had not "substantially prevailed" where he had received material in the course of the litigation as a consequence of the ongoing administrative processing of his request.

affirmed unless clearly erroneous." Ginter v. Internal Revenue Service, 648 F. 2d at 471 (emphasis added).

In the case at bar, the district court recited at great length (App. 199-202) the criteria for an award of fees before concluding that "[c]learly, the plaintiff has not met the criteria necessary to support such an award" (App. 202). There was ample evidence supporting the district court's denial of fees, and affirmance was therefore mandated under the standard articulated by the Supreme Court in Anderson and this Court's Ginter decision.<sup>4</sup> First of all, the magistrate to whom this case had been assigned had recognized that the delay in releasing documents to plaintiff was due to both the tremendous backlog of FOIA requests (App. 140-41) and the confusion and uncertainty engendered by the constantly changing scope of plaintiff's request (App. 148-49). Cf. Weisberg v. Department

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<sup>4</sup> It is immaterial that the district court did not make express factual findings in this case. As this Court recognized (slip op. 19), the district court made an "implicit finding" that plaintiff had not "substantially prevailed" in this action. Moreover, the district court's order denying fees in this case is considerably less cryptic than the order denying fees in Ginter, which said only that "[t]he defendant's motion for summary judgment having been granted, the plaintiff's motion for attorney's fees is hereby denied," 648 F. 2d at 471, and which this Court affirmed on the ground that plaintiff had not "substantially prevailed" in the lawsuit. Here, as in Ginter, "sufficient indication of the factors before the district court appears in the record to enable [this Court] to conclude that the district court did not abuse its discretion" in denying fees. Id. at 471 n. 4. Since the district court's denial of fees in the instant case has adequate support in the record, there is no basis either for reversal of the district court's decision or for a remand. The district court's finding that plaintiff did not "substantially prevail" is based on a "permissible view of the evidence" and therefore should be upheld.



of Justice, 745 F. 2d at 1495-98, and Cox v. Department of Justice, 601 F. 2d at 6.<sup>5</sup> Indeed, this Court also observed that both of these factors played a role in the delay (slip op. 12-14, esp. 13 nn. 21 and 22), and there was ample evidence in the record to support this view. See, e.g., App. 9, 10, 11, 13, 59, 63-64, 86, 104-106, 122.<sup>6</sup> Nonetheless, this Court inferred (slip op. 12) that the delay was due to "reluctant diligence" by the agency, and stated that the district court's contrary view was "not plausible" (id. 19), notwithstanding the fact that there was ample support in the record for the district court's view.

The misapplication of the "clearly erroneous" standard of review in this case is further highlighted by the language of the opinion itself. The Court states that "[t]he facts set out above support a finding that this suit was necessary to force the release of the documents" and that "[t]he facts also support

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<sup>5</sup> In both Weisberg and Cox the court recognized the significance of administrative backlogs and constantly changing requests for purposes of the "substantially prevailed" inquiry. Furthermore, in Weisberg the court observed that a plaintiff does not "substantially prevail" merely because the agency endeavors to accommodate him by supplying material outside of the scope of his request in the course of litigation. 745 F. 2d at 1498.

<sup>6</sup> The cited portions of the appendix demonstrate that it was particularly unclear whether plaintiff's request encompassed congressional correspondence and compensation claims arising out of the U.S.S. Liberty incident. E.g., App. 63-64, 86, 104-106, 122. Accordingly, this Court stated that "[t]he Department's explanation of the release of these documents is plausible" (slip op. 13), and reiterated that view later in its opinion (id. 22).

a finding that Mr. Miller's persistent litigation of his FOIA claim was the principal cause of the Department's eventual diligence in releasing these documents" (slip op. at 19). This analysis is inconsistent with the Supreme Court's teaching in Anderson that "[w]here there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous." 105 S. Ct. at 1512. Here, the district court took a "permissible view" of the evidence regarding the chronology of the State Department's release of documents to plaintiff, a view which this Court conceded to have support in the record. Slip op. at 12-14, 22. The Court nevertheless reversed the denial of fees to plaintiff, because it believed that the record also supported a contrary view of the evidence.<sup>7</sup> This approach cannot be squared with the Supreme Court's Anderson holding.

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<sup>7</sup> In reversing the district court's denial of fees, this Court relied chiefly upon the chronology of the litigation and the fact that plaintiff received more documents than another requester, Mr. Ennes. As the Ginter, Weisberg, Stein and Cox decisions demonstrate, however, the mere fact that the plaintiff has received material after commencement of the action does not necessarily mean that the plaintiff is a "substantially prevailing" party for purposes of a fee award under the FOIA; the plaintiff must satisfy the two-part test identified in Ginter, 648 F. 2d at 471. See also slip op. at 19. Here, the district court determined that plaintiff did not satisfy this requirement, and its decision--which has extensive support in the record--is not clearly erroneous.

With respect to the Ennes file, the reason that plaintiff received more documents than Mr. Ennes--whose request was only "broader" in the sense that it sought information on medical and compensation claims arising out of the U.S.S. Liberty incident, as well as on the incident itself (App. 74, 86, 137)--is that plaintiff ultimately decided that he wanted the entire Ennes file (App. 11), and it was supplied to him, as was other material, such as congressional correspondence, which was outside the scope of plaintiff's request. All of this material

(CONTINUED)

Under these circumstances, it cannot fairly be said that the district court abused its discretion in denying an award of attorney's fees, or that its determination that plaintiff did not "substantially prevail" in this litigation is clearly erroneous. As we have shown, there was ample support in the record for this determination. Thus, in light of Anderson and Ginter it was inappropriate for this Court to reverse the district court's denial of fees. Accordingly, defendant respectfully asks the Court to vacate Part III of its opinion and to affirm the denial of attorney's fees in this action.

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7 (FOOTNOTE CONTINUED)

was provided to him, however, after he indicated an interest in it. Thus, the statement that the Ennes request was "broader" has been taken out of context, and a comparison of the number of documents Ennes received with the number plaintiff ultimately received does not shed light on the issue of whether plaintiff "substantially prevailed."

In any event, the crucial point remains that the district court took a "permissible view of the evidence" in denying fees in this case. The denial of fees therefore should not be disturbed on appeal.

CONCLUSION

For the foregoing reasons, Part III of this Court's slip opinion should be vacated, and the district court's denial of attorney's fees in this FOIA action should be affirmed.

RICHARD K. WILLARD  
Acting Assistant Attorney General

FRANCIS X. HERMANN  
United States Attorney

LEONARD SCHAITMAN  
JOHN S. KOPPEL  
Attorneys, Appellate Staff  
Civil Division, Room 3517  
Department of Justice  
9th & Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
Telephone: (202) 633-5459

JANUARY 1986

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of January 1986, I served the foregoing Petition For Rehearing En Banc upon counsel by causing copies to be mailed, postage prepaid, to:

Gary Weissman, Esquire  
French & Weissman  
Suite 510 Sexton Bldg.  
529 South Seventh Street  
Minneapolis, Minnesota 55415

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JOHN S. KOPPERT  
Attorney

James M. Ennes, Jr. Research Papers

ADDENDUM

James M. Ennes, Jr. Research Papers

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**ARNIE ROLF BRAAFLADT,**  
*Plaintiff-Appellant.*

v.

**THE BOARD OF GOVERNORS OF THE  
OREGON STATE BAR ASSOCIATION, et  
al..**

*Defendants-Appellees.*

No. 85-3648

D.C. No.

Civ. No.

83-17-RE

OPINION

**Argued and Submitted  
November 8, 1985—Portland, Oregon**

**Filed December 26, 1985**

**Before: J. Blaine Anderson and Jerome Farris, Circuit  
Judges, and Albert Lee Stephens, Jr.,\* District Judge.**

**Opinion by Judge Anderson**

**Appeal from the United States District Court  
for the District of Oregon  
James A. Redden, District Judge, Presiding**

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**SUMMARY**

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**Civil Rights/Courts and Procedure**

**Appeal from denial of attorney's fees under 42 U.S.C. §  
1988. Affirmed.**

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\*The Honorable Albert Lee Stephens, Jr., Senior United States District  
Judge, Central District of California, sitting by designation.

Braafladt sued the Oregon Supreme Court in an attempt to void certain residency requirements of the Oregon Bar. The Oregon Supreme Court rescinded the challenged rule before final adjudication on the merits. After the 42 U.S.C. § 1983 action was dismissed, Braafladt's application for attorney's fees was denied.

[1] To recover fees under § 1988, the plaintiff must show a causal connection between the lawsuit and the practical outcome. [2] Chronological events are an important, but not a definitive, factor in determining whether a defendant can be reasonably inferred to have guided his actions in response to a plaintiff's lawsuit. [3] The district court was presented with the difficult task of choosing between two interpretations of the same sequence of events. Where there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous.

---

#### COUNSEL

Arnie Rolf Braafladt, Eureka, California; John Cummings, Eureka, California; Brian MacRitchie, Bend, Oregon; and Robert M. Lusk, Portland, Oregon, for the plaintiff-appellant.

Jeff Bennett, Assistant Attorney General, Salem, Oregon, for the defendants-appellees.

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#### OPINION

ANDERSON, Circuit Judge:

Oregon attorney Arnie Braafladt sued the Oregon Supreme Court in an attempt to void certain residency requirements of the Oregon Bar. The Oregon Supreme Court rescinded the challenged rule before final adjudication on the merits. After



dismissing the 42 U.S.C. § 1983 action, the district court denied Braafladt's application for attorney's fees. The district court found Braafladt did not qualify as a prevailing party under 42 U.S.C. § 1988. Braafladt appeals to this court and we affirm the district court's decision.

### I. BACKGROUND

Braafladt, a member of the Oregon, Washington, and California Bars, challenged the constitutionality of an Oregon residency requirement. Oregon State Bar Association Rule 8.05 (hereinafter referred to as Rule 8.05). Rule 8.05 required non-resident bar members to appear in association with resident members when practicing before the Oregon courts.

Braafladt initially attempted to intervene in *Halkides v. Oregon State Board of Examiners*, Civ. No. 82-937 (O. Or., 1983), a case involving constitutional challenges to Oregon's rules requiring residency before admission to the Bar. On November 15, 1982, the *Halkides* court denied Braafladt's request for intervention, citing reasons of unfair prejudice to the parties and inadequate similarity of issues. The *Halkides* plaintiffs subsequently prevailed on a summary judgment motion on March 15, 1983.

On January 5, 1983, Braafladt filed his § 1983 action against the Oregon Supreme Court (Oregon court). The action ran its procedural course with exchanges of interrogatories, answers and summary judgment motions. During these proceedings, the Oregon court received a petition from the *Halkides* plaintiffs on June 3, 1983. The request questioned the applicability of Rule 8.05 to members of the Bar who had never been Oregon residents. The Oregon court decided on August 12, 1983 that Rule 8.05 would not be enforced against members in a position similar to the *Halkides* plaintiffs.

On August 23, 1983, an unofficial inquiry made by the Oregon court's counsel to Braafladt discussed the possibility of a

waiver of attorney's fees. Even though an agreement was not reached, the Oregon court rescinded Rule 8.05 on August 31, 1983. This action effectively mooted Braafladt's claim. The Oregon court filed an uncontested motion to dismiss on September 14, 1983. The district court granted the motion November 8, 1983. Braafladt filed an application for attorney's fees December 5, 1983. The district court found that Braafladt was not a prevailing party under § 1988 and denied the application on February 11, 1984.

## II. DISCUSSION

[1] This circuit recognizes that the history of § 1988 indicates that a plaintiff need not obtain formal relief in order to recover fees. *American Constitutional Party v. Munro*, 650 F.2d 184, 187 (9th Cir. 1980); *South West Marine, Inc. v. Campbell Industries*, 732 F.2d 744, 746 (9th Cir. 1982). The plaintiff must show a causal connection between the lawsuit and the practical outcome. *South West Marine*, 732 F.2d at 746. The lawsuit must be a catalyst motivating the defendant to provide the relief sought. *Beach v. Smith*, 743 F.2d 1303, 1306 (9th Cir. 1984). Whether the litigant has shown the requisite causal relationship is a factual question for the district court. *McQuiston v. Marsh*, 707 F.2d 1062, 1085 (9th Cir. 1983). We review a district court's findings of fact under the clearly erroneous standard. *Operating Engineers Pension Trust v. Charles Minor Equipment Rental, Inc.*, 766 F.2d 1301, 1303 (9th Cir. 1985).

Braafladt bases his claim of prevailing party solely upon the sequence of events. His action was the only lawsuit currently filed that challenged Rule 8.05. Braafladt contends that his action must have been a material factor calculated into the Oregon court's decision to rescind Rule 8.05.

[2] We apply, as do other circuits, the rule that chronological events are important, although not a definitive factor, in determining whether or not a defendant can be reasonably

inferred to have guided his actions in response to a plaintiff's lawsuit. *Munro*, 650 F.2d at 188; *Nadeau v. Helmore*, 581 F.2d 275, 281 (1st Cir. 1978); *Trantan Students Association v. Sawyer*, 639 F.2d 1160, 1163 (5th Cir. 1981). The district courts consider additional factors in determining if a causal relationship existed. *Munro*, 650 F.2d at 188. Here, the district court correctly included surrounding circumstances in its evaluation of any existing causal connection.

The constitutionality of Rule 8.05 was not a unique question for the Oregon court. Although the request was denied, the Oregon Bar Association had previously petitioned the Oregon court to rescind Rule 8.05. The *Halkides* case questioned the constitutionality of residency requirements in connection with admission rules, indirectly bringing the entire residency concept under scrutiny before Braafladt's suit. The *Halkides* plaintiffs then petitioned for a determination of the applicability of Rule 8.05 to them, thus presenting the Oregon court with a direct avenue to resolve the Rule 8.05 controversy. Braafladt contends, on the other hand, that his lawsuit, and not the *Halkides* petition, prompted the Oregon court to act. The threat of litigation or even litigation itself is insufficient to establish a causal relationship for a § 1988 award. *Munro*, 650 F.2d at 188 (quoting *Trantan Students Ass'n*, 639 F.2d at 1163).

13) The district court was presented with the difficult task of choosing between two interpretations of the same sequence of events. "Where there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous." *Anderson v. Bessemer City*, — U.S. —, 84 L.Ed.2d 518, 528 (1985). In light of the record, the Oregon court's account of the events is plausible. Accordingly, the district court's decision to deny attorney fees is

AFFIRMED.

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IN THE  
**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

Circuit Appeal No.: 84-5161

**JAMES MILLER,**

*Appellant,*

vs.

**UNITED STATES DEPARTMENT OF STATE**

*Appellee.*

---

**APPELLANT'S BRIEF**

---

By: **FRENCH & WEISSMAN, P.A.**  
Gary A. Weissman, Esq.  
Suite 510 Sexton Building  
529 South Seventh Street  
Minneapolis, Minnesota 55415  
(612) 339-8592

*Attorneys for Plaintiff-Appellant*

## SUMMARY AND REQUEST FOR ORAL ARGUMENT

### A. SUMMARY

This appeal arises from the District Court's grant of summary judgment to the Appellee ("the State Department") in a Freedom-of-Information Act ("FOIA") case. The Appellant ("Miller") made an initial request for information concerning the 1967 attack on the U.S.S. Liberty ("the Liberty") in June, 1981. After twelve months of unanswered letters, long-distance telephone calls, no reply to a written appeal, and the release of only seven documents, Miller brought suit.

During the two-year pendency of this litigation, the State Department has released 362 documents to Miller, some of them disclosed in response to Miller's identification of specific documents, after the State Department's affiants insisted under oath that there were no more documents to be released. According to the State Department's own sequential numbering system, it has 619 Liberty documents. Consequently, Miller sought release of the remaining, unduplicated documents and requested interim attorneys fees as well.

The Magistrate (Hon. J. Earl Cudd) recommended summary judgment for the State Department and deemed the request for attorneys fees premature. The District Court (Hon. Robert Renner, J.) adopted the recommendation as to summary judgment and denied Miller's motion for attorneys fees. It is from that order that Miller appeals.

B. REQUEST FOR ORAL ARGUMENT

The case law on the issues of summary judgment and attorneys fees in FOIA cases is extensive; and the parties vigorously disagree about such factual matters as whether the State Department's affidavits were filed in bad faith and whether the litigation prompted the release of the 362 documents. Oral argument would enable the Court to question the parties' counsel closely on matters pertinent to resolving the factual disputes.

Twenty (20) minutes should be adequate for each side to present its argument.

(Miller respectfully requests that oral argument be scheduled in the Twin Cities)

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I. PRELIMINARY STATEMENT

A. District Court Judge and Decision:

Hon. Robert G. Renner  
United States District Court  
District of Minnesota  
Order entered July 11, 1984 (Dist. Ct. File No. 3-82-789)

B. Basis of Jurisdiction:

.District Court: 5 U.S.C. Sec.552(a)(4)(B) (FOIA);  
28 U.S.C. Sec.1331 (Federal question).

.Court of Appeals: 28 U.S.C. Sec.1291 (Final decisions  
of district courts).

## II. STATEMENT OF ISSUES

- A. WHETHER THE DISTRICT COURT ERRED IN GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (AND, ACCORDINGLY, IN DECLINING TO GRANT PLAINTIFF'S MOTION TO COMPEL DISCOVERY).

Apposite statutory citations:

- 5 U.S.C. Sec. 552

Apposite case law:

- Donovan v. Agnew, 712 F. 2d 1509 (1st Cir. 1983)
- McGehee v. CIA, 697 F. 2d 1095 (D.C. Cir. 1983)
- Weissman v. CIA, 565 F. 2d 692 (D.C. Cir. 1983)
- Fiumara v. Higgins, 572 F. Supp. 193 (D.N.H. 1983)
- Blakely v. Department of Justice, 549 F. Supp. 362 (D.D.C. 1983)
- Hydron Laboratories Inc. v. F.P.A., 560 F. Supp. 718 (D.R.I. 1983)

- B. WHETHER THE DISTRICT COURT ERRED IN DETERMINING THAT THE PLAINTIFF HAD NOT SUBSTANTIALLY PREVAILED AND, THEREFORE, WAS NOT ENTITLED TO RECOVER ATTORNEY'S FEES AND OTHER COSTS OF LITIGATION.

Apposite statutory citations:

- 5 U.S.C. Sec. 552(a)(4)(E)

Apposite case law:

- Copeo v. Rumsfeld, 553 F. 2d 1360 (D.C. Cir. 1977)
- DeBold v. Stimson, 735 F. 2d 1037 (7th Cir. 1984)
- Church of Scientology v. U.S. Postal Service, 700 F. 2d 486 (9th Cir. 1983)
- Church of Scientology v. Harris, 635 F. 2d 584 (D.C. Cir. 1981)
- Powell v. Department of Justice, 569 F. Supp. 1192 (N.D. Cal. 1983)
- Kaye v. Burns, 411 F. Supp. 897 (S.D.N.Y. 1976)

### III. STATEMENT OF THE CASE

A. NATURE: This is a Freedom-of-Information Act ("FOIA") case, brought pursuant to 5 U.S.C. Sec. 552(a)(4)(B).

B. PROCEEDINGS AND DISPOSITION: Plaintiff/Appellant ("Miller") made an FOIA request in July, 1981, and served a Complaint in June, 1982 (APPENDIX, p. A-1), requested a Pre-trial conference in October, and after some inconclusive negotiations propounded discovery requests in February, 1983. Instead of answering, Defendant/Appellee ("the State Department") moved to stay discovery until it could file affidavits (motion granted). Along with filing an affidavit, the State Department moved for summary judgment in May, 1983 (APPENDIX, p. A-19); and Miller countered with a motion to compel discovery in June (APPENDIX, p. A-44).

The Magistrate (Hon. J. Earl Cudd) permitted each side three rounds of briefs and presided at two hearings. In April, 1984, he recommended summary judgment for the State Department (APPENDIX, pp. A-135, A-150). Miller filed Objections to the Magistrate's Report and Recommendations and renewed his motion for attorney's fees, which the Magistrate had said was premature (APPENDIX, p. A-150).

The district court (Renner, J.) essentially adopted the findings of the Magistrate in an Order dated July 11, 1984, in which the court granted the State Department's motion for summary judgment. The court went on to deny Plaintiff's motion for attorney's fees. (APPENDIX, pp. A-194, A-202)

C. PERTINENT FACTS:

1. Miller. Miller is a civil servant in Minneapolis who is concerned about American foreign policy and who has a special interest in the 1967 attack on the U.S.S. Liberty. He is not affiliated with any corporation, nor does he have any commercial interest in the documents he has tried for three years to elicit from the State Department. He is an amateur historian who has written one article (not for remuneration) about his tribulations in obtaining public information from the Executive Branch.

2. Pre-litigation Activities. As set forth in his Complaint (APPENDIX, pp. A-1 through A-6) and in the Exhibits attached thereto (APPENDIX, pp. A-7 through A-13), Miller spent a frustrating twelve months seeking information about the attack on the Liberty and "documentary evidence which demonstrates that this attack wasn't deliberate" (APPENDIX, p. A-7). Six months after his initial request, the State Department sent him seven (7) unduplicated documents (See Exhibit attached to Miller's Third Affidavit, dated November 9, 1983 (APPENDIX, p. A-127) and the State Department's admission that it sent only seven documents (Defendant's Answer, paragraph #9, APPENDIX, p. A-15). Owing to the excessive delay, Miller treated the Department's non-responsiveness as a denial of his request, and appealed that denial in April, 1982 (See Exhibit VI to Miller's Complaint, APPENDIX, p. A-12). The State Department replied by denying that he had no right to appeal (APPENDIX, p. A-13) but did not send him any further documents--or even any further correspondence--until after he filed suit.

3. Post-Complaint Release. Between the filing of the Complaint in June, 1982, and the pre-trial conference, held on February 15, 1983, the State Department released 252 documents to Miller, 140 of them in the 33 days prior to the conference. (See Friedman's First Affidavit, paragraphs 17 and 13, APPENDIX, p. A-23). Additional releases followed after each exchange of affidavits.

4. Affidavits.

a. The First Friedman Affidavit. Accompanying the State Department's motion for summary judgment was an Affidavit from the State Department's Deputy Director of the Office of Mandatory Review of the Classification/Declassification Center, Jack Friedman, dated April 28, 1983. Friedman asserted "under penalty of perjury" that "there were only 269 responsive documents retrieved in response to this request" (Friedman's First Affidavit, paragraph #17, APPENDIX, p. A-24).

b. Miller's First Affidavit: Miller countered with an Affidavit dated May 27, 1983 which arranged the released documents sequentially and identified several additional documents (whose existence Friedman had denied) adverted to in an affidavit by Assistant Secretary of State Clayton McManaway (in 1980) in a FOIA case entitled Ennes v. Department of State (APPENDIX, pp. A-47, A-51, A-53).

c. Friedman's Second and Machak's First Affidavit. The State Department responded to Miller's allegations of additional documents with two affidavits: Friedman acknowledged

that there was a sequential numbering of 595 Liberty documents (Friedman's Second Affidavit, paragraph #6, APPENDIX, p. A-85) but tried to explain away the 172 documents Miller asserted were "missing" as duplicates, non-responsive documents, and documents in the custody of other federal agencies (APPENDIX, p. A-87). The State Department's Chief of Information Access and Services Division, Frank Machak, also submitted an Affidavit declaring that "there was no file entitled 'USS Liberty'" (Machak's First Affidavit, paragraph #7(a), APPENDIX, p. A-61) but acknowledging that the State Department lost 32 documents ("could not be located..."), and listing reasons why other documents which Miller identified were not released (APPENDIX, p. A-65 through A-73). Machak did admit that "due to administrative oversight [and]...error" (APPENDIX, pp. A-74, A-78), some documents identified by Miller did exist and would be released. The State Department, accordingly, released some 34 documents beyond the 269 Friedman had said in his First Affidavit constituted the total.

d. Miller's Second Affidavit: In September, 1983, Miller filed a second Affidavit in which he challenged the contentions of the Machak-Friedman Affidavits of the previous month. He asserted that (1) there were still 75 documents missing from the 1-163 sequence (which had been released to another FOIA requestor, James Ennes); (2) three dozen remained unreleased from the 164-619 sequence; (3) most of the 32 "lost" documents comprised important reports and diplomatic notes; (4) not a single document had been released



either about reparation payments or about evidence that the attack was not deliberate; (5) the State Department and the Defense Department were playing ping-pong with him on the release of several other documents; (6) there were still 28 identified but unreleased documents constituting Congressional correspondence about the Liberty incident (APPENDIX, pp. A-100 through 102).

e. The State Department's third-round of Affidavits: At the end of September, the State Department filed Machak's Second Affidavit and Friedman's Third Affidavit. Both asserted that the Department conducted thorough searches of the files, denied that they withheld documents, and attached some additional documents (NOTE: these attached documents are not included in the APPENDIX). Friedman argued in his Affidavit that some documents about the Liberty were classified despite an automatic declassification date [1973] built into the Executive Order under which they were initially classified (APPENDIX, p. A-111 through 113). Machak reiterated what he had said in his First Affidavit, including the statement that Miller should not include in his "missing documents" list information released to FOIA requester James Ennes because "[t]he request of Mr. James Ennes, who was injured as a member of the crew of the U.S.S. Liberty, was broader than [Miller]'s request." (APPENDIX, p. A-110).

f. Miller's Third Affidavit. In November, 1983, Miller filed an Affidavit asserting that he still had not received (a) reparations documents; (b) documents evidencing

that the attack was accidental; (c) various Congressional correspondence; (d) five documents which the State and Defense Departments had each said the other would release. Miller also challenged the explanations offered for the more than 100 still-missing documents and pointed out in reply to Machak that,

Although the State Department refers to James Ennes' FOIA request as broader than mine, he was given only 163 documents, and I have received 329, albeit tardily. (Paragraph #4, APPENDIX at p. A-126).

5. Dispositional Documents. The Magistrate's Recommendation's, Miller's Objections, and the District Court's Order-and-Memorandum followed the affidavit exchange and are all set forth in the APPENDIX at A-135, et seq.

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#### IV. SUMMARY OF ARGUMENT

A. Summary Judgment. The District Court should have resolved all doubts about the existence of genuine issues of material fact against the State Department as the moving party. Keys v. Lutheran Family and Children's Services, 668 F. 2d 356 (8th Cir. 1981).

Genuine issues in fact exist concerning the bad faith of the State Department's affidavits, the adequacy of the State Department's search for records, the reasonableness of the two-and-one-half-year delay in releasing responsive and non-exempt records, the propriety of invoking the national security exemption to justify the non-release of documents initially classified in 1983 about events that took place in 1967; the applicability of particular Executive Orders governing document

classification; the relevance of Treaty violations to the exemption process, and entitlement to discovery. Each of these separately should have warranted a denial of summary judgment. Fiumara v. Higgins, 572 F. Supp. 1093, (D. N. H. 1983); Hydron Laboratories, Inc. v. EPA, 560 F. Supp. 718 (D. R. I. 1983); McGehee v. CIA, 697 F. 2d 1095 (D. C. Cir. 1983); Executive Order 12065 (3 CFR Sec. 190.11974); Executive Order 12356 (45 Fed Reg. 14,874); Treaty of Friendship, Commerce, and Navigation (TIAS 2948, 5 UST Pt. 1, 550); Donovan v. Agnew, 712 F. 2d 1509, (1st Cir. 1983); Weissman v. CIA, 565 F. 2d 692 (D. C. Cir. 1977); Schaeffer v. Kissinger, 505 F. 2d 389 (D. C. Cir. 1974).

B. Attorneys Fees and Costs. Whether vel non the decision granting the State Department's motion for summary judgment is reversed, Miller is entitled to attorneys fees and costs for having substantially prevailed (5 U.S.C. Sec. 552(a)(4)(E)). He met all four criteria appellate courts have used to gauge having substantially prevailed. Cunec v. Rumsfeld, 553 F. 2d 1360 (D. C. Cir. 1977); Blue v. Bureau of Prisons, 570 F. 2d 259 (5th Cir. 1978). He also amply demonstrated his lawsuit was necessary for the divulgement of documents, and his vigorous prosecution of the action proximately caused the timing and quantity of documents released, two necessary elements in awarding fees. Church of Scientology v. Harris, 635 F. 2d 584 (D. C. Cir. 1981); Crooker v. Department of Justice, 632 F. 2d 916 (1st Cir. 1980).

Denying Miller attorneys fees and costs would thwart the legislative intent that FOIA requestors not have to subsidize

the extraction of public records from the Executive Branch. Kaye v. Burns, 411 F. Supp. 897 (S. D. N. Y. 1976).

Miller should be awarded these fees and costs now, on an interim basis, if for any reason the litigation continues on appeal or into discovery. Powell v. U. S. Dept. of Justice, 569 F. Supp 1192 (N. D. Cal. 1983).

C. Standard for Review. Even under the "clearly erroneous" standard (FRCP, Rule 52(a)), the District Court's failure to apply the summary judgment criteria, its resolution of material facts in issue against Miller (the non-moving party), and its refusal to carefully review the allegations of bad faith affidavits were abuses of discretion. Church of Scientology v. U.S. Postal Service, 700 F. 2d 486 (9th Cir. 1983); Weissman v. C.I.A., 565 F. 2d 692 (D. C. Cir. 1977). Similarly, the Court's failure to award attorneys fees in the light of the State Department's having released only seven documents before suit was joined and an additional 356 documents, many of them grudgingly, during the pendency of the litigation, was also clearly in error.

#### V. ELABORATED ARGUMENT

A. Standard for Review. The District Court predicated its decision on findings that (a) "there are no genuine issues for trial [and, accordingly], summary judgment... should be granted" (Memorandum-and-Order, APPENDIX at p. A-199); and that (b) "[Miller] has not met the criteria to support...an award of attorneys fees" (Id., APPENDIX p.A-202).

The Federal Rules of Civil Procedure ("FRCP") apply the "clearly erroneous" standard to appellate review of findings

of facts (FRCP, Rule 52(a)). Magistrates' findings are not protected by the clearly erroneous doctrine, however (Notes of the Advisory Committee on Rules to FRCP Rule 72(b), citing United States v. Raddatz, 417 U.S. 667 (1980)). Since the District Court did not explicitly adopt the findings of the Magistrate, pursuant to Rule 52(a), Appellant Miller presumes that the court's Memorandum-and-Order stands on its own. For the reasons set forth below, he asks the Court of Appeals to make the determination that the two findings are indeed "clearly erroneous": Owing to the State Department's dilatoriness and bad faith affidavits, the grant of summary judgment should be overturned; and regardless of the Court's decision on the summary judgment question, Miller has substantially prevailed and is entitled to recover his attorney fees and costs.

B. Summary Judgment

1. Criterion. As the District Court noted in its memorandum, a court must consider a motion for summary judgment in a light most favorable to the non-moving party and to give that party the benefit of all reasonable inferences from the underlying facts. Any room for doubt about material facts resolves the question in favor of the non-moving party. Keys v. Lutheran Family and Children's Services, 668 F. 2d 356 (8th Cir. 1981).

In support of its request for summary judgment, the State Department contended that it fully responded to Miller's FOIA requests and it properly classified all of the materials for which it invoked statutory exemptions. In point of fact the State Department did neither; and the District Court

incorrectly accepted the State Department's declarations as truthful, resolving all the doubts against Miller.

2. Extent of disclosure. If the Executive Branch grounds its motion for summary judgment in a FOIA case on the claim that it has in fact accounted for all extant information, it cannot prevail unless it shows that each document has either been produced, is unidentifiable, or is statutorily exempt from disclosure. Blakely v. Department of Justice, 549 F. Supp. 362, 366 (D.D.C. 1982). Miller contends that scores of non-exempt documents remain unreleased (Miller's Third Affidavit, APPENDIX, pp. A-125, 126).

The State Department failed to meet its burden, and the District Court erroneously adopted as its own the assertions of the State Department's affiants instead of acknowledging the genuine issues of material fact. The District Court should have denied the summary judgment motion when the only competent evidence offered by the State Department was a series of flawed and internally inconsistent affidavits. Fiumara v. Higgins, 572 F. Supp. 1093, 1099 (D.N.H. 1983).

3. Affidavit procedure. Virtually all of the FOIA litigation on the validity of summary judgment motions has turned on whether and to what extent the resisting agency has demonstrated good faith in its affidavits(s) concerning the withholding of purportedly exempt data. Courts are to accord

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Salisbury v. United States, 690 F. 2d 966 (D.C. Cir. 1982); Military Audit Project v. Casey, 656 F. 2d 738 (D.C. Cir. 1981); Baez v. Department of Justice, 647 F. 2d 472 (D.C. Cir. 1980); Halperin v. C.I.A., 629 F. 2d 144 (D.C. Cir. 1980); Hayden v. N.S.A., 608 F. 2d 1381 (D.C. Cir. 1979); Weissman v. C.I.A., 565 F. 2d 692 (D.C. Cir. 1977).

substantial weight to such affidavits (Carlisle Tire & Rubber Co. v. United States Customs Service, 663 F. 2d 210 (D.C. Cir. 1980)); but every court which has invoked this affidavit procedure has hastened to qualify it with some version of the proviso "...if the affidavits evidence neither bad faith on the part of the agency nor a conflict with the rest of the record." See, e.g., Salisbury v. United States, 690 F. 2d 966, 970 (D.C. Cir. 1982), (emphasis added).

4. Adequacy of the search. In the instant case, although there is a secondary question about the reasonableness of the State Department's exemption claims (see discussion infra), that dispute applies at most to 11 or 12 documents. At issue here primarily is what Miller contends is the inadequacy of the search for over 100 identified, non-exempt documents. The "affidavit test," which arose in exemption cases, evidently applies as well to inadequacy-of-disclosure cases. Weisburg v. Department of Justice, 703 F. 2d 1344, 1351 (D.C. Cir. 1983); Fitzgibbon v. C.I.A., 578 F. Supp. 704, 726 (D.D.C. 1983).

Even though the Weisburg and Fitzgibbon courts both granted the target agencies' summary judgment motions, both courts made clear that the process to be utilized in deciding summary judgment questions places the burden squarely on the agency to "show no material doubt that it has conducted a search reasonably calculated to uncover all relevant documents responsive to [Plaintiff's] request." Weisburg, supra, at 1351; Fitzgibbon, supra, at 726. Plaintiffs may cast doubt on the adequacy of the agency's search by showing that relevant records have not in fact been released. (Id.).

Had the District Court in the case at bar applied those standards, it would have refused to grant summary judgment owing to the following indicia of bad faith:

a. Dilatoriness: At least one Circuit has held that a agency's dilatoriness over two and a half years is in and of itself a manifestation of bad faith sufficient to vitiate the substantial weight to be accorded to agency affidavits. McGehee v. CIA, 697 F. 2d 1095, 1112 (D.C. Cir. 1983). The State Department has delayed releasing material to Miller for three years. Although the FOIA statute requires response within 10 days (5 U.S.C. Sec. 552 (a)(6)(A)(ii)), the State Department took six months to send him seven paltry documents and another 356 unduplicated documents over the next year and a half, batched in response to pleadings and affidavits which Miller filed with the court.

b. Disingenuousness: Tardiness is one thing; but disingenuousness under oath is quite another.

(1) The State Department's initial affidavit assured the court "under penalty of perjury" (First Friedman Affidavit, APPENDIX, p. A-43) that "[e]ach document had been carefully reviewed" (Id., Paragraph 20, APPENDIX, p.A-25). and that there were only 269 responsive documents retrieved in response to this request" (Id., Paragraph 17, APPENDIX, p.A-24). Then when Miller filed his first affidavit enumerating some 114 specific documents of whose existence he was aware but which the State Department had never acknowledged, the Department tacitly conceded that it had not searched quite as



thoroughly as Friedman had led the Court to believe. The redoubled effort yielded 34 documents which had escaped the Department's earlier scrutiny. (First Machak Affidavit, APPENDIX, pp. A-74, A-78,79).

(2) The State Department's Blair Hall had written Miller in January, 1982, implying that there were only 160 Liberty documents, few of which, Hall stated, "relate directly to the attack and the reasons for it" (Exhibit IV to Complaint, APPENDIX, p. A-10). But Friedman in his Second Affidavit admits that the Liberty documents had a numerical sequence [which] originally ran from 1 through 595 (APPENDIX, p.A-85). Thickening the plot further, Miller has received Liberty documents with sequence numbers as high as #619 (Miller's Second Affidavit, Paragraph 3, APPENDIX, p.A-101). See, also, APPENDIX, p. A-97.

(3) Although the State Department's own Record Retention Policies require that Central Foreign Policy files containing information collected in the period 1950-1973 be maintained permanently<sup>2</sup>, its explanation of why certain documents had not been released to Miller included 32 which had been lost ("could not locate"), (Second Machak Affidavit at para. #8, APPENDIX, p. A-122). Coincidentally, perhaps, many of the "missing" documents just happen to comprise significant reports and historically important diplomatic correspondence: The Atherton Memo (#250); Israeli Note of August 5, 1968 (#82);

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<sup>2</sup> State Department Records Retention Manual, Chap. 6 (FOIA Records), Appendix A. Though not a part of the designated APPENDIX, this document was attached to Miller's Third Brief and was therefore available to the District Court.

Israeli foreign Affairs Note of March 7, 1968 (#105); Israeli Note of October 3, 1968 (#217); Navy Position Paper requested by State Department (#277); The Clifford Report (#419); Admiral Gaskill's letter of February 13, 1980 (#570); and the Korn Memorandum of December 10, 1979 (#554). Given the State Department's contention that some Liberty documents--despite being 17 years old--are still too sensitive to release (First Friedman Affidavit, Paragraph 25, APPENDIX, p. A-28), it is implausible that such key documents would in fact be lost.

(4) The State Department attempts to rationalize its conduct in this case by stating that "[t]here was no file entitled 'USS Liberty'" (First Machan Affidavit, paragraph 7(a), APPENDIX, p. A-51). But if the documents were maintained in non cross-indexed files, how did they get numbered sequentially? And if the Department had not classified the information until April 28, 1983, how could its officials know in 1981 that they contained sensitive information?

(c) Evidence of non-disclosure. Miller has filed three Affidavits and has produced charts accompanying every Brief identifying the specific documents mentioned in other documents released to him. Each time the State Department has grudgingly released a few more documents, but Miller's current list enumerates 95 sequentially numbered Liberty documents for which the State Department has not provided

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This date does not appear in any of the State Department's Affidavits. It does, however, appear in the State Department's Third Brief (at 17) (not part of the record) and recited by Magistrate Cudd in his Report and Recommendations (APPENDIX, p. A-145).

adequate explanations for non-disclosure.<sup>4</sup>

5. Wrongfully exempted documents. The State Department has withheld about eleven documents, either in full or in part, on the basis of FOIA exemption Sec. 552(b)(1)--national security and foreign policy secrets. However, (a) all documents classified secret or confidential arising from the Liberty incident should have been declassified in 1973, pursuant to Executive Order 12065, Sec. 1.401; and (b) even under the present Executive Order (12065), the State Department may not lawfully classify information in order to conceal violations of the law (Section 1.6(a)).

a. De novo review of classification: When confronted with a claim for a statutory exemption, the District Court is required to conduct a de novo review of the agency's classification at the time classification took place. Lesar v. Department of Justice, 636 F. 2d 472, 480-81 (D.C. Cir. 1980) (emphasis added). When the classification took place is crucial both for determining whether the withheld material is in fact exempt and whether the State Department was being truthful in explaining its non-disclosures in this case.

(1) E.O. 12065: At the time Miller initiated his FOIA request (July, 1981), at the time he appealed

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<sup>4</sup> Miller recognizes that he cannot submit a new affidavit to the Court of Appeals. But his Third Affidavit, though not as up-to-date, is a part of the record and was before the District Court. (See, APPENDIX, p. A-125)

<sup>5</sup> Liberty Document Nos. 46, 176, 273, 342, 348, 394, 399, 400, 405, 406, 411. Third Friedman Affidavit, Para. 8(d), APPENDIX, P. A-114).

the State Department's denial of information to him (April, 1982), and at the time he served the Complaint in this matter (June, 1982), E. O. 12065 (3 CFR Sec. 190.11974) was in effect. That Executive Order contained a durational restriction:

Except as permitted in section 1.402 [for top secret documents] at the time of the original classification each original classification authority shall set a date or event for automatic declassification no more than six years later.  
(E.O. 12065, Sec. 1-401, emphasis added)

Most of the documents withheld from Miller pursuant to Exemption (b)(1) were classified as secret or confidential and, consequently, should have been declassified in 1973, six years following the attack on the Liberty. The six-year rule still applied in 1981 when Miller made his FOIA request.

(2) E.O. 12356: A new Executive Order #12356 (45 Fed. Reg. 14,874) became effective in August, 1982, a month after Miller filed his Complaint. The durational provision of the Executive Order (Sec.1.4) deleted the six-year sunset and substituted the value standard "...as long as is required by national security considerations." Even that purposefully non-restrictive formulation retained the prior requirement for a "specific date or event for declassification" which was to be set "at the time the information was originally classified."

Arguably, the new Executive Order's intentionally vague durational section is an unconstitutional usurpation of the legislative function. FOIA's subsection (c) provides:

This [statute] does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section.  
(5 USC Sec.552 (c), emphasis added)

The purpose of that subsection, and particularly the word "specifically," was "to make it clear beyond doubt that all materials of the Government are to be made available to the public...unless explicitly allowed to be kept secret by one of the exemptions..."

(Senate Report No. 10, 89th Cong. 1st Sess. (1965); House Report No. 11, 89th Cong. 1st Sess. (1965), as cited in Davis, Administrative Law Text (3d ed. 1972) at 69, n. 1, and 79, n. 1-2.)

(3) Reclassification. Although Miller's request, appeal, and Complaint were all filed before the promulgation of E.O. 12356, an agency may reclassify documents--even in the midst of litigation--in order that agencies can "respond quickly to...changes [in national security]". Afshar v. Department of State, 702 F. 2d 1135, 1136 (D.C. Cir. 1983) (emphasis added). But in the instant case, there were no quick changes to which Executive was responding: The attack on the Liberty occurred 17 years ago.

The State Department finesses the whole reclassification question by claiming that the initial classification of the Liberty documents was not completed until April 28, 1983,<sup>6</sup> which just happens to be the date of Friedman's First Affidavit (APPENDIX, pp. A-21, A-43).

Miller should have at least been entitled to discover if the correct classification procedures were followed. Schaeffer v. Kissinger, 505 F. 2d 389 (D.C. Cir. 1974). To be entitled to discovery, of course, means that the

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<sup>6</sup> See note 3, supra

summary judgment motion must be denied.

2. Treaty violations. Even, however, if the Court deems that a proper reading of Lesar and Afshar permits the State Department to apply the 1982 Executive Order to Miller's 1981 FOIA request, the State Department is hoist by its own petard: E.O. 12356 expressly forbids the classification of information to protect unlawful conduct from public disclosure:

In no case shall information be classified in order to conceal violations of the law, inefficiency, or administrative error, to prevent embarrassment to a person, organization, or agency.  
(E.O. 12356, Section 1.6(a))

The term "law" embraces treaties.<sup>7</sup> And at the time of the Israeli attack on the Liberty (1967), the Treaty of Friendship, Commerce and Navigation between Israel and the United States (TIAS 2948, 5 UST, Pt. 1,550) was in effect. That Treaty provides, in pertinent part, that

Each party shall at all times accord equitable treatment to the persons, property, enterprises, and other equitable interests of nationals and companies of the other Party.

(Article I)

Between the territories of the two Parties, there shall be freedom of commerce and navigation.

(Article XIX, section 1)

Vessels of either Party shall have the liberty...to come with their cargoes to all ports, places, and waters of such other Party open to foreign commerce and navigation.

(Article XIX, section 3)

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That treaties are part of the "supreme Law of the Land" has been a jurisprudential notion since the Constitutional Convention of 1787. See Federalist Paper No. 80, as reprinted in Hart and Wechsler, The Federal Courts and the Federal System (Second Edition, 1973) at 25-26.

There shall be freedom of transit through the territories of each Party by the routes most convenient for international transit:...for articles of any origin en route to or from the territories of such other Party.

(Article XX(c), emphasis added)

There can be no doubt that the Israeli air attack on the Liberty, even if inadvertent, violated the Treaty of Friendship, Commerce, and Navigation. It therefore constituted a violation of law, and, accordingly, may not be afforded protection of the exemption by the terms of the Executive's Order's own exception.

6. Judicial error. The moving party bears the burden of showing no genuine issue as to all material facts, necessary to entitle it to summary judgment. Donovan v. Agnew, 712 F. 2d 1509, 1515 (1st Cir. 1983); Early v. Eastern Transfer, 699 F. 2d 552, 554-555 (1st Cir. 1983). It is improper for a district court to merely defer to an agency's position about the adequacy of its search. (Bell v. United States, 563 F. 2d 484 (1st Cir. 1977); in fact it is affirmatively obliged to test the veracity of the agency's assertions. Weissman v. C.I.A., 565 F. 2d 692, 697 (D.C. Cir. 1977).

Here there were ample material facts in dispute. Even though the State Department was not obliged to ferret out every possible responsive document (Ground Saucer Watch, Inc. v. C.I.A., 692 F. 2d 770, 771-72 (D.C. Cir. 1981), an adequate recital of an inadequate search should impel a denial of summary judgment. Hydron Laboratories, Inc. v. E.P.A., 560 F. Supp. 718 (D.R.I. 1983), citing Perry v. Block, 684 F. 2d 121, 126 (D.C. Cir. 1982).

The District Court had before it a plethora of genuine issues of material fact concerning alleged bad faith affidavits, discrepancies, misstatements, administrative errors, which Executive Order applied, when had classification taken place, how many documents were in the Liberty file(s), whether the violations of the Israeli-American treaty violated the classification policy, and whether the Department had in fact lost important diplomatic notes about an incident it claims is still too sensitive to permit complete disclosure. The burden was clearly on the agency. Ray v. Turner, 587 F. 2d 1187 (D.C. Cir. 1978). But the Court erroneously resolved the issues of material fact (against the wrong party) instead of finding that genuine issues of material fact existed. A correct finding would have precluded summary judgment for the State Department.

SYNOPSIS OF ARGUMENT ON THE QUESTION  
OF SUMMARY JUDGMENT

Several genuine issues of material fact remain in the case: (1) whether the State Department has in fact released all of the non-exempt data which Miller sought three years ago; (2) whether the State Department's affidavits are sufficiently flawed to vitiate the substantial weight accorded to agency affidavits submitted in good faith; (3) whether the agency applied the correct Executive Order in exempting approximately a dozen documents from disclosure; (4) whether, even if the correct Executive Order were applied, the violation of the Israeli-American Treaty forbids the invocation of the exemption; (5) whether the State Department's dilatoriness in and of itself



precludes summary judgment in its favor; (6) whether the State Department has properly withheld some documents on the ground that they contain some portion of information, which would arguably invade third parties' privacy; (7) whether Miller is entitled to discover the procedures under which the State Department searched its files and applied classification schemes.

Instead of identifying and acknowledging the materially factual disputes which did exist, the District Court erroneously resolved the disputes and did so, improperly, in favor of the moving party. -----

C. ATTORNEYS FEES AND COSTS

Regardless of the Court of Appeals' decision on the summary judgment question, Miller is entitled to attorneys fees.

Attorneys fees had been omitted in the initial FOIA legislation but were included in the 1974 Amendments owing to Congressional dissatisfaction with the Executive Branch's response to the legislative policy of open government. Nationwide Building Maintenance, Inc. v. Sampson, 559 F. 2d 704, 710 (C. Cir. 1977).

The statute provides that "[t]he Court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed" (5 U.S.C. Sec. 552 (a)(4)(E)). And the Courts of Appeal have consistently applied the four criteria for "substantially

prevailed" enumerated in the Senate bill.<sup>8</sup> Cuneo v. Rumsfeld, 553 F. 2d 1360 (D.C. Cir. 1977); Vermont Low Income Advocacy Council ("VLIAC") v. Usery, 546 F. 2d 509 (2d Cir. 1976); Blue v. Bureau of Prisons, 570 F. 2d 529 (5th Cir. 1978); Education/Instruccion v. HUD, 649 F. 2d 4 (1st Cir. 1981).

1. Prerequisites. In applying the four criteria, the courts have held that an absence of a court order will not preclude recovery of fees (Cuneo, supra, at 1364; Sweatt v. Navy, 683 F. 2d 420, 423 (D.C. Cir. 1980). Nor is voluntary disclosure of documents prior to judgment a bar to recovery. VLIAC, supra, at 513; Cuneo, supra, at 1364; DeBold v. Stimson, 735 F. 2d 1037, 1040 (7th Cir. 1984). The trigger for attorneys fees seems to be etiology: "Did the institution and prosecution of the litigation cause the agency to release the documents obtained during the pendency of the litigation" Church of Scientology v. Harris, 653 F. 2d 584, 587 (D.C. Cir. 1981); Accord, Church of Scientology v. U.S. Postal Service, 700 F. 2d 486, 491-92 (9th Cir. 1983). Even an unfavorable summary judgment motion will not necessarily preclude attorneys fees. Jaffe v. C.I.A., 573 F. Supp. 377 (D.D.C. 1983); Ginter v. IRS, 648 F. 2d 469-71 (8th Cir. 1981).

2. The four criteria. In determining whether to award attorneys fees and costs, a court is to consider:

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<sup>8</sup> Freedom of Information Act and Amendments of 1974 (P.L. 93-502) Source Book, House Committee on Government Operations, Senate Committee on the Judiciary, 94th Cong., 1st Sess. (March 1975), 189-90.

- (a) the benefit to the public;
- (b) the commercial benefit of the complainant;
- (c) the nature of the complainant's interest in the records sought;
- (d) whether the government's withholding of the records had a reasonable basis in law.

a. Public benefit. Public benefit is most frequently demonstrated by media or public interest group

requestors<sup>9</sup>, but the criterion can also be satisfied by bringing the Executive Branch into compliance with the law (Cuneo v. Runsfeld, 553 F. 2d at 1366; Powell v. U.S. Dept. of Justice, 569 F. Supp. 1192, 1201 (N.D. Cal. 1983) or by adding to the fund of information the citizenry may use in making political choices (Blue v. Bureau of Prisons, 570 F. 2d 529, 534 (5th Cir. 1978)). It is even possible where the information is not of general significance so long as the plaintiff is not seeking it for commercial purposes.

b. Commercial benefit. Commercial benefit is a negative criterion, i.e., to the extent that the plaintiff has a strong commercial benefit from the records, s/he or it will be denied fees. (LaSalle Extension University v. FTC, 627 F. 2d 481 (D.C. Cir. 1980). Guam Contractors Ass'n. v. U.S. Dept. of Labor, 570 F. Supp. 163 (N.D. Cal. 1983).

c. Complainant's interest. Closely related to the second criterion, the complainant's interest criterion

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<sup>9</sup> Source Book, supra note 8, at 171.

favors scholarly, journalistic, and public interest oriented plaintiffs (Source Book (see note A) at 171).

d. Government's withholding. Absent a reasonable basis for withholding data, the government's non-disclosure will give rise to an award of attorneys fees as a punitive measure (Grooms v. Snyder, 474 F. Supp. 380, 383 (N.D. Ind. 1976), particularly if the purpose is to impede the requestor or to avoid embarrassment. Blue v. Bureau of Prisons, 570 F. 2d 529, 534 (5th Cir. 1978). Unreasonable foot-dragging will also prompt an award of fees. Powell v. U.S. Dept. of Justice, 569 F. Supp. 1192, 1201 (N.D. Cal. 1983); Des Moines Register and Tribune Co. v. F.E.I., 563 F. Supp. 82 (D.D.C. 1983); Steenland v. C.I.A., 555 F. Supp. 907, 911 (W.D.N.Y. 1983); Goldstein v. Levi, 415 F. Supp. 303 (D.D.C. 1976).

3. Applying the criteria to Miller. Miller is a civil servant, is not affiliated in any way with a business enterprise, and will reap no commercial benefit from the documents. The nature of his interest is scholarly: He is an amateur historian and intends to write articles about the Liberty incident. Consequently, he satisfies the first three criteria. As to the fourth criterion, the State Department eventually released some 362 documents to him, but it took inquiries, letters, long-distance phone calls, an appeal, a Complaint, and vigorous prosecution of his lawsuit to extract the records. Moreover, it took more than two years and painstakingly crafted affidavits to induce the State Department to produce the last several batches, even though all were non-exempt documents. The State Department's protests that it was

overloaded with other FOIA requests strike a discordant note in the face of three years of episodic and cacophonous behavior surrounding the release of documents about a single historical incident.

4. Causation. Even if a plaintiff satisfies the four criteria in the Senate bill, in order to recover attorneys fees and costs s/he must also show that the lawsuit was both necessary to obtain the data and had a causal nexus with the release. Cox v. Department of Justice, 601 F. 2d 1, 7 (D.C. Cir. 1977). Crooker v. Department of Justice, 632 F. 2d 916, 924 (1st. Cir. 1980).

Here the lawsuit made the difference. Before filing the Complaint, despite an appeal, Miller had received a total of seven unduplicated documents. Once he filed his Complaint, the State Department took his request seriously and began to release documents to him.

The litigation was not only necessary, it clearly provoked the quantity of documents as well. There have been a total of 16 other Liberty FOIA requestors. Half got no documents at all; none of those who failed to litigate received more than four or five dozen documents.<sup>10</sup> The only other Liberty requestor who did litigate, James Ennes, proceeded pro se (APPENDIX, pp.A-178, 181); and despite the fact that Ennes' claim was broader (First Machak Affidavit, APPENDIX, p.A-74) because he had a privacy claim in addition to the FOIA claim, he got a total of 163 documents (Second Machak Affidavit, Para. 7,

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Based on data obtained in a separate FOIA request since the District Court decision.

APPENDIX, p. A-120). Miller, by retaining counsel and vigorously pursuing his lawsuit, pried 362 unduplicated documents out of the State Department, albeit painstakingly and slowly.

The State Department cannot claim with a straight face--as its counsel argued at one of the hearings before the Magistrate--that the timing of the release of each batch of documents by sheer happenstance paralleled the filing of Miller's Complaint, his request for a pre-trial conference, and the filing of each of his three Briefs and accompanying affidavits. (See Attachment I to "Objections to the Magistrate's Report," APPENDIX, pp. A-173,174).

5. Discretion. Even if plaintiff passes all the litmus tests for having substantially prevailed, "awarding of attorneys fees is still discretionary with the court." Chamberlain v. Kurtz, 589 F. 2d 827, 842 (5th Cir. 1976). But the Supreme Court of the United States has imposed some guidelines for trial courts' exercise of discretion in awarding attorneys fees: (1) Whether the fees are required by statute; (2) whether equity justifies fees owing to public benefit or bad faith or vexatious conduct on the part of the government. Alveska Pipeline Service Co. v. Wilderness Society et al., 421 U.S. 240, 95 S. Ct. 1612, 44 L. Ed. 2d 141 (1975)

The statutory language about attorneys fees is precatory, but the clear intent of that provision is to provide

a means for ordinary citizens to obtain information from the Executive Branch. Without attorneys fees the Executive Branch would be tempted, as the district court for the Northern District of California observed, "to make FOIA proceedings as lengthy as possible to discourage others from pursuing their rights under the Act." Dunway v. Webster, 519 F. Supp. 1059, 1066, n. 5 (N.D. Cal 1981).

The D. C. Circuit has suggested that it might be an abuse of discretion for the district court to fail to consider all four of the enumerated criteria. LaSalle Extension University v. FTC, 627 F. 2d 481, 484 D.C. Cir. 1980; analogically, it is also an abuse of discretion to consider the four factors in a way that ignores the facts and thwarts the legislative goal. In the Miller case, the District Court overlooked the bad faith affidavits and the vexatious conduct on the part of the State Department, and it failed to take into consideration the public benefit and Miller's lack of commercial interest in the records. The Court merely exclaimed that Miller "had not met the criteria necessary to support such an award" (Memorandum-Order, Addendum p. 9, APPENDIX, p. 194). In Church of Scientology v. U.S. Postal Service, 700 F. 2d 486 (9th Cir. 1983), the Court of Appeals for the Ninth Circuit reversed the district court's denial of attorneys fees, holding that the lower court had a duty to specifically consider the circumstances and events surrounding the request for documents and the subsequent production in making the determination about whether the plaintiff had substantially prevailed. Miller prays

the Eighth Circuit to similarly overturn the District Court's decision in his case.

6. Reasons for not awarding fees. There is a paradigm to the cases where attorneys' fees have been denied even where plaintiffs have substantially prevailed: (a) A commercial benefit for plaintiff or its constituent members (Fenster v. Brown, 617 F. 2d 740 (D.C. Cir. 1979); Guam Contractors Ass'n. v. Department of Labor, 570 F. Supp. 163 (N.D. Cal. 1983)). (b) a rush to the courthouse (VLIAC v. Usery, 546 F. 2d 509 (2d Cir. 1976)); or (c) data sought to supplement discovery in an unrelated civil action (Nix v. United States, 572 F. 2d 998, 1007 (4th Cir. 1978)).

But Miller does not fit into that pattern. No commercial gain will attach to his receipt of Liberty documents; he waited a year before he filed suit (similar to the 16 months the district court for the Western District of New York deemed sufficient to generate attorneys fees in Steenland, supra, at 909); and he has no outside interest in the Liberty documents except intellectual curiosity.

7. Legislative objective. The FOIA statute is a legislative response to unwarranted suppression of information by the Executive Branch. Renegotiation Board v. Bannerkraft Clothing Co., Inc., 415 U.S. 1, 17, 94 S. Ct. 1028, 1035, 39 L. Ed. 2d 123 (1974). The State Department should not be permitted to sabotage Congressional intent by handling requests for information with what the First Circuit characterized as "glacial celerity" Irons v. Bell, 596 F. 2d 468, 470 (1979).



If the District Court decision stands unreversed, the object lesson will be clear to the Executive Branch: Reply quickly only to requestors who are wealthy; don't bother worrying about middle class and working class requestors because we can make it much too costly for them to litigate at no risk to the government. The district court for the Southern District of New York said it eloquently:

"...the salutary purposes of the Statute to encourage voluntary compliance with the FOIA, and to encourage suit where an agency has wrongfully withheld requested material could be too easily rendered nugatory if the government could force a party into litigation and then deprive that party of the right to recover expenses incident to bringing the action."

Kaye v. Burns, 411 F. Supp. 897, 902 (1976)

8. Interim fees. Miller deserves to be reimbursed for his attorneys fees and costs even if the Court were to remand for further consideration or if the Court reversed the district court, and the State Department decided to appeal.

The notion of interim fees is relatively new to the FOIA arena, but two district courts have awarded interim FOIA attorneys fees during the past three years. The Southern District of New York, in 1980 (Bieberman v. FBI, 496 F. Supp. 262) and the Northern District of California in 1983 (Powell v. Department of Justice, 569 F. Supp. 1192).

The Powell court undertook an analysis of similarly worded statutes which had prompted the award of attorneys fees in Civil

Rights actions.

It concluded that both the legislative history and discernable Congressional intent strongly support the award of interim attorneys fees in appropriate cases. Powell, supra, at 1197. "Without an award of interim fees," that district court pointed out, "many plaintiffs without the financial wherewithal to engage in such protracted litigation would be forced to abandon their FOIA lawsuits in mid-stream." Id. at 1197. That is precisely the situation in which Miller finds himself.

The criteria which the Powell court established to determine which cases were appropriate for awarding interim attorneys fees comprise (a) the degree of hardship attaching to a delay in the recovery of fees; (b) the extent of unreasonable delay by the Government; (c) and the length of time the case has been pending. Here, Miller has had to borrow money to subsidize the appeal; the State Department delayed sending him any documents at all for six months and then took another 2 1/2 years to send him the rest of the file; and the case has been pending since June, 1982. Miller clearly fits the criteria and deserves to recover interim fees.

Miller asks that he be reimbursed for his attorneys fees and costs to date, including those incurred in preparing this Brief.

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Van Hoomissen v. Xerox Corp., 503 F. 2d 1131 (9th Cir. 1974), Yakowicz v. Commonwealth of Pennsylvania, 683 F. 2d 778, 781-82 (3d Cir. 1982); Bradley v. School Board of the City of Richmond, 416 U.S. 696, 94 S. Ct. 2007, 40 L. Ed. 2d 476 (1974); Hanrahan v. Hampton, 466 U.S. 754, 100 S. Ct. 1987, 64 L. Ed. 2d 670 (1980), as cited in Powell, supra, at 1194-96.

SYNOPSIS OF THE ATTORNEYS FEE ISSUE

Miller's lawsuit was necessary to pry documents out of the Department of State, and his vigorous prosecution of the action was the proximate cause of both the quantity and timing of the eventual releases. Miller's interest in the Liberty data is scholarly, non-commercial, and consonant with the public weal. Additionally, the State Department's conduct during the pendency of the litigation and in the year between Miller's initial request and his serving the Complaint was disingenuous and vexatious.

Accordingly, Miller satisfies all of the judicially established criteria for having "substantially prevailed". And he does so regardless of the outcome of the summary judgment motion.

It would thwart the legislative purpose of the FOIA if ordinary citizen-requestors of information under FOIA, like Miller, are forced to subsidize litigation to elicit data which the Congress has unambiguously stated should be available to the public for the asking. Consequently, the District Court erroneously concluded that Miller had not substantially prevailed, and it was an abuse of discretion to deny Miller his attorney fees and costs.

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VI. CONCLUSIONS

1. The record casts grave doubts about the credibility, and hence the good faith, of the affidavits filed by the State Department in this case.

2. A number of genuine issues of material fact remain

concerning: (a) the complete release of non-exempt documents; (b) the legitimacy of the exemptions claimed for some of the documents withheld; (c) the adequacy of the State Department's search for documents; (d) which Executive Order should have applied to the classification of documents; and (e) the interplay between the violation of the Israeli-American Treaty and the authority to invoke exemptions.

3. A trial court considering a motion for summary judgment is only to determine whether genuine issues of material fact exist; it was improper for the district court to resolve those issues, particularly if in resolving them it does so in favor of the moving party.

4. The District Court's grant of summary judgment to the State Department was clearly erroneous.

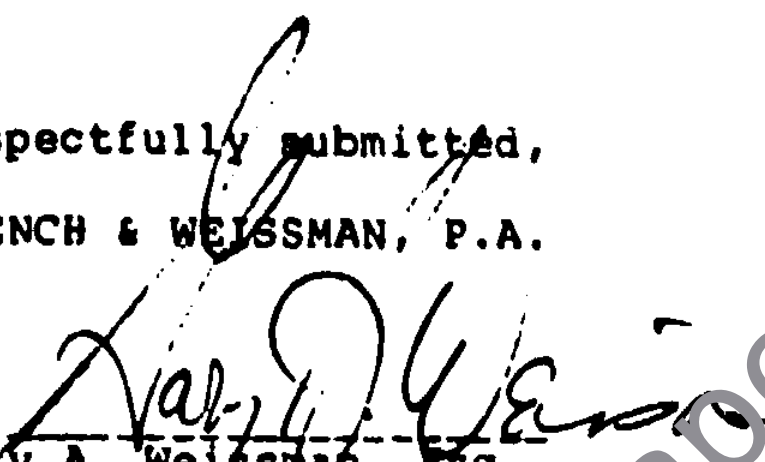
5. Miller clearly satisfied the criteria to be applied in determining whether a FOIA plaintiff has substantially prevailed in his action.

6. Miller's lawsuit was both necessary and the causal element for the release of the data eventually disclosed to him. As a result of his lawsuit, Miller obtained approximately 200 more documents than a pro se litigant (James Ennis) whose FOIA/privacy request the State Department conceded was broader than Miller's.

7. Even if the litigation in this case continues on appeal or in discovery, Miller is entitled to interim attorneys fees and costs incurred up through the preparation of the Brief and oral argument on appeal.

8. It was a clearly erroneous abuse of discretion for the district court to hold that Miller had not substantially prevailed and to deny him his attorneys fees and costs.

Respectfully submitted,  
FRENCH & WEISSMAN, P.A.

by:   
Gary A. Weissman, Esq.  
Suite 510 Sexton Building  
529 South Seventh Street  
Minneapolis, MN 55415  
(612) 339-8592  
Attorneys for  
Plaintiff-Appellant

dated: October 26, 1984

James M. Ennes, Jr. Research Papers

ADDENDUM

James M. Ennes, Jr. Research Papers

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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION

James Miller,

Plaintiff,

MEMORANDUM AND ORDER

vs.

Civil No. 3-82-788

George Schultz, Secretary of  
State; Blair P. Hall, Information  
and Privacy Staff Person; Henry  
Cohen, Policy/Appeals Office,  
United States Department of State.

Defendants.

Before the court are plaintiff's objections to the  
Magistrate's Report and Recommendation granting defendant's  
motion for summary judgment. Gary A. Weisman, Esq. appears for  
plaintiff. Jose Sandoval, Esq. and Mona S. Butler appear for  
defendants.

BACKGROUND

The plaintiff, James Miller, is a resident of Minnesota. On  
July 23, 1981 the plaintiff made a Freedom of Information Act  
(FOIA) request to the State Department for: (1) all State  
Department documents relating to the attack on the U.S.S. Liberty  
on June 8, 1969, by Israel, and (2) any documentary evidence  
which would demonstrate that the attack was not deliberate.  
The plaintiff received a letter from the Information and Privacy  
Staff of the State Department informing him that his request had  
been received and was being processed. Over the next 11 months  
plaintiff and defendants exchanged correspondence concerning the

release of requested information. Dissatisfied with the amount of information released, and the procedure followed, plaintiff filed this suit pursuant to the Administrative Procedure Act, 5 U.S.C. § 552(a)(4)(B). Jurisdiction is founded on 28 U.S.C. § 1331.

#### DISCUSSION

In passing upon a motion for summary judgment, the court is required to view the facts in a light most favorable to the party opposing the motion and give that party the benefit of all reasonable inferences to be drawn from the underlying facts disclosed in the pleadings and affidavits. Keys v. Lutheran

Family & Children's Services, 668 F.2d 356 (8th Cir. 1981);

Adickes v. S.H. Kress & Co., 398 U.S. 144 (1970). Thus,

defendants must establish their right to a judgment as a matter of law; there must be no genuine issue of material fact and no room for doubt or controversy. Keys v. Lutheran Family &

Children's Services, 668 F.2d 356 (8th Cir. 1981).

Plaintiff in his objection to the magistrate's report and recommendation claims there are three genuine issues which should preclude the granting of defendant's motion. First, defendants have not fully responded to his request. Second, defendants have not properly classified withheld documents, and finally he has substantially prevailed in this action entitling him to an award of attorney's fees. Defendants, on the other hand, submit that this court should adopt the report and recommendation of the magistrate and grant their motion for summary judgment.



It is well established that the adequacy of an agency's response to a FOIA request is measured by a standard of reasonableness. McGehee v. Central Intelligence Agency, 697 F.2d 1095 (D.C. Cir. 1983); Founding Church of Scientology v. National Security Agency, 610 F.2d 824 (D.C. Cir. 1979). The agency must show beyond material doubt that it has conducted a search reasonably calculated to uncover all relevant documents. Weisberg v. United States Department of Justice, 705 F.2d 1344 (D.C. Cir. 1983). The issue is not whether any further documents exist but rather whether the government's search for responsive documents was adequate. Perry v. Block, 684 F.2d 122 (D.C. Cir. 1982). To prevail, the defendants must show that each document in existence which has been requested has been produced, is unidentifiable, or is wholly exempt under the Act. Marks v. United States Department of Justice, 578 F.2d 261 (D.C. Cir. 1978); National Cable Television Association, Inc. v. F.C.C., 479 F.2d 183 (D.C. Cir. 1973). The government may rely upon affidavits to show it has conducted a reasonable search, as long as the affidavits are relatively detailed, non-conclusory, and submitted in good faith. Weisberg v. United States Department of Justice, 705 F.2d 1344 (D.C. Cir. 1983); Goland v. Central Intelligence Agency, 607 F.2d 339 (D.C. Cir. 1978); Vaughn v. Rosen, 484 F.2d 830 (D.C. Cir. 1973).

Plaintiff alleges defendants' dilatoriness, their refusal to provide any information about either reparations or data showing that the attack was accidental, and the discrepancies in their affidavits all constitute precisely the kind of bad faith

appellate courts have described when admonishing district courts not to swallow undigested the contaminated agency affidavits which are often filed.

Defendants, in their affidavits, submit that the reason for the delay in releasing responsive material on the U.S.S. Liberty attack stem from the elaborate and complex retrieval process involved and the enormous backlog of 3000 requests for information.<sup>1</sup> Defendants have met the affidavit requirements under the reasonableness standard.

Plaintiff also objects to defendant's classification and exemption of documents under Exec. Order No. 12356 and 5 U.S.C. § 552(b) as being unlawful. Plaintiff complains the magistrate incorrectly accepted without question the contention of the defendants that documents involving events which took place seventeen years ago impact national security today. Plaintiff further contends that application of Exec. Order No. 12356 to the requested documents was incorrect.

The defendants have the burden of demonstrating that the proper classification has been made. Lesar v. United States Department of Justice, 636 F.2d 472 (D.C. Cir. 1980); Hayden v. National Security Agency, 608 F.2d 1381 (D.C. Cir. 1979); Edwards v. Central Intelligence Agency, 512 F. Supp. 689 (D.D.C. 1981). The agency may satisfy the burden by filing affidavits that set forth in detail the description of the documents and information, without revealing the information

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<sup>1</sup> to mention the 1500 and 2500 within and between federal agency requests for information.

sought to be exempt from disclosure. The affidavits must also give ample justification in support of the claim that the information is exempt from disclosure. The court must accord "substantial weight" to these affidavits if the agency files a motion for summary judgment and supports it with affidavits within the claimed exemption. Baez v. United States Department of Justice, 647 F.2d 1328 (D.C. Cir. 1980); Halperin v. Central Intelligence Agency, 629 F.2d 144 (D.C. Cir. 1980); Salisbury v. United States 7 F.2d 966 (D.C. Cir. 1982). Since the information claimed in defendant's affidavits was neither controverted by contradictory evidence in the record nor by evidence of agency bad faith, summary judgment is appropriate.

In reviewing plaintiff's second allegation, that defendants improperly classified documents, the court must first examine Exec. Order No. 12956. The Order exempts information which pertains to intelligence activities, sources, methods, and foreign relations, or activities of the United States. If information falls within one of these categories, it may be classified when an original classification authority further

determines that its unauthorized disclosure may cause damage to national security.<sup>2</sup> In Afshar v. Department of State, 702 F.2d 1125 (D.C. Cir. 1983) the court stated:

"The rationale for allowing the Executive to apply the new Executive Order to documents in a pending suit is that the needs of national security change and that the Executive should be able to respond quickly to them."

Id. at 1136. Defendants submit that all of the documents in this case were properly classified and exempt under 5 U.S.C. § 552(b). Defendant's also argue that their affidavits meet the requirements of the reasonableness standard set out previously. This court agrees. Because there are no genuine issues for trial, summary judgment is appropriate and should be granted.

Based on the foregoing, the record, briefs, files, and oral arguments of counsel, defendant's motion for summary judgment is granted.

Finally, plaintiff seeks attorney fees pursuant to 5 U.S.C. § 552(a)(4)(E):

"The court may assess against the United States reasonable attorney's fees and other litigation costs incurred in any case under this section in which the complainant has substantially prevailed."

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<sup>2</sup> "The conferees recognize that the Executive departments responsible for national defense and foreign policy matters have unique insight into what adverse effect might occur as a result of public disclosure of a particular classified record. Accordingly, the conferees expect that federal courts, in making review determination in Section § 552(b)(1) cases under FOIA, will accord substantial weight to agency's affidavits concerning the details of the classified status of the disputed record." S. Rep. 93-1200, 93rd Cong., 2d Sess. 12 (1974), U.S. Code Cong. & Administrative News, 1974 pp. 6267, 6290.

The purpose of this section is to remove the often insurmountable financial barriers the average citizen faces when attempting to force the government to comply with FOIA, not to provide an award to any plaintiff who successfully forces the government to disclose the requested information. Lovell v. Alderete, 630 F.2d 428 (5th Cir. 1980); Ginter v. Internal Revenue Service, 648 F.2d 469 (8th Cir. 1980).

In interpreting this subsection the courts have uniformly held that the decision whether to award attorney's fees is within the discretion of the district court and will not be overturned on appeal unless the denial was an abuse of discretion. Crooker v. United States Department of Justice, 632 F.2d 916 (1st Cir. 1980); Ginter v. Internal Revenue Service, 648 F.2d 469 (8th Cir. 1981). Further, the plaintiff carries the burden of demonstrating the propriety of the fees award, including a showing that the plaintiff has substantially prevailed. Lovell v. Alderete, 630 F.2d 428 (5th Cir. 1980); Ginter v. Internal Revenue Service, 648 F.2d 469 (8th Cir. 1981).

In establishing the standards for determining whether a plaintiff has substantially prevailed, the courts have proceeded by describing what does not bar an award. Ginter v. Internal Revenue Service, 648 F.2d 469 (8th Cir. 1981). The production of requested documents does not automatically merit an award of attorney's fees. Cuneo v. Sunfield, 553 F.2d 1366 (D.C. Cir. 1977). Nor does the failure to receive a favorable judgment preclude an award of fees if the plaintiff's action helped induce disclosure of the requested documents. Verdant Low Income

Advocacy Council v. Ueary, 546 F.2d 509 (2nd Cir. 1976). The plaintiff must show more than that the information was requested and that it was supplied. Absent a court order in the plaintiff's favor, the plaintiff must show that prosecution of the action could reasonably be regarded as necessary to obtain the information and that the action had a substantial effect on the delivery of the information. Cox v. United States Department of Justice, 601 F.2d 1 (D.C. Cir. 1979); Lovell v. Alderete, 630 F.2d 4 (5th Cir. 1980); Ginter v. Internal Revenue Service, 648 F.2d 469 (8th Cir. 1981).

Congress has enunciated guidelines that the courts are to use in evaluating the fundamental legislative policies underlying the Acts. Nationwide Building Maintenance, Inc. v. Sampson, 559 F.2d 704 (D.C. Cir. 1977). Once a plaintiff has substantially prevailed a court should determine whether the plaintiff is entitled to the award in light of these criteria:

- (1) the benefit to the public deriving from the case;
- (2) the commercial benefit to the complainant;
- (3) the nature of the complainant's interest in the records sought; and

(4) whether the government's withholding of the records sought had a reasonable basis in law. Lovell v. Alderete, 630 F.2d 428 (5th Cir. 1980); Ginter v. Internal Revenue Service, 648 F.2d 469 (8th Cir. 1981). The plaintiff feels he has substantially prevailed in this matter and furthermore has met

the requirements of the four part test. The court cannot agree. Clearly, the plaintiff has not met the criteria necessary to support such an award.

Based on the foregoing, the record, briefs, and files, and oral arguments of counsel, IT IS HEREBY ORDERED that George Schults, Secretary of State; Blair P. Hall, Information and Privacy Staff person; Henry Cohen, Policy/Appeals Officer and Jack Friedman, Deputy Director of the Office of Mandatory Review should be dismissed as defendants from this action, and only the United States Department of State is the proper party defendant.

IT IS FURTHER ORDERED, that defendant's motion for summary judgment be granted.

Dated: July 11, 1984.

  
ROBERT G. RENNER  
United States District Judge

James M. Ennes, Jr. Research Papers

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FIRST SERIOUS  
ARTICLE ON THE  
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NATIONAL REVIEW

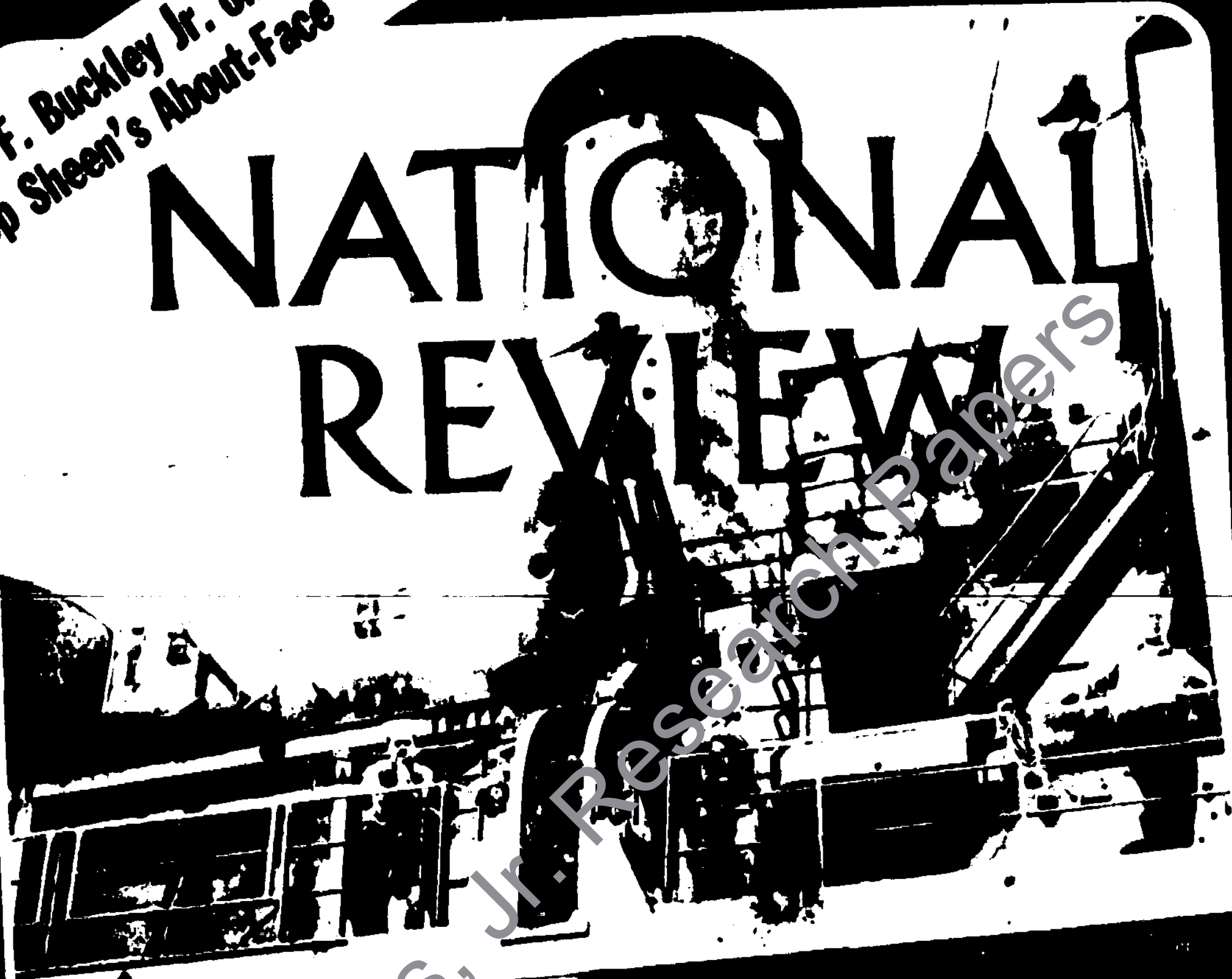
JAMES M. ENNES, JR. KILPATRICK

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FOLDER 28

Wm. F. Buckley Jr. on  
Bishop Sheen's About-Face

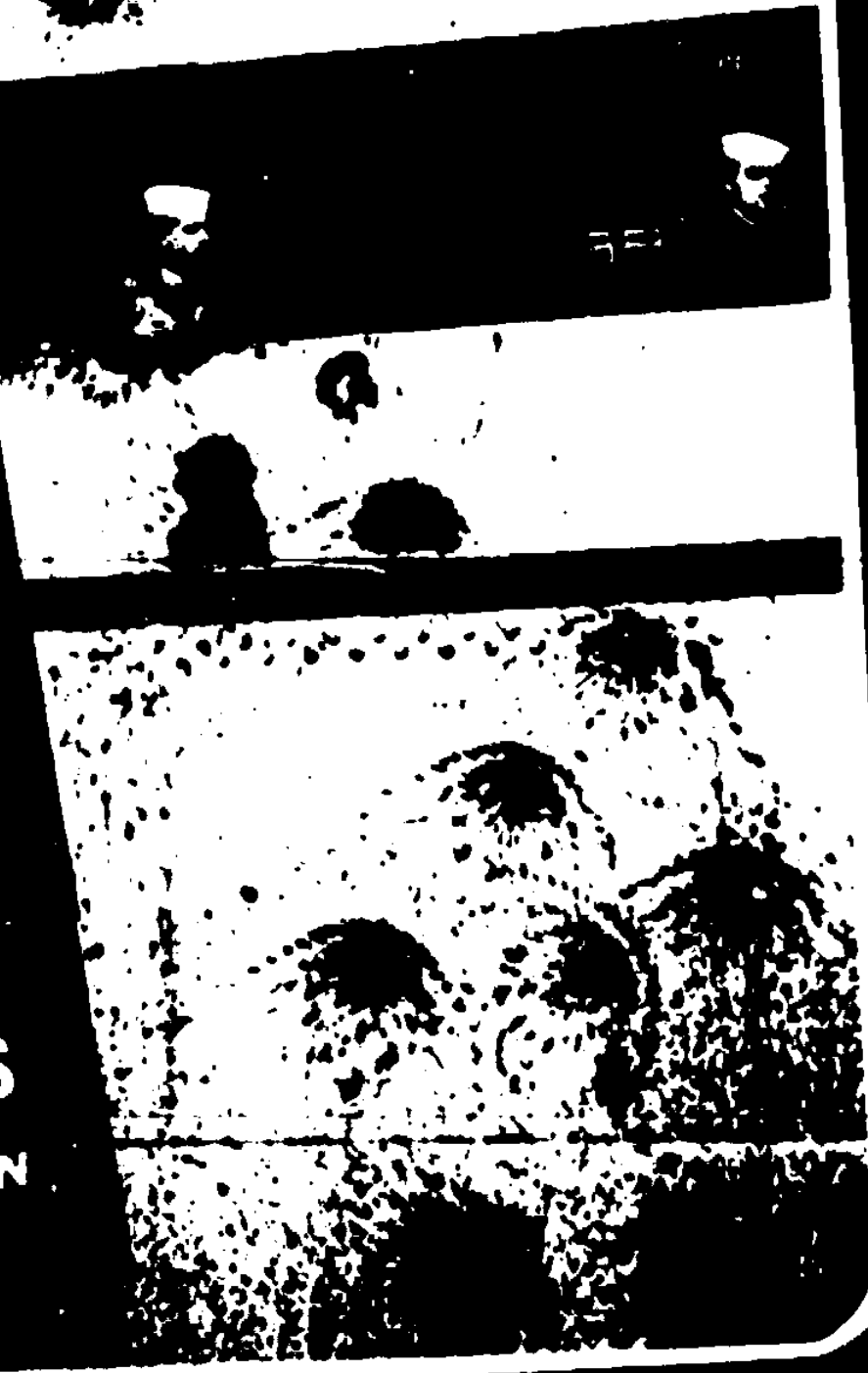
# NATIONAL REVIEW



## The Israeli Bombing of U.S.S. Liberty

by JAMES JACKSON KILPATRICK

A DEBATE ON SOVIET PROGRESS  
EUGENE LYONS vs. ROGER FREEMAN



# June 8, at 1400 hours

The story of USS Liberty is only in part a story of a secret ship, an inexplicable assault, some lost messages. It is also a story of brave men.

JAMES JACKSON KILPATRICK

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11-15

The USS Liberty, a communications vessel attached to the Sixth Fleet, took on fuel and provisions at Rota, Spain, on June 2, 1967. She left that same day, under orders to proceed at top speed to an assigned position off the Sinai coast 800 miles to the east. She carried a crew of fifteen officers and 279 men. Three civilians identified cryptically as "technical representatives" from the Department of Defense (DOD), also were aboard. She arrived on station early on the morning of Thursday, the 8th. It was the fourth day of the six-day war between Israel and the Arab nations. That afternoon the Liberty was to undergo an attack without precedent in modern naval history. Thirty-four men would die, among them one of the DOD technicians; another 75 would be wounded. Well over a third of her total company would be casualties of an unprovoked assault in an undeclared war, victims of an inexplicable "mistake" on the Israeli part. Or so the incident is described.

What follows here is neither an exposé of the Liberty's clandestine role in the Mediterranean nor an explanation of the Israelis' trigger-happy attack; these aspects of the affair are at present unknowable. What follows is no more than an account, drawn largely from official records, of what happened. This is, in brief, a sea story; and sea stories always are worth the spinning, and the story of the Liberty, that blazing summer afternoon, speaks of enduring values that men too often forget: loyalty, and discipline, and courage under fire.

As she chugged eastward across the Mediterranean, the Liberty surely was no thing of remarkable beauty. She had started her maritime life as a freighter of the old Victory class, her keel laid down in Portland, Oregon, late in February 1945. These were the days of Rosie the Riveter; merchant ships were not long in ges-

tion. This product of the assembly line was delivered to the Maritime Commission a little more than two months later. During the closing months of World War II and for some years thereafter, she plied the Pacific Far East. She saw considerable service during the Korean conflict. In 1958, an old tub, she went into the Reserve Fleet, mothballed in Puget Sound, there to slumber for nearly five years.

## Out of Mothballs

Meanwhile, the Navy embarked upon a program of developing special communications ships. Three old Liberty freighters came out of mothballs, to emerge on the East Coast as Orford, Georgetown and Jamestown. In the summer of 1963, two additional conversions were ordered from the aging Victories on the West Coast. The former Iran Victory returned to service in November of 1964 as the Belmont; and on December 30, 1964, the former SS Simmons Victory went back to sea as the USS Liberty. By general acknowledgment, the five vessels make up our own fleet of "Russian trawlers." In the short word, they are spy ships.

We pick her up in early June: 455 feet long, 62 feet at the beam, her topside exhibiting a puzzling collection of masts and antennae, a "Big Ear" turning inquisitively amidships, assigned to the Sixth Fleet, in the Mediterranean. Down below, in the forward compartments, walled off from the operating crew, were the communications technicians. And with them, by general report, were specialists not merely from DOD, but more precisely from the super-secret National Security Agency. Among them, it is said, were experts in code-cracking and cryptographic machinery. One can only guess at the devices the Liberty had aboard for receiving, recording, transmitting. It is

known that the Big Ear could pick up messages from a hundred miles away. And now, with war briefly raging between Israel and the Arab nations, the Big Ear was ordered to listen off Sinai.

In April of 1966, Commander William Loren McGonagle, USN, had assumed command of Liberty. Born in Kansas, he had been raised in Coachella, California. He was graduated in 1947 from the University of Southern California at Los Angeles, an ensign in the V-12 program. He served for nearly three years on a radar picket destroyer, then as executive officer on the minesweeper Kite on combat patrol off Korea. Tours of duty followed at San Francisco and Bremerhaven and Philadelphia; he was back at sea for two years on the heavy cruiser Rochester; then came his first command on Mataco, an ocean-going tug. He returned to shore for special training at the University of Idaho; spent two more years at sea, commanding the salvage vessel Reclaimer; then put in another two years of staff operations in the Pacific. Finally came his assignment to Liberty.

## Where Were the Orders?

Now, none of this experience, it will be seen, had prepared McGonagle precisely for what was to happen on the afternoon of June 8. To be sure, he had known hazardous duty on Kite, and he had put in some anxious moments picking up mines in the Baltic in 1952. On the record, however, one may surmise that he had never heard a shot in anger. We meet him, this summer day, at age 41, a professional naval officer, doing the same job he had been doing for fourteen months.

So he brought the Liberty to her assigned position early on the morning of June 8, a hot day, the sun bright, the sea calm. His orders were

to maintain patrol from "a point thirteen nautical miles from the coast of the United Arab Republic at 31-27.2N and 34-00E (point Alpha), thence to 31-22.3N and 33-42E (point Bravo), thence to 31-31N and 33-00E (point Charlie), retracing this track until new orders might be received." As events were to turn out, some new orders were in fact dispatched that very morning, but these messages strangely were "misrouted, delayed, and not timely received."

*Liberty* steamed methodically along her southeastern course until she reached point Alpha at 8:49. The ship's normal American ensign, a flag 5 x 8 feet, fluttered loosely in the torpid air. Then she turned to the southwestern leg. At about that moment, an unidentified jet aircraft approached and circled the ship. This was at 8:50 by the log. Some forty minutes later, the tall minaret at El Arish became visible, thirteen miles away. McGonagle asked for a bearing on the minaret, in order to make certain of his position within the established operating area. Everything checked out nicely. An hour later, at 10:28, with the *Liberty* nudging along at five knots, two unidentified aircraft again orbited the ship. The presumption is strong—indeed, the presumption is inescapable—that these were Israeli reconnaissance planes. They circled the ship three times at a distance of approximately two miles. At 10:56, another aerial intruder turned up—"an aircraft similar to an American flying boxer," which passed astern at a distance of three to five miles. "The plane circled the ship around the starboard side, proceeded forward of the ship, and headed back toward the Sinai peninsula." Visibility was perfect.

#### The Unmarked Plane

"This aircraft," McGonagle was to testify at the Navy Court of Inquiry, "continued to return in a somewhat similar fashion approximately at thirty-minute intervals. It was not possible to see any markings on the aircraft, and the identity of this aircraft remains unknown."

McGonagle was not greatly worried by the surveillance. He was clearly within international waters, by anyone's international law. At 11:32, passing point Bravo, he altered course

to 283 true, and plodded along his westward leg. During the morning, he was approached by the engineering officer, Lieutenant George Golden, asking permission to let the number two boiler cool for gasket repairs. The permission was granted, and the boiler began to cool at noon.

At 1:10, the ship went to general quarters for a routine non-competitive drill in chemical attack procedures. Just as the 38-minute drill began, a billowing cloud of black smoke arose from the Sinai beach, some fifteen to twenty miles west of El Arish. The drill went off satisfactorily, but McGonagle saw an opportunity to put in a timely word. Every naval officer knows the problem of maintaining interest in damage control drills; other shipboard exercises can be usefully simulated, but drills in damage control have a way of demanding more imagination than sailors ordinarily can muster.

From the transcript:

Before dismissing the crew from general drills, I gave the crew a short talk on the A system, reminding them of the importance of expeditiously responding to general quarters. In the event of an actual attack so that they would be impressed, I pointed out to the crew at that time that the column of black smoke should be sufficient evidence that the ship was in a potentially dangerous location. I had no evidence or indication that an attack would actually be made on the ship.

Ordinarily, as McGonagle would recall, it was his practice after a

drill to join the officers for a cup of coffee in the wardroom, in order to go over the performance with an eye to improvement. This time, he was generally pleased with the exercise. His ship was secure; morale was high; some of his off-duty sailors were about to take sunbaths. He lingered on the bridge, chatting casually with his executive officer, Lieutenant Commander Philip McCutcheon Armstrong Jr. A few other officers were there—Lieutenant Maurice H. Bennett of Pittsburgh, Lieutenant James M. Ennis Jr. of Norfolk, and Lieutenant Stephen Spencer Toth, the son of retired naval Captain Joseph C. Toth of Virginia Beach. Lieutenant James G. O'Connor, who had served as officer of the deck during the general quarters drill, was ready to go off duty for lunch. Lieutenant (j.g.) Lloyd Clyde Painter climbed up the ladder to replace him.

For no particular reason, except that such reasons always stir in a naval captain's head, McGonagle put his own eyes to the radar screen for one more bearing on the minaret at El Arish. The landmark was then 25.5 miles distant; the bearing was 142, comfortably within the bearing he had established earlier as a danger point against shoal waters. It was 1:55. Painter had officially relieved O'Connor as officer of the deck. Ensign Malcolm Pat O'Malley of Minneapolis had just assumed the conn. McGonagle was ready to go below. Still he lingered.



Ship and survivors found safe harbor in Malta, where Cdr. McGonagle inspected the damage. According to Navy sources, the *Liberty* sustained 221 separate hits from rockets and machine guns. (Department of Defense Photo)

At 2 o'clock, lookouts just above the bridge reported the aircraft approaching. McGonagle moved to the starboard wing of the bridge to have a look at them with binoculars. He was able to observe one aircraft "of similar characteristics, if not identical, to the two aircraft which were sighted earlier in the day." The plane was about five or six miles away, at an altitude of perhaps 7,000 feet. It appeared to be traveling on a parallel course with the ship. There was no evidence of a hostile attitude. McGonagle put down the binoculars and again turned away.

The first explosion came, as best he can recall, within a couple of minutes. He sounded a general alarm, and dashed to the port wing of the bridge. Two 55-gallon gasoline drums, stored amidships on the main deck, were burning furiously. The outside port ladders were blocked. He ordered Armstrong to go down the starboard side and get the drums pushed overboard. O'Connor, who also had lingered on the bridge, moved to go with him. The two men had just reached the top of the starboard ladder, when a second bomb struck, this one near a whaleboat stowed just aft of the bridge. The explosion killed Armstrong outright and flung the others back into the crowded room. Suddenly the whole of the tidy bridge was a mass of blood and debris.

### "All Ahead Flank!"

McGonagle grabbed for the engine order annunciator, remembering to his dismay that the number two boiler was cooling. He desperately rang up all ahead flank. To his vast relief, smoke belched from the stack, and the wounded *Liberty* seemed to pick up speed. He ordered a message sent by the high command radio to the Chief of Naval Operations, advising that *Liberty* was under attack. He glanced at the helm and saw that his helmsman had been seriously injured by the second bomb blast. Quartermaster Third Class Francis Brown, of Troy, N.Y., had leaped to the helm in his place. In less than half an hour, Brown himself was to die.

The strafing attack continued. Whether there were two planes or three, McGonagle cannot recall. They came over the *Liberty* in criss-cross runs a minute or so apart, punishing the ship with machine guns, rockets,

and fragmentation bombs. After the first or second run, McGonagle reached for a phone to relay some command, but the phone circuits had been destroyed. The public address system went out. Shouting through the smoke, he saw that Ensign John D. Scott of Charlotte, N.C. was rallying damage control parties to fight a raging fire in the vicinity of the whaleboat. Ensign David G. Lucas managed to make his way to the bridge, stepping over the bodies of the dead and wounded men. Together, they assigned runners to relay orders to the repair parties and to other vital stations.

It may have been on the third run that McGonagle himself was hit. He could not recall pain or even shock. He looked down, and saw his right leg turning red. At the subsequent Navy Court of Inquiry, he was asked about the wound. He testified during his first appearance on the witness stand:

I was knocked off my feet. I was only shaken up and it made me dance around a little bit, but my injuries did not appear to me to be of any consequence. I noticed slight burns on my starboard forearm and I noticed blood coming on my trousers right leg. Since I could walk and there was no apparent pain, I gave no further consideration to these minor injuries.

The hostile planes kept boring in. A moment or so later, Ensign Lucas entered in painful surprise: He had taken a piece of shrapnel in his forehead. McGonagle opened the bridge safe, got out a camera, and struggled to the port wing in order to take pictures of the attackers. For the remainder of the assault, he kept the camera close at hand.

It was now about 2:20. The *Liberty* was still on her course of 283 true, plodding toward point Charlie. She was still moving along at something in excess of five knots. The attacking planes abruptly wheeled off. Through the smoke, McGonagle caught a glimpse of three high-speed torpedo boats approaching from the northeast at 27 to thirty knots.

From the transcript:

It appeared that they were approaching the ship in a torpedo launch attitude, and since I did not have direct communication with gun control or the gun mounts, I told a man from the bridge, whose identity I do not recall, to proceed to mount 51 and take the boats under fire. The

boats continued to approach the ship at high speed and on a constant bearing with decreasing range.

About this time, I noticed that our ensign had been shot away during the air attack, and ordered Signalmen [Russell O'Neal] David to hoist the largest ensign we had in the locker. He ran up the holiday ensign [7 x 13 feet]. It was flying before the boats attacked.

Old menaces stormed back to McGonagle's mind. If he turned the *Liberty* to port, in order to avoid the torpedo boats, he risked the coastal shoals. If he turned to starboard, he gave his pursuers an even better target. He stayed on course and prayed for Totten's boilers to give him maximum speed.

From the transcript:

When the boats reached an approximate range of 2,000 yards, the center boat of the formation was signaling to us. Also, at this range, it appeared that they were flying an Israeli flag. This was later verified. It was not possible to read the signals from the center torpedo boat because of the intermittent blocking of view by smoke and flames. At this time I yelled to machine gun 51 to hold fire. I realized that there was a possibility of the air attack having been conducted in error. I wanted to hold fire to see if we could read the signal from the torpedo boat and perhaps avoid additional damage and personnel injuries. The man on machine gun 51 fired a short burst at the boat before he was able to understand what I was attempting to have him do.

Then, to McGonagle's consternation, he saw that one of the aft machine guns, gun 53, had erupted into extremely effective action. "It's Quintero," he said to Ensign Lucas. "He's blanketing that boat. Go around the port skylight and tell him to hold fire." Lucas clambered off, but later would testify that it wasn't Boatswain's Mate Anthony A. Quintero at all.

From the transcript of Lucas's testimony:

The first thing I noticed was that the mount 54 [on the port side] was vacant. Flames had reached it and chased everyone out of there. I ran toward the gun mount, and looked over the skylight from the engineering spaces. I had a clear view of mount 53 [the starboard mount, which was firing] from, say, the waist up, and there was no one on mount 53. The flames from the motor whaleboat were coming over the lip of the mount. I assume that the bullets that were in the gun, or bullets that were in the ready service

ammunition box, very near there, were cooking off and firing.

At 2:34, the torpedo boats opened fire with their own guns. A cannon shot caught Quartermaster Brown. Mortally wounded, he fell from the helm. Seconds later, three torpedoes sped toward the *Liberty*. One passed astern by 25 yards. A second may have passed beneath the ship. The third struck the *Liberty* forward, on her starboard side, immediately below the waterline. In the instant of the explosion, 25 men died--most of them highly skilled technicians. The ship went dead in the water, her steering control and all power lost. But there was no additional fire, and a nine-degree list to starboard presented no immediate danger of sinking. McGonagle's weary brain began to recalculate the shoal waters, with the thought of grounding his ship if he had to.

### "Go to Hell!"

It was 2:40. In the midst of this bizarre nightmare, it seemed not at all surprising that the commanding torpedo boat made a swift turn, stopped dead some 500 yards astern, and began signaling in English: "Do you require assistance?" McGonagle had no light left to return the signal. He ordered the flags "Lima India" hoisted, signifying that "I am not under control." (Somewhat later, an Israeli sailor was to say that "an officer appeared and shouted 'go to hell!'" ) After a moment or two--long enough for McGonagle to attempt a photograph of the vessel--the torpedo boat moved away from shore. Two minutes later, two helicopters, bearing Star of David markings, appeared. They hovered about the smoking ship, circled it repeatedly, flew off for about five miles, returned once more, and vanished.

McGonagle's mind turned to the dead, the wounded, the problems of retaining steerage. Scott's damage control parties were working at fever pitch, the sailors stripped to the waist, the deck a mass of twisted metal and burning gear. But the watertight bulkheads were holding, the starboard list was no worse, and Lieutenant Richard H. Klepfer of Brooklyn, a Navy doctor, had done a superb job of organizing a main battle dressing station in the mess

hall. Most of the slain men were trapped in the forward compartments, but three or four mutilated bodies, streaming blood, were still on deck. They were in plain view of the inspecting helicopters. By this time, McGonagle's wounded leg was giving increasing pain. He stretched out and tried to keep the limb elevated. Then, to his horror, he looked up: The two jets were coming back from the starboard side, "in similar fashion to that which preceded the initial attack." He called an alert to the possibility of renewed assault, but the jets disappeared.

It was 4:15. McGonagle ordered the ship's international call sign hoisted, and turned again to the problems of getting the *Liberty* back under steam. Both boilers came briefly back on the line, but lost their fuel oil suction almost at once. The gyro compass was a wreck. It was impossible to learn the ship's heading. The ship's surviving communications technicians, however, were able to manage the impossible: They rigged some emergency

radio-telephone circuits, and restored communications with the Sixth Fleet.

McGonagle leaned against a bulkhead. The whole bridge spun around him. He slumped to the deck, giddy from loss of blood. A communications technician, Jeffrey Robert Carpenter of Norfolk, cut away his right trousers leg and applied a tourniquet. McGonagle refused to give up the conn he had assumed at 2 o'clock; he was to retain the conn until 8:30 the following morning.

A thousand demands cried for his attention. Some of the crew members had dropped life rafts. McGonagle sent a messenger to tell them to leave the lifeboats alone. The boats weren't needed now, but they might be needed later. He sent a message to Fleet Command, detailing the estimated dead and casualties. Friendly fighters from the carrier *America* were around him. Back in Washington, President Johnson had been on the hot line to Moscow, advising Premier Kosygin of the situation. The

0849 PASSED THROUGH POINT ALPHA CHANGED COURSE TO 25  
1850 SINGLE A/C (UNIDENTIFIED) CROSSED ASTERN DISTANCE  
- 5 MILES -- CIRCLED SHIP FROM STBD TO PORT AND  
RETURNED TO UAR MAINLAND  
1905 DECREASED SPD TO 5 KNOTS  
1056 ANOTHER A/C CIRCLED SHIP-HIGH  
1126 ANOTHER A/C CIRCLED SHIP  
1202 PASSED THROUGH POINT BRAVO C/C TO 283T  
1310 EXERCISED AT G.O. DRILL  
1348 SECURED FROM G.O. DRILL.  
1352 3 SMALL SURFACE CONTACTS HLLD ON RADAR 32,000 YARDS  
BEARING  
0827 -- REPORTED TO BRIDGE AS 3 SURFACE CONTACT  
1353 RADAR REPORTS POSSIBLE A/C PASSING OVER SURFACE  
CONTACTS.  
1358 SINGLE A/C SIGHTED APPROACHING SHIP FROM 135 DEG  
RELATIVE 5 - 6 MILES DISTANCE, ALTITUDE  
APPROXIMATELY 7000 FT.  
A/O PASSED DOWN TRACK OF SHIP  
1403 LOUD EXPLOSION -- PORT SIDE AMIDSHIPS  
1405 SOUNDED GENERAL ALARM -- LARGE FIRE IN VICINITY  
OF FRAME 85,  
01 LEVEL WHERE FUEL FOR MOTOR DRIVEN FIRE PUMPS ARE  
LOCATED.  
1405 ALL AHEAD FLANK SIGNALLED BY ENGINE ORDER TELEGRAPH.  
1405 - 1410 SHIP UNDER REPEATED AIR ATTACK WITH TWO OR  
MORE A/C MAKING COORDINATED STRAFFING, ROCKET, AND  
INCENDIARY RUNS OVER SHIP. THREE MAJOR FIRES TOP-  
SIDE COVERING LARGE AREAS OF SHIP WITH FLAMES AND  
HEAVY SMOKE A TOTAL OF EIGHT MEN WERE KILLED OR  
DIED AS A RESULT OF INJURIES RECEIVED DURING THE  
ATTACK.

*Liberty's log, June 8, 0849-1405 (from the transcript).*

international uproar was beginning. McGonagle's principal concern was to keep the *Liberty* moving. The engine room, thank God and George Golden's crew, managed to get the boilers going again. To his delight, the ship turned up a brisk eight knots. McGonagle ordered a course estimated at 340 magnetic, and arranged for emergency manual steering.

From the transcript:

The amount of rudder was given to after steering over emergency-rigged sound-powered telephones. They would apply the rudder. When the ship had come to the approximate magnetic heading, the rudder would be shifted to attempt to maintain that heading. It was possible to maintain within plus or minus 30 degrees of the ship's heading most of the time.

The azimuth of the setting sun provided a rough guide to help the *Liberty* along. The fathometer was still working; it reported 28 fathoms under the keel—plenty of water for the moment, but the shoals were somewhere near at hand and it was only a guess whether the magnetic compass had been knocked awry. McGonagle toyed with the idea of dropping anchor, and even directed Lucas to get up an anchor party and go to the forecabin. His thought was to wait until it got dark, then take a visual bearing on the North Star, because "once I was able to sight the North Star, I would know in which direction the ship was actually proceeding." Then another thought prevailed: He ordered the engines backed two-thirds, and for eighteen minutes the *Liberty* backed carefully away from the threatening shoals.

"How much water?" he kept asking. When the fathometer got to 48, he drew a long breath and ordered the rudder around to a bearing of 025 magnetic. The engineers produced power, though the lube oil pressure kept giving trouble. By 6 o'clock, *Liberty* was moving at a creditable ten knots, with 82 fathoms under the keel.

At 6:45, a lookout sent word to the bridge that another Israeli helicopter was approaching.

"What do they want?" asked McGonagle.

"Sir, they're trying to land a man aboard."

McGonagle was in no mood for social visitors or for boarding parties.

He thought of the dangerous clutter on the forecabin, and ordered a wave-off. The helicopter then dropped a message to the deck. Written on the back of the calling card of Commander Ernest Carl Castle, Naval Attaché for Air, U.S. Embassy, Tel Aviv, it read: "Have you casualties?"

From the transcript:

We attempted to advise them by flashing light with an Aldis lamp that "affirmative," we did have casualties. I'm not sure that wounded men were still lying around the deck, as such. By that time, most of our wounded had been taken to the casualty collection stations.

COUNSEL FOR THE COURT. In amplification of the Admiral's question, was there not a considerable amount of blood on the decks that would be obvious from a reasonable distance?

THE WITNESS. That is correct. There were numerous blood streams the full length from the forecabin to the main deck at machine gun mount 51, where one body was still lying. I do recall that now. There was also another body in the vicinity of mount 51.

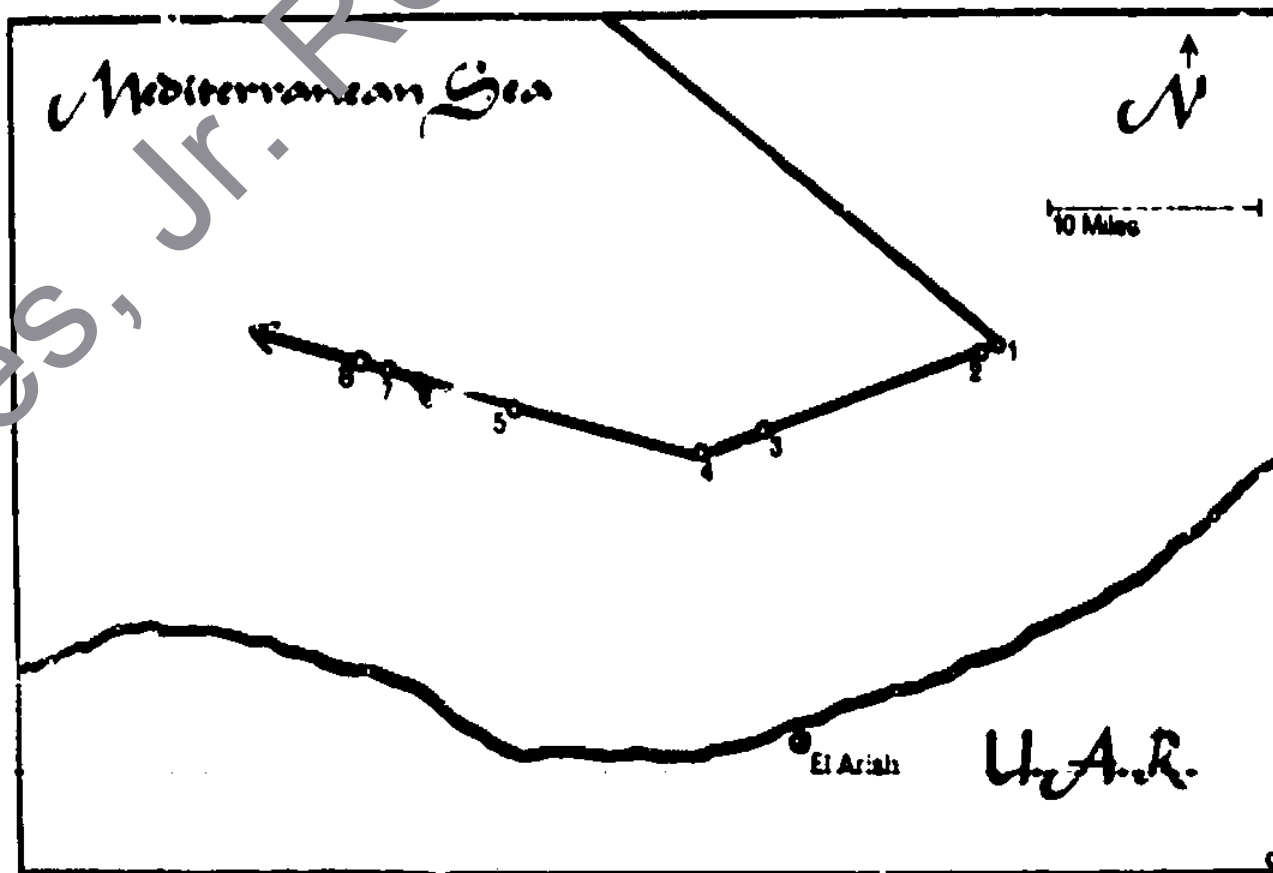
After ten or fifteen minutes of unsuccessful attempts at communication, the helicopter left. And darkness fell.

In a Navy that delights in tales of seamanship, men will be talking for years of the night that McGonagle brought the *Liberty* back from Sinai. At the Court of Inquiry's hearings, McGonagle was recalled to the stand. From the transcript:

COUNSEL FOR THE COURT. I have no further questions. Does any member of the Court desire to question the witness?

THE PRESIDENT. Captain McGonagle, in our previous discussion, you told me a story which I have since come to identify as remarkable humility and self-effacement on your part, which I presume had caused you not to mention in testimony the way you navigated this ship out of dangerous waters after the attack. Will you please tell the Court how, while lying on your back, with no compass except the magnetic compass, and based upon your recollection of the magnetic compass error in relation to the gyro compass book, you used the sun and subsequently the North Star to clear the area?

THE WITNESS. Admiral, after a time on the bridge, when I had received minor injuries, I lost considerable blood, and when attempts to stem the flow of blood by self-help were unsuccessful, I noticed myself beginning to lose consciousness. I immedi-



COURSE OF THE USS LIBERTY—June 8, 1967

1. 0849: Liberty changes course at "Point Alpha".
2. 0850: Unidentified jet circles ship.
3. 1056: Aircraft "similar to an American Flying Boxcar" circles ship, returns to Sinai Peninsula.
4. 1133: Ship changes course at "Point Bravo".
5. 1310: Routine General Quarters drill, after which Cdr. McGonagle reminds his crew that Liberty is "in a potentially dangerous location."
6. 1400: Another jet appears; Liberty bombed and strafed.
7. 1430: Attacking jets fly away; torpedo boats flying Israeli flag approach the ship.
8. 1434-1439: Liberty torpedoed.

ately lay down flat on my back on the port wing, and raised the bleeding leg as high as possible, resting it on my port bridge chair, and there a first class communications technician by the name of Carpenter and other persons whom I don't recall at this time, applied a tourniquet to my right leg which effectively stopped the flow of blood. I at no time lost consciousness and had my full faculties at all times.

I realized at that time I had lost considerable amounts of blood because it was sloshing in my shoes. . . . But since the flow of blood had stopped, I gave no further consideration to—I didn't consider I had any more problem in that area. . . .

I conned the ship by looking aft and by being able to see the wake of the ship I was able to tell after steering which way to apply the rudder and how long to leave it on to attempt to average out the course that I felt the ship should travel to stand clear of possible shoal areas. I remained on my back for approximately an hour and a half. I then felt that I had regained sufficient strength that I was able to get up from the deck and conn the ship from the wing of the ship and from the pilot house. . . . It seemed to me that my remaining on the bridge—this would be able to lessen the shock that the rest of the crew had received.

The Navy doctor, Lieutenant Kiepfer, saw McGonagle during the evening but made no effort to get him below to a battle dressing station. "The Commanding Officer at that time was like a rock upon which the rest of the men supported themselves," he told the court. "To know that he was on the bridge grievously wounded, yet having the conn and helm through the night calling every change of course, was the thing that told the men 'we're going to live.' When I came to the bridge and saw this, I knew that I could only insult this man by suggesting that he be taken below for treatment of his wounds. I didn't even suggest it."

Dr. Kiepfer's own performance was in the highest naval tradition. He performed one major operation immediately after the engagement. He and his two hospital corpsmen stayed on duty for 28 hours.

From the transcript of Dr. Kiepfer's testimony:

Any time we needed one volunteer, we'd get ten. If anything had to be done, there were hands everywhere. When asked for two pints of blood for transfusion, we had people on the



Commander William L. McGonagle

adjoining tables who were saying, "If you need some I have this type." These were people already wounded.

During the night, McGonagle ordered three musters to identify the dead. He and his remaining officers bent to the task of preparing casualty messages. He winced at the first of these to Mrs. Philip McC. Armstrong Jr., of 433 West Main Street, Dalton, Pennsylvania. His executive officer, a 38-year-old graduate of the Naval Academy, had left a young widow and five children behind. Lieutenant James C. Pierce had died, and Lieutenant Stephen Toth. The list included Allen M. Blue, one of the DOD specialists. And the sailors: Allenbaugh, Blanchard, Brown (he would recommend Brown for posthumous commendation), Campbell, Converse, Eisenberg, Goss, Graves, Hayden, Hersey, Higgins, Hoar, Keene, Lenau, Linn, Lupton, Marggraf, Marlborough, Mendle, Nygren, Raper, Rehmyer, Skolak, John C. Smith and Melvin D. Smith, Spicher, Thompson, Thornton, Tiedtke, Walton.

Most of them were naval communications technicians, stationed in the forward compartments, who died in the torpedo's explosion.

Early on the morning of June 9, a lookout sent word that the U.S. destroyer *Davis* was in sight, ready for escort duty. Helicopters arrived from the carrier *America*, to transfer the wounded. During the morning, the fleet tug *Papago* also arrived. The heavy cruiser *Little Rock* joined the parade. The little convoy moved slowly off to Malta, the *Liberty* still listing badly and 25 bodies still entombed in the flooded wreckage of the communications rooms. She arrived at Veletta on the 14th. . . . 1,000 workers in the shipyard counted 821 separate hits upon the hull and superstructure by bombs, rockets, and machine gun bullets. The teardrop hole left by the torpedo explosion measured 39 feet across.

## II

A Navy Court of Inquiry opened its hearings in London on June 11 and continued them aboard the *Liberty* at Malta through June 17. Admiral I. C. Kidd served as President of the Court; other members were Captains Bernard J. Lauff and Bert M. Atkinson, both attached to headquarters of Admiral John S. McCain Jr., commander in chief of U.S. Naval Forces in Europe.

Almost all of the testimony taken by the court remains in classified status. Some excerpts have been released from McGonagle's transcript. A few quotations from the evidence supplied by Ensign Lucas and Dr. Kiepfer also have been made public. No supporting material whatever, having to do either with *Liberty's* mission or with the Israeli "mistake," has been released. For the time being, there is no way for the outside observer to form an independent judgment, from the record, upon the Court's conclusions.

We are told that the Court determined that "USS *Liberty* was in international waters, properly marked as to her identity and nationality," at the time the attack occurred. The Court produced evidence "that the Israeli armed forces had ample opportunity to identify *Liberty* correctly," but the Court "had insufficient information before it to make a judgment on the reasons for the decision by Israeli aircraft and motor torpedo boats to attack."

These reasons must remain a mat-



ter of speculation. There is some evidence, wholly apart from considerations of diplomacy and logic, to sustain the position taken by the Israeli government, that the attack was a tragic mistake. On a windless day, the ensign first hoisted by *Liberty* may well have been drooping unrecognizably from the mast. The second, "holiday" ensign, hoisted just before the torpedo attack, may indeed have been obscured by the smoke. This was the explanation advanced by Micha Limor, an Israeli Naval reservist, in an article written for the *Associated Press* on July 6. Limor was aboard one of the three torpedo boats.

"About 2,000 yards from the ship," he wrote, "the high masts and many weird antennae showed that this was a warship. The side of the vessel was blotted out by smoke, and apart from three numbers along her side, we could not discern a thing. We could see no flag on the mast, nor was anyone to be seen on the decks and bridge."

### The Nagging Question

By Limor's account, the Israeli torpedo boats attempted repeatedly to get some identification from the *Liberty*, but received no response to their signals. Then "a sailor started firing at us with a heavy machine gun from the bridge," and "thus there was no doubt that we were faced by the enemy." It was not until after the torpedo struck home that one of the Israeli boats picked up an object from the sea and saw that it was a rubber lifeboat bearing the name of the U.S. Navy.

Another line of speculation, apart from Limor's generally corroborating statement, was advanced by the Navy Court of Inquiry in an appendix to its report. Here the Court noted that *Liberty* "might have been mistaken for the Egyptian supply ship *El Quseir*." But the Court went on to say that *El Quseir* bears only a "highly superficial resemblance" to *Liberty*. The Egyptian ship is less than half the size of the American vessel; its superstructure is entirely different and of course it has none of the elaborate antennae and distinctive radar devices that instantly identify the *Liberty*.

In a statement on June 10, the Pen-

tagon coldly rejected published reports that some unidentified Pentagon spokesmen believed that "a plausible explanation" could be found in human error. Assistant Secretary for Defense Phil G. Goulding said that "we in the department cannot accept an attack upon a clearly marked non-combatant U.S. naval ship in international waters as 'plausible' under any circumstances whatsoever. The suggestion that the United States flag was not visible and the implication that the identification markings were in any way inadequate are both unrealistic and inaccurate. The identification markings of U.S. naval vessels have proven satisfactory for international recognition for nearly 200 years."

During the past month, press service interviews with survivors of the attack have turned up a uniform conviction that the attack was deliberate. Sailors point to the morning-long aerial surveillance; the presence of the flag; the known configuration of the *Liberty*, her name in English on the stern (Egyptian naval ships carry their names in the cursive Arabic script) her slow progression in international waters. All these factors support the crew's conclusion that the assault was no accident.

Opposed to this argument is the line of reasoning which holds that the Israeli government was heavily dependent upon the goodwill of the United States; that it would have been utterly irrational for the Israeli navy knowingly to have launched an attack on a U.S. ship; and that the only reasonable explanation is that the incident was a mistake arising from the natural tensions and fallible judgments of a hot war.

So, too, does the mystery of what happened to the orders sent to McGonagle "early on the morning of June 8." All that we are told of these messages—in the plural—is that 1) the orders came directly from the Joint Chiefs of Staff; 2) the orders were "to move farther from the coast," and 3) the orders were "mis-routed, delayed, and not received until after the attack."

No communications system is infallible. Humans make errors; the ionosphere plays tricks; power goes off at critical moments; even carriers operating off Vietnam have significant blackout periods when they can

neither send nor receive. Granted

When these possibilities have been given full account, the bare statement that the orders were "mis-routed and delayed" remains incredible. One would like to know a great deal more about these "mis-routed and delayed" messages. Did they exist? What precisely did they say? Who saw them? When? Where? How did they go astray?

One would also like to know a great deal more, of course, about the specific purpose sought to be served by *Liberty's* position so close to the Sinai shore. Why thirteen miles out? Or twelve, or fifteen, or whatever it was? Again, the Pentagon's statements strain credulity. The first explanation, recalling an inspirational moment when the downed U-2 was only a missing weather plane, was that *Liberty* had to be close to shore in order to use the moon for message relays.

The second explanation was that *Liberty's* only job was "to assure communication between U.S. Government posts in the Mideast and to assist in relaying information concerning the evacuation of American dependents and other American citizens." This is hardly impressive. Skeptical observers will continue to assume that *Liberty* was engaged upon a general mission of intelligence-gathering and code-breaking; and they will wonder what might have been received, translated, tape-recorded, and fed into computers between, say, 10 o'clock and noon on June 8 that resulted in the pinpoint destruction of the very hull compartments—frame 53 to frame 66—where the electronic gear was housed.

The unanswered questions nag for answers. For the time being, one puts them to the side. On great ships of war, operating in war zones, one comes to expect death, destruction, and heroism. The fire on *Oriskany* last fall, the fearful inferno on *Forrestal* on July 29, were terrible reminders of the violence of war. Men rose to the crises superbly. They were in the true sense, heroes. It is a little different when a virtually unarmed communications ship, navigating peacefully under a neutral flag, is taken by surprise. There too, as Admiral McCain remarked, "heroism was the order of the day." Commander McGonagle has been recommended for an appropriate award.

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