

Virginia Smith

From: Jim Landon
Sent: Thursday, August 3, 2017 1:48 PM
To: Virginia Smith
Subject: Fwd: Response from DON-JAG to Congressional Inquiry/USS Liberty
Attachments: image001.png; ATT00001.htm; img-170620122103-0001.pdf; ATT00002.htm; img-170620122103-0002.pdf; ATT00003.htm

Please attach the email and attachments (2) to the agenda.

Jim Landon
City Manager
City of Palm Coast
160 Lake Avenue
Palm Coast, FL 32164
Tel: 386-986-3702
www.palmcoastgov.com

Begin forwarded message:

From: "Stapleford, Randy" <Randy.Stapleford@mail.house.gov>
To: "Kendra Iannotti" <kiannotti@palmcoastgov.com>, "Jim Landon" <JLandon@palmcoastgov.com>
Subject: Response from DON-JAG to Congressional Inquiry/USS Liberty

Kendra - - Jim (if reading emails)

Kendra,
Instead of a hand-delivery... I'll make this painless, as you are my primary POC for this congressional inquiry on behalf of Jim, as he is on vacation. **The official response is the letter dated 15 June 2017 from DoN Office of the Judge Advocate General.** They refer within their response to their web site - Judge Advocate General's Corps Freedom of Information Act Reading Room. I discussed directly with the DON-JAG their official response....and other than within the lengthy investigative report itself, he was not able to answer specific questions regarding the investigation, or provide his legal perspective.

Notwithstanding, I read through the 300-400 page account of the incident and pulled out what I believe will be sufficient to provide an overall conclusion - - highlighted in yellow - #15 on First Endorsement dated 18 June 1967, and signed by Admiral John McCain, Jr. Entire Document classification is Top Secret/Declass. I have also highlighted a statement from an additional endorsement. The entire report can be found on the site provided...but I think you have enough information to formulate a decision by the City Manager within the attached enclosure. Please relay to Mayor Holland.

Should you need further assistance don't hesitate to contact me again. Please acknowledge receipt of the email, as it will officially close out the congressional inquiry made on behalf of Jim Landon to the DON/OLA.

Cheers,
Randy

*J. Randall Stapleford. Captain USN (Ret)
Military and Veteran Affairs*

Office of Congressman Ron DeSantis (FL06)
31 Lupi Court, Suite 130
Palm Coast, FL 32137
Phone: 386-302-0471
Fax: 386-302-0474



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1322 PATTERSON AVENUE SE, SUITE 3000
WASHINGTON NAVY YARD DC 20374-5066

IN REPLY REFER TO:
5801
Ser 01/030
June 15, 2017

The Honorable Ron DeSantis
Attention: CAPT J. Randall Stapleford, USN (Ret)
31 Lupi Court, Suite 130
Palm Coast, FL 32137

Dear Representative DeSantis:

Thank you for your letter of June 13, 2017 concerning the City of Palm Coast's questions about the 1967 attack on USS Liberty. I am responding on behalf of the Chief of Legislative Affairs.

As a matter of Constitutional law, it would be inappropriate for the U.S. Navy to review a private organization's exercise of free speech rights. However, the U.S. Navy's formal inquiry into the circumstances surrounding the attack on USS Liberty, including official conclusions about the incident, can be found in the Judge Advocate General's Corps Freedom of Information Act Reading Room (http://www.jag.navy.mil/library/jagman_investigations.htm).

If you have any additional questions regarding this issue, please do not hesitate to contact me. My point of contact for this matter is Lieutenant Commander Dave Melson at (703) 614-4386.

Sincerely,

P. C. KIAMOS
CAPT, JAGC, U.S. Navy
Assistant Judge Advocate General (Civil Law)
By direction

20 June 2017 LCDR DAVE MELSON JAGC

**Dedicated to the
Brave Men of The USS Liberty**

US Navy and Marine Corps

34 Killed 174 Wounded

**In An Attack By The
Israeli Navy And Air Force**

June 8, 1967 In The Mediterranean Sea

They Hover As A Cloud Of Witnesses Above This Nation.
Henry Ward Beecher

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Ser 1627/00 00020/00
18 June 1967

FIRST ENDORSEMENT on ltr of **RADM Isaac C. KIDD, USN, 111645/1100** of 18 June 1967

From: Commander in Chief, U. S. Naval Forces, Europe
To: Judge Advocate General

Subj: Court of Inquiry to inquire into the circumstances surrounding the armed attack on USS LIBERTY (AGTR-5) on 8 June 1967 (U)

1. Readdressed and forwarded.
2. On 8 June 1967, the USS LIBERTY suffered an unprovoked attack by Israeli air and naval forces in international waters off the coast of the United Arab Republic. The Court of Inquiry, convened by CINCUSNAVEUR to look into the circumstances and prepare findings related to this attack, has completed its deliberations which are forwarded herewith.
3. It is the opinion of the convening authority that USS LIBERTY was operating in international waters in conformance with the most recent guidance received by her provided by competent authority. It is important to note that there were in fact command decisions made by responsible authorities subsequent to receipt by LIBERTY of the guidance under which she was operating. These subsequent decisions and actions, which the ship did not receive for a combination of several reasons, could have resulted, had they been received in timely fashion, in the ship being as much as 100 miles away from the position in which she found herself at 1200Z on 8 June.
4. The circumstances, when viewed in retrospect through the record of proceedings, indicate that any one or combination of the several communications delays and/or non-receipts varied in the reasons therefor from personnel error to technical difficulty, including errors in judgment.
5. Had LIBERTY not been attacked, the probability is high that none of the aforementioned problem areas would have been identified as critical which is usually the case in circumstances of this sort. It is important to keep in mind that decisions subsequent to LIBERTY's initial operational

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tasking were based upon no known new evidence of potential danger to the ship; but were rather based upon factors other than operational in nature. It is the conviction of the convening authority, that, had new hard intelligence been available and been the basis for new decisions governing LIBERTY's movements, follow-on actions taken with specific regard to guaranteeing timely delivery of such critical guidance would have been handled differently. Such was not the case. Therefore, normal formal procedural practices were followed, and the new command decisions were relayed to the ship in routine fashion, i. e. by standard fleet broadcasts rather than by emergency direct communication capabilities which were available--such as the HICOM net.

6. It is the further conviction of the convening authority in regard to the foregoing, that prospective implementors, such as the ship itself, of action directed by higher authority, when the immediacy of action is critical, must be informed of the planned action concurrent with the transmission of action instructions by the higher authority involved. In this respect, we found LIBERTY's situation being discussed at the highest command levels where decisions were being made and instructions issued without taking concurrent precautions to inform the ship of the planned actions by the same most rapid means of communications available--in this case, telephonic and voice-radio systems. On the other hand, however, there was apparently absolutely no new intelligence and operational evidence at the time of the aforementioned discussions to dictate utilizing such special and high precedence communications capabilities.

7. In summary on this point, certain remedial measures for future situations are indicated, some of which are within the capabilities of this headquarters. These will be implemented by CINCUSNAVEUR and his subordinates, to include, for example, concurrent paralleling intentions known to CINCUSNAVEUR from higher authority direct to prospective action subordinates immediately upon receipt of the guidance in question. It must be borne in mind, however, that here again, the best professional judgments will dictate on a case by case basis the degree of urgency required. Such was the case in the LIBERTY incident and, nothing in the findings of fact disclosed justifiable rationale for taking emergency measures to get the information of planned OP area changes to the ship, other than the fact of the attack itself. The LIBERTY incident provides a classic example of the devastating effects complete surprise produces.

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8. Further to the foregoing, the convening authority has reviewed the proceedings most carefully to determine whether or not there was any indication received by the ship's embarked capabilities prior to the attack which would have dictated a need for emergency measures. Every piece of available evidence indicates that such was not the case.
9. On the matter of command and control, the convening authority, as Naval subordinate to USCINCEUR was exercising operational control of LIBERTY through his subordinate, Commander, Sixth Fleet. The fact that the precise operational guidance applicable to LIBERTY at the time of the attack had been received from still higher authority, in no way altered the full responsibility for the ship resting on CINCUSNAVEUR himself. There is no question but that CINCUSNAVEUR had the continuing responsibility for monitoring the position of the ship and insuring the ship's relative safety while in assigned areas. Further, there was no evidence available to CINCUSNAVEUR, up to the moment of the attack itself, to indicate the ship was in jeopardy to a degree beyond normal and continuing risks extant in any operational situation proximate to the shores of warring nations.
10. In summary, in this instance as in others throughout recent years, it was the judgment of the Commander in Chief, U. S. Naval Forces, Europe, that the technical research efforts of USS LIBERTY were well worth the calculated risks involved; keeping in mind that proper precautionary measures had already been taken by CINCUSNAVEUR and by his subordinate, COMSIXTHFLT, on 6 June (two days before the attack), both of which directives all concerned assumed were known to USS LIBERTY. The record discloses, however, that while LIBERTY had received the CINCUSNAVEUR guidance to COMSIXTHFLT, LIBERTY had not received COMSIXTHFLT's message of 6 June wherein details for the implementation of this tempering and discretionary guidance had been provided, together with proper provisions for the protection of the ship in the event of an emergency.
11. On the technical and material side, the convening authority noted with great interest the remarkable efficiency of the coordinated Israeli air and surface attack. The efficacy of air-delivered rockets was particularly noteworthy with regard to their penetrating capabilities and devastating accuracy. Preliminary evidence of damage based upon limited available information at this time, indicates long lead time procurements will require

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approximately one year. Major overhaul requirements approximately two to four months. Aggregate dollar costs total some twelve to fourteen million dollars.

12. On the matter of personnel, heroism was the order of the day. The Commanding Officer is being recommended for the Congressional Medal of Honor and the ship for the Presidential Unit Citation.

13. It is the conviction of the convening authority that the possibility is high that the ship would have been lost completely had there not been the highest order of damage control competence on board combined with the fact that the ship had secured from General Quarters for drill only minutes before the attack took place.

14. Visual identification procedures, and techniques require early attention. We, as well as the Israelis, were apparently deficient in our recognition competence compared to World War II levels of proficiency. Current United States ship profiles are not readily locatable except in such documents as Jane's "Fighting Ships". Where we have active ship configurations susceptible to confusion with other ships of other nations, we should explore immediately improved identification measures such as national colors on vertical and horizontal surfaces using high visual intensity paints, a safeguard not susceptible to being shot down in the opening stages of an action as was the case in the LIBERTY incident. Intense fires on the ship coupled with herculean efforts by the engineer department to increase speed both produced heavy black smoke which compounded the recognition problem facing the attacking forces.

15. The foregoing comments by the convening authority lead to an overall conclusion that the attack was in fact a mistake; that the element of complete surprise without inquiry eliminated any possibility for a timely government to government announcement of the ship's presence had we been asked; that communication shortfalls resulted in delays in delivery of operational traffic which, had they not occurred, might have resulted in the ship being at a safer distance off shore. The lessons learned in these instances are reminiscent in many respects of those learned after the attack on Pearl Harbor as they apply to the need for complete and free exchange of mission and operational information between responsible authorities and fleet units themselves. In the final analysis, it is this same fleet unit that must enjoy timely advice to be effective. No useful purpose is served by complete knowledge and awareness of decisions at high levels without appropriate concurrent actions stemming therefrom at the lowest echelons in the critical chain.

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16. Communications limitations continue with us. Improvements in equipment never seem quite able to fully offset load increases and the ever present personnel error. Where such combine with staffing delays and completely unexpected actions through mistake by another state, the results cannot be other than explosive in international potential.

17. The proceedings and findings of the Court of Inquiry are approved, based upon knowledge available as of 191425Z.


JOHN S. MCCAIN, Jr.

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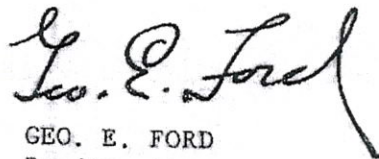
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FOURTH ENDORSEMENT on subject record

From: Chief of Naval Personnel
To: Chief of Naval Operations
Via: (1) Commander, Naval Ship Systems Command
(2) Commander, Naval Communications Command

Subj: Record of Proceedings, Court of Inquiry to inquire into the
circumstances surrounding the armed attack on USS LIBERTY
(AGTR-5) on 8 June 1967

1. Forwarded.
2. The subject record of proceedings disclosed that the USS LIBERTY, while engaged in peaceful operations in international waters of the Eastern Mediterranean, was subjected to an entirely unprovoked and unexpected armed attack by Israeli aircraft and motor torpedo boats. The attack resulted in 34 deaths and 171 injuries to personnel on board LIBERTY, and an estimated cost in excess of five million dollars to effect repairs of damage to the ship and equipment.
3. The Judge Advocate General commented that "the Israeli Government has admitted that this was a tragic accident and has agreed to make amends." Also the Judge Advocate General opined that the 34 deaths were not due to the intent, fault or negligence of anyone in the U.S. Naval Service, and that all injuries of personnel embarked in LIBERTY which resulted from the armed attack were sustained in-line-of-duty and not due to misconduct.
4. No one was designated a party to this inquiry. No disciplinary action was recommended, and none is contemplated by the Chief of Naval Personnel.



GEO. E. FORD
By direction

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enclosure & basic correspondence)

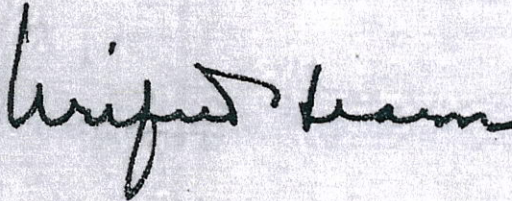
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torpedo boats was entirely unprovoked and unexpected. It has been determined that the Israeli Government has admitted that this was a tragic accident and has agreed to make amends. The State Department is currently preparing to claim compensation from the Israeli Government for damages resulting from the attack both on behalf of the U. S. Government and private individuals concerned.

6. The Judge Advocate General is of the opinion that the 34 deaths resulting from this incident were not due to the intent, fault or negligence of anyone in the U. S. Naval Service and that all injuries of personnel embarked in USS LIBERTY which resulted from the armed attack were sustained in-line-of-duty and not due to misconduct.

7. To expedite review of the record, a copy of the testimony of the medical officer which is unclassified has been extracted and forwarded by separate correspondence to the Chief, Bureau of Medicine and Surgery for information and such action and comment as may be deemed appropriate direct to the Chief of Naval Operations, with a copy to the Judge Advocate General, to constitute the BuMed action on the record.

8. The proceedings in this Court of Inquiry have been conducted in substantial compliance with the requirements of the Manual of the Judge Advocate General and are therefore legal.



WILFRED HEARN

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