

U.S.S. Liberty Alliance

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Adm. Thomas H. Moorer, USN
Chairman, Joint Chiefs of Staff
Founding Chairman

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General Ray Davis, USMC
Medal of Honor
General of Marines
Founding Vice Chairman

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RADM Clarence A. Hill, Jr.
USN (Ret.)
Chairman pro tem

☆☆

RADM Merlin Staring
JAGC, USN (Ret.)
Former Judge Advocate General
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Captain Richard Kiepfer, MD
USN (Ret.), Director
U.S.S. Liberty Survivor

Richard Larry Weaver, SN.
USN (Ret.), Director
U.S.S. Liberty Survivor

M. I. Hakki
Director

Jack Tillar
Director

Tito Howard
Director
Executive Director

The Honorable Francis J. Harvey
Secretary of the Army
101 Army Pentagon
Room 3E 560
Washington, DC 20310

April 20, 2006

Subject: Report of War Crimes submitted to the Secretary of the Army by the USS Liberty Veterans Association, Inc., on 8 June 2005

Dear Mr. Secretary:

On 8 June 2005 the USS Liberty Veterans Association, Inc., submitted to you a documented Report of War Crimes Committed Against U. S. Military Personnel on June 8, 1967. That report was submitted to you in your capacity as Executive Agent for the Secretary of Defense under Department of Defense Directive No. 5810.01B of 29 March 2004. It was based upon, and contained a detailed description of, the sudden, savage, unjustified, and prolonged attack made on 8 June 1967, by air and naval forces of the state of Israel, upon the USS LIBERTY (AGTR-5), a U. S. Navy technical research ship then operating peacefully in international waters in the Eastern Mediterranean Sea. The LIBERTY was at that time the most sophisticated and best-equipped intelligence ship in the world. Of a crew of 294 officers and men, including three American civilian government employees, she suffered 34 Americans killed in action and 173 wounded in action. The ship itself was so badly damaged that it never again sailed on an operational mission.

Our organization, the Liberty Alliance, was founded in 2002 by Admiral Thomas H. Moorer, retired Chairman of the Joint Chiefs of Staff, in support of the survivors of that 8 June 1967 attack on the LIBERTY. We – Rear Admiral Clarence A. (Mark) Hill, Jr., USN (Ret.), and Rear Admiral Merlin H. Staring, JAGC, USN (Ret.), Chairman and Treasurer, respectively, of the Liberty Alliance – now write jointly in furtherance of the efforts that Admiral Moorer had

pursued for many years after his retirement, and right up to the time of his death in 2004.

Our Liberty Alliance, on 27 July 2005, sent a detailed letter to the Secretary of the Navy in support of the efforts of the Liberty Veterans Association (the LVA) to obtain a full, fair, and objective U. S. Government investigation of that 1967 Israeli attack on the LIBERTY. When we thus wrote to the Secretary of the Navy, we had only recently learned of a 16 March 2005 admission by the Department of the Navy, in an official letter reply to a Congressional inquiry, that the only investigation that the United States Government had ever made into that attack was a Navy Court of Inquiry which was conducted – and concluded – within ten days after the attack had occurred. In our letter to the Secretary we presented facts of official record which demonstrated that the investigation conducted by that Navy Court of Inquiry, to put it most charitably, was a hasty, a superficial, an incomplete, and a totally inadequate inquiry into the extremely complex and important matter that had prompted it. In addition, we have within the past two years developed additional evidence, in the form of testimony and an affidavit by the Navy judge advocate counsel to that Court of Inquiry, that the conclusions recorded by the Court were ordered by the President of the United States and his Secretary of Defense and were inconsistent with and were contrary to any evidence the Court of Inquiry had adduced.

On the basis of the foregoing, Mr. Secretary, it was and is our position that reliance by the Department of the Navy and by the United States Government upon that inquiry – for any purpose – is misplaced and unfounded. With its glaring defects and inadequacies, it would not constitute a reliable basis even for decisions by the Navy concerning operational or material matters, for example – the context in which that inquiry, and most inquiries of that sort, are ordered and conducted within the naval service. Far less reliable – or even relevant – would it be with respect to reports of War Crimes – the issues presented by the Liberty Veterans Association in its formal Report of War Crimes submitted to you on 8 June 2005. The War Crimes issues now raised by the LVA had not even been formulated or substantially articulated at the time of the hasty Navy Court of Inquiry in 1967. In fact, among the very few of the LIBERTY survivors who were actually called and permitted to testify before that Court, some were silenced when they attempted to describe events which in retrospect

would have fallen clearly within the War Crimes category; and the testimony of at least one who did enter that area – having witnessed the firing by the Israelis upon life rafts launched or launching to accommodate wounded members of LIBERTY's company – has been found to have been deleted from the Court's original report of its proceedings.

In short, Mr. Secretary, the matters that have been officially submitted to your attention by the Liberty Veterans Association as War Crimes have never been “thoroughly investigated” – to use the terms of your charter under Department of Defense Directives Numbers 5810.01B of March 29, 2004, and 5100.77 of December 9, 1998. They have never been addressed or investigated at all. The fact that the state of Israel may have admitted to the attack upon the LIBERTY after the fact, claiming it to have resulted from a mistaken identification of the ship – or that it ultimately paid some damage claims – is in no way responsive, or even relevant, to the Report of War Crimes – War Crimes which, quite simply, have never been investigated. Those War Crimes have been properly reported now, and they should now be investigated, at long last, with appropriate corrective action to follow in accordance with the system implemented by the DoD Directives cited above.

In July 2005, when we delivered our letter to the Secretary of the Navy, we simultaneously submitted an information copy of it to your office, Mr. Secretary, because we knew that the existence and the adequacy of any prior investigation of the attack on the LIBERTY were matters that had been officially raised to you by the Liberty Veterans Association in their 8 June 2005 Report of War Crimes. As nearly as we have been able to determine, you have not yet responded to or taken any official action with respect to that LVA Report. The matter thus apparently still lies before you for action.

Since the adequacy of the Navy's 1967 Court of Inquiry, as “the only United States Government investigation” into the LIBERTY attack, is an inescapable concern under the responsibilities placed upon you by the Secretary of Defense, we now address and submit our position in the matter directly to you, rather than relying upon our previous indirect submission as an information copy of our 27 July 2005 letter to the Secretary of the Navy. Our position, however, remains exactly as stated in our letter to the

Secretary of the Navy -- a full copy of which is accordingly appended to and incorporated in this letter as Enclosure (1).

To place the matter in its full current context, however, we must advise you that a dismissive reply was made to us, on behalf of the Secretary of the Navy, by a letter dated 22 September 2005 from a subordinate in the Office of the Judge Advocate General of the Navy. We attach a copy of that one-page reply as Enclosure (2). In essence, that reply on behalf of the Secretary of the Navy "renew[s] the conclusions of previous Navy correspondents, to wit: there is no purpose to further investigation." (Emphasis supplied.)

The Department of the Navy, having previously assured the Congress of the United States that the Navy's 1967 Court of Inquiry "was the only United States Government investigation into the attack" on the USS LIBERTY, has thus refused to examine the facts of record which we have laid before them and which reveal that that investigation was grossly and blatantly inadequate to its stated purposes. Not a word of that misdirecting and dismissive "response" attempts to support or to justify or to defend the 1967 Court of Inquiry as the adequate or thorough investigation required by the Department of Defense -- and by the United States Government and the American people -- to be conducted in an important matter of the nature and consequence of the Israeli 1967 attack on the USS LIBERTY. The reason there is no such attempted justification or defense, Mr. Secretary, is clear: No conscientious lawyer -- no naval or military officer of the United States -- and no objective Government official of any profession or qualification -- could seriously spring to the defense of an investigative proceeding so seriously flawed, and so patently inadequate, as the hasty (and dishonest) inquiry into the unprovoked and unlawful attack on the USS LIBERTY.

Rear Admiral Staring, in his position as a signer to this letter, speaks to the latter point from a career background as a Navy Judge Advocate and as a former Judge Advocate General of the Navy. While neither he personally -- nor perhaps any naval officer -- can speak to the investigative standards maintained within your Department of the Army, Mr. Secretary, we are confident that those standards are no less exacting than are those of the Navy. By no stretch of the imagination can that single official investigation into the 1967 Israeli attack on the USS LIBERTY be honestly

characterized, maintained, or defended as a “thorough investigation” meeting the standards of the Secretary’s charter as Executive Agent for the Secretary of Defense in War Crimes matters. The position thus currently taken by the Department of the Navy and by (or on behalf of) its Secretary is not and cannot be the final word in this important matter. The Secretary of the Army, in his capacity as Executive Agent for the Secretary of Defense, has had the matter properly and officially presented to him -- and it is now he, and not the Secretary of the Navy, who is charged with ensuring that the matter placed before him has been or is thoroughly investigated, and that appropriate corrective action is taken. America has a right to expect that the Secretary of the Army will not take his responsibilities as lightly as the authorities of our Department of the Navy have taken theirs.

Soon after the Liberty Veterans Association’s Report of War Crimes was initially submitted to the Secretary of the Army in June 2005, its receipt was formally acknowledged to the LVA by a letter of 27 June 2005 from the U.S. Army Criminal Investigation Command. That acknowledgment designated a point of contact within the Army Criminal Investigation Command for future communications in the matter. It also stated that the Report of War Crimes had been forwarded by the Army to the Naval Criminal Investigative Service for appropriate action “because the incident described in the report involved a Navy vessel and its personnel.” That reference of the matter to the Department of the Navy is understandable from the standpoint of learning, from the Department initially and primarily involved, what investigative measures had been taken, and with what results -- but it did not relieve the Secretary of the Army of his separately assigned responsibilities as Executive Agent for the Secretary of Defense in War Crimes matters. It is still thus the responsibility of the Secretary of the Army to ensure that any report of War Crimes has been or is “thoroughly investigated” by some appropriate and competent authority of the United States Government.

In due course, starting in late August 2005 and authorized by the LVA to do so on its behalf, Rear Admiral Staring personally sought to determine the location of the LVA’s Report of War Crimes and the status of its consideration by the Secretary of the Army. Our attempted inquiries to the Army and to the Naval Criminal Investigative Service (NCIS), following the contact chain initiated by the Army’s June 2005 acknowledgment letter,

have to this date been unable to establish that the LVA Report of War Crimes has in fact ever been received and accepted by NCIS for action of any sort, as had been professed in the Army's acknowledgment letter of 27 June 2005.

Mr. Secretary, the survivors of the unjustified Israeli attack on the USS LIBERTY had lived with the thoughts, the memories, and the tragic results of that attack for exactly 38 years when they finally made their collective and formal report and petition to you in your capacity as Executive Agent for the Secretary of Defense in war crimes matters. They have now waited for ten additional months with nothing but an initial, pro forma acknowledgment of the receipt of their Report, and with no substantive response or disposition. Although many of the heroic survivors of the initial attack upon the LIBERTY have not survived the nearly four decades since, as recounted at pages 7-8 of Enclosure (1) a substantial number of the attack survivors are still available and competent as witnesses, were they but to have the opportunity to testify – most, for the first time – concerning their observations and tragic experiences of that 1967 date.


We respectfully ask you, Sir, to consider this shameful matter objectively – to examine for yourself, independently, the official record of the Navy's 1967 Court of Inquiry, with its review and disposition, and to consider whether that hasty, superficial, incomplete – even farcical – investigative proceeding would have satisfied you had the event occurred within your Department of the Army. We are confident that it would not – and on that basis we respectfully ask that you institute, now, an investigative proceeding which will extract the true facts of this tragic episode from the large body of competent sources now still available. The survivors of the attack who are still available in substantial and significant numbers, and the survivors of those who died in the attack or have since passed on, deserve and are entitled to an opportunity to record the truth of the matter; and the citizenry of the United States is entitled to know that truth and to have it authoritatively recorded in the annals of our history.

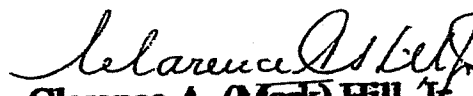
Because of his obvious interest and necessary involvement in this matter, we are simultaneously delivering a copy of this letter to the current Secretary of the Navy. Also, because of his ultimate responsibility in the premises – and because he has been a party to correspondence on the subject

from and to survivors of the LIBERTY attack (see Enclosure (3)) – we are likewise simultaneously delivering a copy of this letter to the Secretary of Defense.

Finally, due both to the importance of his present position and responsibilities and the perspective he can bring personally to the matter by virtue of his prior experience in the naval service, both in uniform and as Secretary of the Navy, a complete copy of this presentation is being delivered to Senator John Warner, Chairman of the United States Senate Committee on Armed Services. Rear Admiral Staring had earlier brought our letter of 27 July 2005 to the Secretary of the Navy to Senator Warner's attention. The Senator has replied that he is aware of the action of the Liberty Veterans Association in filing their formal Report of War Crimes with you, Mr. Secretary, as the Executive Agent for the Department of Defense – and that he views that action by the LVA as an appropriate course of action. We attach a complete copy of that exchange with Senator Warner as Enclosure (4).

Most sincerely, and very respectfully,


Merlin H. Staring
Rear Admiral, JAGC, USN (Ret.)


Clarence A. (Mark) Hill, Jr.
Rear Admiral, USN (Ret.)

Copies to:

Senator John Warner
Chairman, United States Senate
Committee on Armed Services

The Secretary of Defense

The Secretary of the Navy