

# *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*

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Former Judge Advocate General  
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Ambassador James Akins  
*Director*

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Captain Richard Kiepfer, MD  
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*U.S.S. Liberty Survivor*

Richard Larry Weaver, SN.  
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*U.S.S. Liberty Survivor*

M. I. Hakki  
*Director*

Jack Tillar  
*Director*

Tito Howard  
Director  
*Executive Director*

The Honorable John Warner  
Chairman, Committee on Armed Services  
United States Senate  
Washington, DC 20510-6050

July 22, 2006

Subject: United States Government investigation  
of the 8 June 1967 Israeli attack on the  
USS LIBERTY (AGTR-5)

Dear Senator Warner:

Our organization, the U. S. S. Liberty Alliance, Inc., was founded in 2002 by Admiral Thomas H. Moorer, retired Chairman of the Joint Chiefs of Staff, in support of the survivors 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.

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 to you jointly in furtherance of those efforts that Admiral Moorer pursued for many years after his retirement, and right up to the time of his death in 2004.

In the 39 years since the LIBERTY attack, the survivors of that attack have been subjected to unjust treatment in many and

diverse ways. Among many other more material things, they have been denied the honor, that should have been theirs, of recognition as prime exemplars of the Navy's historic tradition: "Don't give up the ship!" By the same token, the American public has during that time been fed a totally erroneous and dishonest version of the history of that attack.

This matter has been raised and has resurfaced once again through the filing with the Secretary of the Army, by the USS LIBERTY survivors, of a formal Report of War Crimes committed by the state of Israel on 8 June 1967 through its unprovoked, unjustified, and unlawful attack upon the USS LIBERTY and her complement of 294 American officers and crew. That Report of War Crimes was filed with the Secretary of the Army on 8 June 2005, exactly 38 years after the attack. Under applicable directives of the Department of Defense it is the responsibility of the Secretary of the Army, as the Executive Agent for the Department of Defense in such matters, to supervise the execution of the "thorough investigation" of such reported incidents expressly contemplated by the announced DoD policy – and it is the responsibility of the Secretary of the Navy to provide for the prompt reporting and investigation of reported incidents committed against members of his Department. Finally, it is DoD policy to ensure that all such incidents, where appropriate, be remedied by corrective action. With the filing of their Report of War Crimes, the survivors of the USS LIBERTY attack formally invoked those various responsibilities of the Department and the Secretary of Defense, the Secretary of the Army, and the Secretary of the Navy as summarized briefly above.

In the days immediately after the attack, Admiral John S. McCain, Jr., then the Commander-in-Chief of U. S. Naval Forces Europe, convened for the Navy a formal Court of Inquiry into the matter. That Court of Inquiry conducted and concluded its proceedings in one week, and since that time various United States officials, and others, have cited and relied upon that Navy investigation as dispositive of all questions or inquiries into the matter. By letter of March 16, 2005, the Department of the Navy officially assured the Congress that "that Court of Inquiry was the only United States Government investigation into the incident." We mention this at the outset because, over the years, there have been many allegations that the attack has been repeatedly investigated by various bodies or officials, of the United States Government and otherwise. None of those alleged prior "investigations," however, amounted to a genuine inquiry of any sort into the true facts of the event – much less a "thorough" investigation – and none

took any testimony from the over 240 LIBERTY survivors, many directly involved and seriously wounded, who were not among the mere 17 survivor witnesses who were permitted to give some testimony to the 1967 Navy Court of Inquiry. The survivors are grateful that the Department of the Navy – through its Judge Advocate General who is the official custodian of such records – has set the record straight on the myth of multiple United States Government investigations.

The official record of that 1967 Navy Court of Inquiry, as it is now maintained and supplied by the Department of the Navy, quite literally demonstrates on its very face that it fell far, far short of constituting the inquiry “into all the pertinent facts and circumstances leading to and connected with the armed attack; [the] damage resulting therefrom; and [the] deaths of and injuries to naval personnel” as had been directed by its convening authority. In addition, the 5-page approving endorsement that Admiral McCain hastily placed on that record on 18 June 1967 fails even to note that the Court had nowhere nearly fulfilled its directed mission – and he failed to send the record back to his Court for further work to fulfill that mission as it was well within his power to do. Finally, among a number of other respects in which he failed in or abdicated his command responsibilities, the convening authority relied at some points in his endorsement upon incomplete consideration of evidence in the record, and at others purported to reach erroneous, unsubstantiated, or misleading conclusions from the record which it was his duty to have read and to have considered.

With that background, and with the Navy’s official assurance that its hasty Court of Inquiry proceedings in 1967 constituted the only United States Government investigation into the attack, we, the undersigned, acting for the Liberty Alliance, submitted to the Secretary of the Navy on 27 July 2005 a detailed exposition and analysis of salient aspects of the Government’s official documentary record of the investigation. In doing so we pointed out in some detail the glaring deficiencies and inadequacies of the 1967 Court of Inquiry – though by no means all of them. We asked the Secretary to examine and appraise those records of his Department, and that he consent to and support the efforts of the LIBERTY survivors to attain, at long last, a full, fair, and objective United States Government investigation into the facts and the records of the 8 June 1967 attack by Israel upon the USS LIBERTY.

At that stage of the matter, Senator Warner, on 2 September 2005 Rear Admiral Staring delivered to your staff, for your attention, a fully documented copy of our presentation with a briefing memorandum requesting that, after consideration, you make your conclusions known to the Secretary of the Navy and the Secretary of the Army, both of whom thus then had the matter officially pending before them.

On 22 September 2005, soon after our presentation of the matter for your attention, a subordinate officer in the Office of the Judge Advocate General of the Navy responded to us on behalf of the Secretary of the Navy. His response contained no acknowledgment of or response to the blatant defects to which we had pointed in the Navy's hasty and superficial 1967 Court of Inquiry. He simply "[renewed] the conclusions of previous Navy correspondents, to wit: there is no purpose to further investigation."

While we did not at that time take any further action to bring the response by the Department of the Navy to your attention, Senator Warner, you did acknowledge Rear Admiral Staring's September memorandum on the subject by letter of 22 February 2006. You had forwarded our presentation to the Deputy Secretary of Defense (and former Secretary of the Navy) for review, and you had in response been similarly informed, by an Assistant Judge Advocate General of the Navy, that "further investigation is not warranted." You were so kind as to recognize in your letter the great importance of the matter and to express your respect for our concerns. Noting that the survivors of the attack had filed a formal Report of War Crimes with the Secretary of the Army, as the Executive Agent for the Department of Defense, you stated that you viewed that as an appropriate course of action.

We thank you, Senator Warner, for the objective consideration that you then gave to our presentation of the matter for your attention.

Faced thus with the refusal of the Secretary of the Navy to consider the investigative inadequacies that we had limned for him in our letter of 27 July 2005, – and in view of the fact that the Secretary of the Army had for over 10 months had the survivors' Report of War Crimes before him for consideration, but with no response or known action – we addressed and delivered to him, by letter of 20 April 2006, a similar presentation of the matter for his consideration in his capacity as Executive Agent for the Department of Defense. On 28 April Rear Admiral Staring once again

delivered a complete copy of that new presentation to your staff, with a covering memorandum, for your personal and official information and consideration.

By letter of 15 May 2006 a Special Assistant to the Judge Advocate General of the Army responded, on behalf of the Secretary of the Army, to our presentation of 20 April. Once again this subordinate official of the Department of Defense took no note whatsoever of our documented demonstration of the superficial nature and the total inadequacy of the Navy's hasty 1967 Court of Inquiry. He did acknowledge in passing, however, that the Convening Authority had given the Court "a wide mandate to investigate 'all pertinent facts and circumstances leading to and connected with the armed attack' on USS LIBERTY." That directive was not even close to fulfillment in the 650+ pages of the Court's record to which the Convening Authority gave his hasty and highly vulnerable approval after consideration over a recorded period of little if any more than 24 hours.

It is both significant – and in fact an inadvertent commentary on the climate within the Department of Defense on this subject – that the subordinate in the Office of the Judge Advocate General of the Army who was charged with responding to our presentation to the Secretary of the Army adopted in his letter, verbatim, the following sentence employed by the subordinate in the Office of the Judge Advocate General of the Navy in her March 2005 letter to the Congress:

"The Court of Inquiry which heard testimony from several officers and enlisted men from LIBERTY, including the commanding officer, produced an exhaustive record of proceedings over 650 pages in length."

Neither of those respondents, both presumably extremely competent and experienced lawyers, took note of the fact that only 17 of the Liberty-attack survivors, of a total surviving complement of 260 officers and men – and very, very few of the 173 wounded who would most likely have been at or near the centers of the action – had an opportunity to testify to any extent before the Court. Neither of them, as well, shrank from characterizing the Court's record of its 3 days of evidentiary proceedings as "exhaustive" – which it obviously was not. The Navy's lawyer respondent, in fact, had taken express note of the fact that the Court's "investigation focused primarily on U. S. military communications problems prior to the attack and

the heroic efforts of LIBERTY's crew in damage control during the aftermath of the attack" – leaving unspoken and unaddressed the fact that the Court's "wide mandate" was to investigate "all pertinent facts and circumstances . . . connected with the armed attack."

A full copy of our presentation to the Secretary of the Army had been sent in April to Secretary of Defense Rumsfeld, as it was by the authority of his Department and office that the Secretary of the Army had been tasked as the Executive Agent for the Department of Defense in War Crimes matters. We know of no express action on the part of the Secretary of Defense in this matter. We can only conclude, however, that, having thus been apprised of the pendency of the LIBERTY survivors' War Crimes Report before his appointed Executive Agent, he has at least tacitly concurred in the summary disposition of the matter taken on behalf of the Secretary of the Army on 15 May 2006. There can thus be no question that the decision that "further investigation [in the LIBERTY matter] by the U. S. military is unwarranted" comes from the highest authority of the Department of Defense – and thus from the highest cognizant authority at the operating levels of the Executive Branch of the Government.

At this point, Senator Warner – in order that the documents and correspondence to which we have referred above may be readily available for your independent scrutiny – we attach as Exhibit I the complete presentation that we submitted to the Secretary of the Army on 20 April 2006. That packet contains, as its Enclosures 1 through 4, all of the prior documents to which we have referred. In addition, we now also append, as Exhibit II, a copy of the response that was made to us on 15 May 2006 on behalf of the Secretary of the Army

While the Congress, as the Legislative Branch of our Government, may on some occasions over the years have considered isolated aspects of the Israeli attack on the USS LIBERTY, none of those considerations in any way constituted an investigation of the facts of the event – much less a "thorough investigation" of the episode – as borne out by the Navy's assertion that the 1967 Navy Court of Inquiry was the only official U. S. Government investigation into the event. The LIBERTY affair indeed appears to be unique, as a major and tragic loss of life and limb and property, by a United States military unit, at the hands of a foreign power (or otherwise), which has not been the subject of concerted and serious investigation by the Congress of the United States.

We most earnestly and respectfully submit, Senator Warner, that – the Executive Branch of the Government having abdicated its clear duties in the premises – the Congress should now itself, at long last, conduct such an investigation while a substantial number of the heroic survivors of and witnesses to the event are still available and competent to testify -- and while the family survivors of those lost are still alive to realize and to receive the just treatment and the recognition that has so long been arbitrarily denied to them. That recognition has of course already been denied forever to those shipmates who have already passed on with their festering memories unallayed. Realizing that the institution of such a Congressional investigation would lie with your Committee on Armed Services as a corporate body, rather than with its Chairman personally, we are as a convenience sending a complete copy of this presentation to each Member of your Committee as now constituted.

There is one further and final aspect of the matter that casts a brooding shadow over the two of us as signatories to this letter, Senator Warner. We were on active Navy duty, in our respective specialties, at the time of the tragic attack upon the USS LIBERTY. The disturbing specter that haunts us springs from the realization that, during our own active naval service, our Navy – and our Government – committed the unprecedented sin of deliberately recalling available military forces that had been launched to assist a United States Navy vessel, and her complement of 294 American personnel, who were under vicious and unjustifiable attack by foreign forces – abandoning those virtually defenseless personnel to an hours-long attack ordeal and costing the loss of further lives that could and would most certainly have been saved. The reason for that unprecedented abandonment? As stated by the President of the United States at the time: political or diplomatic reasons – allegedly to avoid embarrassing a nation considered at the time to be an ally. And the ignoble sequelae? A hasty, insincere, apologetic, and totally inadequate “Court of Inquiry” – browbeating the affected sailors with threats that silenced them for years, leaving many haunted by indelible memories that affect them and their lives to this day – or did to the day of the passing of the many who no longer survive.

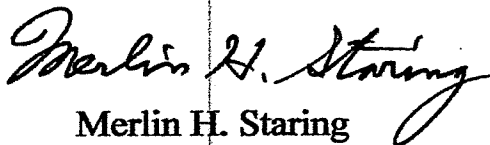
Senator Warner, as you know, both of us who submit this letter served on active duty during the period when you served first as the Under Secretary and then as the Secretary of the Navy. We both supported you loyally in ways that only both you and we know. You had as fine a

reputation, with both the officers and the men of the Fleet, as any Secretary of the Navy has had – because they knew of your loyalty and of your dedication to what the Navy and its great traditions stood for, and why it was so vital that those traditions be upheld from generation to generation

We are also of course aware of the delicacy of this entire subject from a diplomatic standpoint – particularly now with the heavy involvement of our forces in the Middle East. A continued hiding of the true story from the record, just to protect the political decisions of former officials in the top echelons of the Executive Branch, however, leaves an historical record of a failure on the part of the United States Navy – a failure to live up to the very motto of the service that has been handed down to us by over two centuries of gallant sailors who never failed to support their own, be it against an enemy, or against the sea itself.

We turn to you now, in the Legislative Branch of our Government, since it is clear that no one in the Executive Branch is willing or is permitted to take the action that is needed to set the record straight. A full and proper review by the Congress, in the few remaining years of availability of testimony from competent and credible witnesses, could open the eyes of our nation to an incident that is as worthy an example of courage, for today's sailors, as it was for those who first heard the words "Don't Give Up The Ship" from the lips of the brave Captain James Lawrence himself.

Most sincerely, and very respectfully,



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

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

Copies to:

Each Member of the Committee on Armed Services  
of the  
United States Senate