

Liberty Veterans on War Crimes Committed

(A Report: War Crimes Committed Against U.S. Military Personnel, June 8, 1967. Submitted to the Secretary of the Army in his capacity as Executive Agent for the Secretary of Defense, June 8, 2005. The entire report including footnotes can be found online.)

This report of war crimes committed against U.S. military personnel is submitted to the Honorable Secretary of the Army in his capacity as Executive Agent for the Secretary of Defense...

This Report is filed by the USS *Liberty* Veterans Association, Inc. a California non-profit corporation, ...acting on behalf of the surviving crewmembers of USS *Liberty*.

Background

On June 8, 1967, while patrolling in international waters in the Eastern Mediterranean Sea, USS *Liberty* (AGTR-5) was savagely attacked without warning or justification by air and naval forces of the state of Israel. [The attack occurred on the fourth day of the Six Day War between Israel and its Arab neighbors.]

Of a crew of 294 officers and men (including three civilians), the ship suffered thirty-four (34) killed in action and one hundred seventy-three (173) wounded in action. The ship itself, a Forty Million (\$40,000,000) Dollar state of the art signals intelligence (SIGINT) platform [a spy ship capable of intercepting communications], was so badly damaged that it never sailed on an operational mission again and was sold in 1970 for \$101,666.66 as scrap.

Israel acknowledged the following facts without qualification:

- a. USS *Liberty* was an American ship, hence a neutral vis-à-vis the June 1967 war between Israel and its Arab neighbors.
- b. USS *Liberty* remained in international waters at all times on June 8, 1967.
- c. The attacking Israeli forces never made a positive identification of the nationality of USS *Liberty* before unleashing deadly force in their attack on the ship.

At approximately 0600 hours (all times local) on the morning of June 8, 1967, an Israeli maritime reconnaissance aircraft observer reported seeing "a US Navy cargo type ship," just outside the coverage of the Israeli coastal radar defense net, bearing the hull markings "GTR-5". This report, made to Israeli naval HQ, was also forwarded immediately to the Israeli navy intelligence directorate.

Throughout the remainder of the day prior to the attack, Israeli reconnaissance aircraft regularly flew out to USS *Liberty's* position and orbited the ship before returning to their bases in Israel. A total of no fewer than eight (8) such flights were made.

At approximately 1050 hours, the naval observer from the early morning reconnaissance flight arrived at Israeli air force HQ and sat down with the air-naval liaison officer there. The two officers consulted *Janes' Fighting Ships* and learned that the ship reported earlier in the day was USS *Liberty*, a United States Navy technical research ship.

From 0900 hours on June 8, 1967, until the time of the attack five hours later, *USS Liberty* maintained a speed of approximately five knots and a generally westerly-northwesterly course.

At 1400 hours, while approximately 17 miles off the Gaza coast, *USS Liberty's* crew observed three surface radar contacts closing with their position at high speed. A few moments later, the bridge radar crew observed high speed aircraft passing over the surface returns on the same heading.

Within a few short moments, and without any warning, Israeli fighter aircraft launched a rocket attack on *USS Liberty*. The aircraft made repeated firing passes, attacking *USS Liberty* with rockets and their internal cannons. After the first flight of fighter aircraft had exhausted their ordnance, subsequent flights of Israeli fighter aircraft continued to prosecute the attack with rockets, cannon fire, and napalm.

During the air attack, *USS Liberty's* crew had difficulty contacting Sixth Fleet to request assistance due to intense communications jamming.

The initial targets on the ship were the command bridge, communications antennas, and the four .50 caliber machine guns, placed on the ship to repel boarders.

After the Israeli fighter aircraft completed their attacks, three Israeli torpedo boats arrived and began a surface attack about 35 minutes after the start of the air attack. The torpedo boats launched a total of five torpedoes, one of which struck the side of *USS Liberty*, opposite the ship's research spaces. Twenty-six Americans, in addition to the eight who had been killed in the earlier air attacks, were killed as a result of this explosion.

Following their torpedo attack, the torpedo boats moved up and down the length of the ship (both the port and starboard sides), continuing their attack, raking the ship with cannon and machine gun fire. In Malta, crewmen were later assigned the task of counting all of the holes in the ship that were the size of a man's hand or larger. They found a total of 861 such holes, in addition to "thousands" of .50 caliber machine gun holes.

Survivors report that the torpedo boat crews swept the decks of *USS Liberty* with continuous machine gun fire, targeting communications equipment and any crewmembers who ventured above decks.

Damage control firefighters, who had already risked their lives merely by appearing on deck, had to abandon their efforts because their fire hoses had been shredded by machine gun fire.

Survivors also report that the torpedo boat crews fired on the inflated lifeboats launched by the crew after the captain gave the order "prepare to abandon ship." This order had to be rescinded because the crew was unable to stand on the main deck without being fired upon and the life rafts were destroyed as they were launched.

The defenseless crew, initially unable to report their plight or summon assistance and with only themselves to rely upon, fought heroically to save themselves and their ship. In recognition of their effort in this single action, they were ultimately awarded, collectively, one Medal of Honor, two Navy Crosses, eleven Silver Stars, twenty Bronze Stars (with "V" device), nine Navy Commendation Medals, and two hundred and four Purple Hearts. In addition, the ship was awarded the Presidential Unit Citation.

By patching together different systems, the ship's radio operators had ultimately been able to send a brief distress message that was received and acknowledged by United States Sixth Fleet forces present in the Mediterranean. Upon receipt of that message the aircraft carriers USS *Saratoga* and USS *America* each launched aircraft to come to the aid of USS *Liberty*. The reported attacking aircraft were declared hostile and the rescue aircraft were authorized to destroy them upon arrival. The rules of engagement, authorizing destruction of the attackers, were transmitted to the rescue aircraft "in the clear" (i.e., they were not encrypted).

Shortly after the Sixth Fleet transmission of the rules of engagement to its dispatched rescue aircraft, the Israeli torpedo boats suddenly broke off their attack and transmitted messages asking if USS *Liberty* required assistance. At the same time, an Israeli naval officer notified the US Naval Attaché at the American Embassy in Tel Aviv that Israeli forces had mistakenly attacked a United States Navy ship and apologized. The Naval Attaché notified the United States Sixth Fleet and the rescue aircraft were recalled before they arrived at the scene of the attack.

At about the same time as the cessation of the torpedo boat attack, Israeli attack helicopters arrived over the ship. Survivors report that the helicopters were packed with men in combat battle dress. The Captain of USS *Liberty* gave the order to "prepare to repel boarders" but the helicopters departed without attempting to land their troops.

The official position of the United States of America concerning these events, as contained in a diplomatic note by Secretary of State Rusk addressed to the Israeli Ambassador is set forth, in relevant part, below:

"Washington, June 10, 1967.

The Secretary of State presents his compliments to His Excellency the Ambassador of Israel and has the honor to refer to the Ambassador's Note of June 10, 1967 concerning the attack by Israeli aircraft and torpedo boats on the United States naval vessel U.S.S. *Liberty*, ...

In these circumstances, the later military attack by Israeli aircraft on the U.S.S. *Liberty* is quite literally incomprehensible. [At] a minimum, the attack must be condemned as an act of military recklessness reflecting wanton disregard for human life.

The subsequent attack by Israeli torpedo boats, substantially after the vessel was or

should have been identified by Israeli military forces, manifests the same reckless disregard for human life... The U.S.S. *Liberty* was peacefully engaged, posed no threat whatsoever to the torpedo boats and obviously carried no armament affording it a combat capability. It could and should have been scrutinized visually at close range before torpedoes were fired.

...the Secretary of State wishes to make clear that the United States Government expects the Government of Israel also to take the disciplinary measures which international law requires in the event of wrongful conduct by the military personnel of a State.”

There has been no statement in the last thirty-eight years by the United States government reversing or amending this formal position.

The Israeli Defense Forces Chief Military Prosecutor, immediately following the attack, filed formal charges recommending court martial proceedings against a number of Israeli military personnel. Prior to the start of court martial proceedings, the IDF turned the matter over to an examining judge to confirm that the prosecution should go forward. The examining judge disagreed with United States position that the attack was “an act of military recklessness reflecting wanton disregard for human life” and announced his finding that:

“Yet I have not discovered any deviation from the standard of reasonable conduct which would justify the committal of anyone for trial.”

As a result of this blanket absolution, no one in the Israeli government or military has received so much as a reprimand for their involvement in the attack, much less the punishment demanded by the United States (“the United States Government expects the Government of Israel also to take the disciplinary measures which international law requires in the event of wrongful conduct by the military personnel of a State”).

Within 24 hours of the attack, the United States Navy convened a formal Court of Inquiry into that attack – a standard investigative procedure reserved for such serious events or circumstances. This procedure was unusual in only one respect – the President and members appointed to the Court of Inquiry by the Commander in Chief, U.S. Naval Forces, Europe (CINCUSNAVEUR), headquartered in London, were directed orally by the appointing authority to conduct and complete their investigative proceedings *within one week* – a most unusual requirement in light of the nature and magnitude of the events they were ordered to investigate.

Convening initially in London, the Court proceeded immediately to the Mediterranean and conducted its inquiry both aboard USS *Liberty* as she limped under escort to Malta, and in succeeding days as she lay in dry-dock there. Concluding their inquiries there, the President of the Court, with the Navy Judge Advocate General’s Corps officer who had been appointed as Counsel to the Court, and with a Navy court reporter who had been assigned

from the London headquarters to assist, returned to London on June 16, 1967 (eight days after the attack), with their results.

At London, the Navy court reporter supervised the final production of a written record of the Court's proceedings and findings – a document over 600 typewritten pages in length. On the afternoon of June 17, 1967, that record of the Court's proceedings was delivered to the senior Navy Judge Advocate General's Corps officer on the CINCUSNAVEUR staff for his review and recommendation to the appointing authority concerning his required endorsement and action upon the Court's proceedings and record. The CINCUSNAVEUR Staff Judge Advocate thus charged with that review – in full compliance and accord with standard Navy requirements and practice – turned immediately to his detailed examination and consideration of the record. He continued that process steadily into the early morning hours of June 18, 1967, then after a four-hour rest break resumed his review at 6:00 AM on June 18th.

In the midforenoon of June 18th an emissary from his Commander, the appointing authority, appeared and inquired of the Staff Judge Advocate concerning the status of his review and when it might be expected to be completed. The Staff Judge Advocate advised that he had by then read only about a third of the record – that there were many clerical and typographical flaws in the record that should be remedied before it was formally forwarded to the high governmental authorities who undoubtedly awaited it – that, more importantly, the reviewer had not yet been able to find, in the parts of the record he had so far reviewed, testimony or other evidence to support some of the Court's stated conclusions – and that he could not yet estimate when he could complete his review and recommendations but was continuing to devote himself solely to that task.

The emissary from the appointing authority departed with that information, then returned about 20 minutes later with the message that CINCUSNAVEUR, the appointing authority, had directed him to come and get the Court's record from the Staff Judge Advocate and bring it back to the appointing authority. The Staff Judge Advocate accordingly surrendered the record to the emissary exactly as he had received it; he was neither then nor later asked for any of his work or opinions so far; and he had no further contact with the Court of Inquiry or its results at any time in his active Navy career.

The records of the Navy Department reveal that the written record of proceedings of the U.S. Navy Court of Inquiry into the Israeli attack upon USS *Liberty* was formally submitted by the President of the Court of Inquiry to CINCUSNAVEUR, the appointing authority, by a written letter dated 18 June 1967, the very day that the record had been withdrawn by the appointing authority from his Staff Judge Advocate. The written record also reveals that the appointing authority, on that same day, placed upon that record of the Court's proceedings, a five-page First Endorsement, transmitting that Record to the Judge Advocate General of the Navy in Washington as required by the Navy's investigative procedures.

Mr. Secretary, it is respectfully submitted that, even based solely upon the facts and circumstances outlined above, the Navy Court of Inquiry into the Israeli attack on USS *Liberty* – the sole official investigation by the United States Government into that attack

– was deficient and prejudiced, even at its outset, by the unreasonable haste imposed informally by the appointing authority. In addition, the processing of that Court’s hasty result was further compromised by its peremptory withdrawal from its initial and prescribed legal review in the field, and its hurried transmission to the seat of the U.S. Government under cover of a purported official endorsement that could not conceivably have been based upon even a cursory complete review of even the hasty work of the Navy Court of Inquiry. Inexplicably, the Court record was classified Top Secret and withheld from public scrutiny for many years [nearly a decade]. [A 14-page summary was released at the time, which reflected the Court’s conclusion that the assault was a case of mistaken identity but omitted evidence in the Court record that contradicted explanations coming out of Israel. See James M. Scott, *The Attack on the Liberty*, Simon & Schuster, 2009, pp. 226-237.]

In addition to all of that, however, the Judge Advocate General’s Corps officer who was appointed to serve as Counsel to the Navy Court of Inquiry – the officer charged with certifying the authenticity of the Court’s record – has examined a copy of the record of that Court of Inquiry that has since been released by the Government under the Freedom of Information Act and has pronounced it a fraud, and not the record that he had certified and submitted. Furthermore, the President of the Court of Inquiry, following his departure from London with the record on 18 June 1967, his personal delivery of the record to officials in Washington, and his return to his regular duty post in Italy, informed the officer who had served as Counsel to the Court of Inquiry that the Court’s record of its proceedings had been altered, in his presence, by civilian Government attorneys following its submission...

Conclusion

The USS *Liberty* Veterans Association has established, *prima facie*, the commission of war crimes by the state of Israel against US military personnel and civilians. These Americans volunteered to serve their country. They followed all orders given to them. In the course of following those orders, they were suddenly and deliberately attacked by naval and air forces of the state of Israel and their country did absolutely nothing to protect them or seek justice on their behalf.

The failure of the United States government to undertake a complete investigation of the Israeli attack on USS *Liberty* has resulted in grievous harm to the surviving victims, as well as to the families of all crewmembers. Equally serious, this failure has resulted in an indelible stain upon the honor of the United States of America. It has sent a signal to America’s serving men and women that their welfare is always subordinate to the interests of a foreign state. The only conceivable reason for this failure is the political decision to put the interests of Israel ahead of those of American servicemen, employees, and veterans.

Finally, the fact that the Israeli government and its surrogates in the United States have worked so long and hard to prevent an inquiry itself speaks volumes as to what such an inquiry would find.

The USS *Liberty* Veterans Association, Inc. respectfully insists that the Secretary of the Army convene an investigatory body to undertake the complete investigation that should have been carried out thirty-eight years ago.