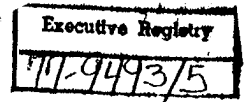


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APPROVED FOR
RELEASE
DATE: FEB 2006

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(b) (3)
(b) (5)



1-DCI Approval
2-DCI Signatures

OLC 77-5124/1

10 FEB 1978

(Rec'd DCI 14 Feb)

MEMORANDUM FOR: Director of Central Intelligence

VIA: Acting Deputy Director of
Central Intelligence

FROM:
Acting Legislative Counsel

SUBJECT: Response to Senator James Abourezk on
the USS Liberty Incident (S)

1. (U) Action Requested: Your approval and signature on the attached response to Senator James Abourezk (D., S. Dak.) *AND*
to SEN BAYH of SSC

2. Background: Senator Abourezk has twice written to you requesting information and views on the 1967 Israeli attack on the USS Liberty and on the CIA handling of an FOIA request made by Mr. Carl Marcy on behalf of the American Palestine Committee. You will recall that the American Palestine Committee, using CIA reports obtained through FOIA, charged the Israelis with deliberately attacking the Liberty. This was done last summer at the time of a visit by Moïshe Dayan to the United States. You subsequently denied publicly that the attack was deliberate. Ever since Mr. Marcy and Senator Abourezk have been seeking further clarification of what they perceive to be inconsistent Agency actions, namely the documents released to the American Palestine Committee which appeared to charge the Israelis with a deliberate attack, and the publicized Agency conclusion to the contrary. On 18 October 1977, Senator Abourezk wrote to you on this matter. You replied by letter dated 11 November 1977. The Senator wrote again on 18 November 1977. These are all attached.



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3. Senator Abourezk has also been in touch with the Agency on a separate but related matter. He is Chairman of the Senate Judiciary Subcommittee on Administrative Practice and Procedure. His Subcommittee is responsible for oversight of the Freedom of Information Act, and he has investigated charges that the Agency has misused its filing systems to hide information from FOIA requestors and Congressional investigators. He appears to believe there is substance to such charges.

4. In responding to the current Senator Abourezk letter an examination of NFAC files has identified ten reports predating 21 June 1967 and two reports dated after 21 June 1967 which were not surfaced during the initial FOIA search but were located as a result of a special search for the Senator. Most of the ten documents are Middle East situation reports which mention the Liberty incident among other matters. The two post-21 June finds are both summaries of earlier information and were prepared for Congressional briefings. None of these documents change the estimate that the Liberty incident was a mistake. What they point up is our difficulty in responding to FOIA requests and even to Congressional investigations because of our historical system of compartmented files with unlimited categorization. There is really no way of conducting an exhaustive file search on any subject unless every employee is asked to search his or her files, and such a search would not cover files already in archives. There is no central index, there is no central cross reference. A reasonable search, as required under FOIA, probably has a good chance of missing some pertinent document on any given subject.

Finally, there is another issue concerning the one report identified to the FOIA requestor early-on but withheld under the exemptions to FOIA. The Senator has asked to see this paper on a personal basis. It is a sensitive intelligence analysis which CIA made based on DoD source information. It supports the conclusion that the attack was a mistake but raises questions as to the culpability of certain Israeli military commanders. The Defense Department objected to the release of this document in the original FOIA action.

5. Staff Positions: We believe we should inform the Senator of all of the recent papers found. This goes slightly beyond his specific questions and risks his attacking our FOIA system but it is totally forthright and in line with your policy of being as cooperative as possible.

With respect to the sensitive analytical paper which Senator Abourezk has asked to see, we believe that this paper,

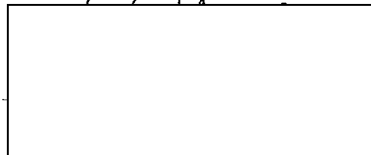
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minus its direct identification of the DoD references should be made available to the Senate Select Committee on Intelligence (SSCI) along with a letter from you indicating that the Senator has asked to see it, and that you have no objection if the SSCI makes it available under the ground rules contained in S. Res. 400. We should tell the Senator of the action we are taking with regard to the SSCI.

6. Recommendations: It is recommended that the attached letter be sent to the Senator. This letter describes all twelve of the recently discovered papers on the Liberty and informs him of the action we are taking with the SSCI on the one sensitive analytical document.

(This paper, added to Bayh's letter, is very interesting.)*



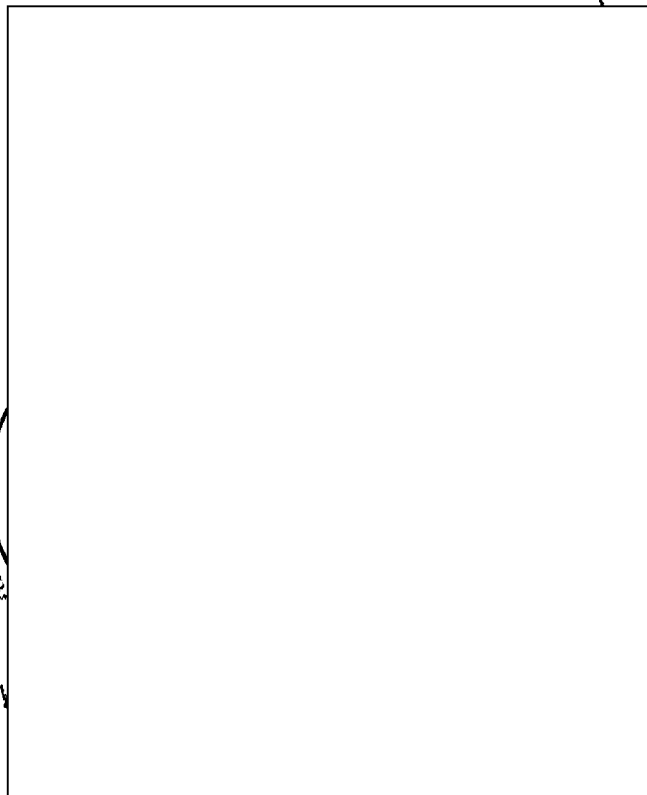
Attachments:

1. Previous correspondence
2. Letter to Senator James Abourezk

APPROVED: _____
Director of Central Intelligence

DISAPPROVED: _____
Director of Central Intelligence

DATE: _____



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