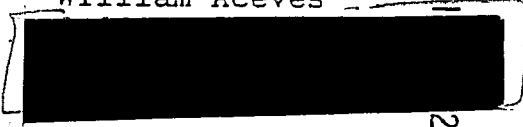


90-4-2208

89 MAR 2:13

William Aceves



CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Information and Privacy Coordinator  
Foreign Affairs Information Management Center, Room 1239  
Department of State  
Washington, D.C., 20520

RE: Freedom of Information Act Request Relating to the  
Freedom of Navigation program.

Dear Sir or Madam:

Pursuant to the Freedom of Information Act (5 U.S.C. Section 552), the Department of State requirements governing public access to records (22 C.F.R. 171 et seq) and E.O 12065 regarding possibly classified records, I request that the documents described and detailed in this request be made available to me for copying as provided within the aforesaid Statutes and Rules.

I write to request a copy of all information regarding the Freedom of Navigation program. In 1975, the United States began a formal program of protecting traditional navigation rights and freedoms from encroachment by illegal maritime claims. This program began by presenting formal diplomatic protests to states asserting excessive territorial claims. On August 10, 1979, the Carter Administration formally established the Freedom of Navigation program to contest objectionable claims and to uphold the American commitment of the freedom of the seas. The Joint Chiefs of Staff sent directives to Navy and Air Force commanders instructing them that they were authorized to approach coastal states to within three miles. Since 1979, the United States has contested the objectionable claims of states asserting extensive sovereignty over territorial waters at the rate of approximately thirty per year. The Reagan Administration continued to follow the Freedom of Navigation. The U.S. naval and air maneuvers in the Gulf of Sidra were undertaken pursuant to the Freedom of Navigation program.

To help avoid any misunderstanding of what records are being requested, I am enclosing a copy of a news account which refers to this material.

Where this request is for records that are in the possession, under the control of, or created by a constituent office of the Department of State, I ask that you forward this request to the office or department that you believe may have records that are responsive to this request. In the alternative,

I ask that you inform me of other agencies that might have such records.

As you know, the FOIA provides that even if some requested material is properly exempt from mandatory disclosure, all segregable portions must be released [5 U.S.C. Sec. 552(b)]. If all material covered by this request is withheld, please inform me of the specific exemptions that are being claimed.

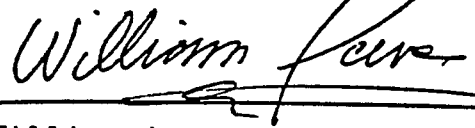
If the request material is released with deletions, I ask that each deletion be marked to indicate the exemption(s) being claimed to authorize each particular withholding.

In addition, I ask that your agency exercise its discretion to release information that may be technically exempt but where withholding would serve no important public interest.

As you know, the FOIA provides that agencies may reduce or waive fees if it would be "in the public interest because furnishing the information can be considered as primarily benefitting the public." [5 U.S.C. 552(a)(4)(A)] [32 CFR 286 et seq]. I believe that the release of this material would be of benefit to the public because the dissemination of this information is likely to contribute significantly to public understanding of the operations and activities of the Department of State. Moreover, the information requested is of vital interests to citizens interested in understanding U.S. operations and the activities of the Department of State. Finally, this request is not in my commercial interests since it is based on scholarly and educational interests. I am a graduate student at the University of Southern California and will use the requested information in the preparation of my graduate dissertation. Furthermore, the information will be published once my dissertation is completed. I therefore ask that you waive any fees relating to this request. If you rule otherwise, I ask that you inform me of the charges before you fill my request.

Should you have any questions concerning this request, please do not hesitate to contact me at the above address or telephone me at the above number. I would be happy to discuss the ways in which this request could be clarified or somewhat redesigned to reflect your agency's filing system and speed the search for the records. As specified under the FOIA, I will expect to receive a reply within ten (10) working days from your receipt of this request.

Very truly yours,



William Aceves

## APPENDIX

### Definitions

For purposes of this request for information under the Freedom of Information (5 U.S.C. Sec. 552), the United States Department of State governing the Availability of Information, (22 CFR 171 et seq), and Executive Order 12065, the following definitions shall apply unless some other meaning is specifically indicated:

A. "United States Department of State shall mean the United States Department of State and any director or any employee thereof. Unless otherwise specifically indicated, any reference to the United States Department of State is intended to include all of its operating Bureaus, Officers and all of its regional offices, bases, and field stations.

B. "Document" shall mean any letter, report, draft, note, speech, memoranda (including memorandum of meetings or telephone conversations), diary entry, analysis, agreement, contract, proposal, list, check, receipt, data sheet, data processing card or input or output record, minutes, statement, opinion, guideline, calculation, or any other writing or recording (formal or informal) however produced or reproduced together

with any and all items attached or affixed to each original or copy, regardless of who prepared the same, which are in the custody or otherwise under the control of the United States Department of State.

C. Time Period. Unless otherwise stated, this request shall cover all documents which have come into the possession of the United States Department of State.

# Rights and Freedoms in International Waters

DEPARTMENT STATEMENT,  
MAR. 26, 1986<sup>1</sup>

The United States is committed to the exercise and preservation of navigation and overflight rights and freedoms around the world. That is the purpose of the freedom of navigation program. In fulfillment of the objectives of that program, U.S. ships and aircraft exercise rights and freedoms under international law off the coasts of numerous countries.

In this regard, the United States acts in accordance with President Reagan's March 10, 1983, ocean policy statement, which stated U.S. willingness to recognize the rights of other countries in the waters off their coasts, as reflected in the 1982 UN Convention on the Law of the Sea, so long as those countries respected the rights of the United States and other countries in those waters under international law.

U.S. ships and aircraft have exercised rights and freedoms off the coasts of countries whose laws do not conform to international law as reflected in the 1982 Law of the Sea Convention. Examples of the types of objectionable claims against which the United States has exercised rights and freedoms are unrecognized historic waters claims, territorial sea claims greater than 12 nautical miles, and territorial sea claims that impose impermissible restrictions on the innocent passage of any type of vessels, such as requiring prior notification or permission. The United States, of course, exercises navigation and overflight rights and freedoms as a matter of routine off the coasts of countries whose maritime claims do conform to international law. Since the policy implementation in 1979, the U.S. Government has exercised its rights against the objectionable claims of over 35 countries, including the Soviet Union, at the rate of some 30-40 per year.

<sup>1</sup>Made available to news correspondents by State Department deputy spokesman Charles Redman. ■

# Afghanistan Day, 1986

PROCLAMATION 5450,  
MAR. 21, 1986<sup>1</sup>

The people of Afghanistan celebrate March 21 as the beginning of their new year. In ordinary times, it is an occasion of joy, renewal, and hope for a better future. March 21, 1986, however, does not mark the passage of an ordinary year, nor does it bring cause to celebrate. For the heroic Afghan people it marks the beginning of yet another year in their struggle for national liberation against the ruthless Soviet military force that seeks to conquer them.

Over six years ago, on December 27, 1979, the Soviet army invaded Afghanistan, a small, friendly, nonaligned, and deeply religious neighbor. For six long years, the Soviets have sought to obliterate Afghan culture and remold that ancient nation into a replica of their own system, causing millions of Afghan refugees to flee the country. To achieve their goals, the Soviets installed the quisling regime of Babrak Karmal, in which Soviet advisors now man the key positions. They have transported thousands of young Afghans to the Soviet Union for reeducation in summer camps, universities, and specialized institutions, and they have set up a secret police apparatus matched in brutality only by their own KGB.

These tactics hardly begin to describe the continuing horror of the Soviet attempt to subjugate Afghanistan, a violation of international law repeatedly condemned by the United Nations. Despite calculated destruction of crops, irrigation systems, and livestock, indiscriminate air and artillery bombardments of civilian areas, brutal reprisals against noncombatants, and other unspeakable atrocities, the Afghan people remain determined to defend their liberty. The resistance has in fact become more effective than ever.

The Soviet failure to quell the Afghan people is not surprising. The Afghans have a long history of resisting invasion and of defending their homes, their faith, and their culture. Since December 1979, resistance fighters have acquitted themselves well in many engagements against larger and better armed Soviet forces. The Afghan freedom fighters have shown they can render all of their country unsafe for the invader. After six years of

hard, bloody fighting, the Soviets are far from achieving their military goals.

Recently the Afghan resistance has taken major steps toward achieving unity and making its presence felt on the international scene, strengthening its ability to publicize the Afghan cause. We welcome these developments. With the support of the community of civilized nations, the Afghan resistance has also increased its efforts to aid civilians remaining inside Afghanistan. This will improve the Afghan people's ability to carry on the fight and counter the deliberate Soviet attempt to drive the civilian population away from resistance-controlled areas.

Throughout the period of their brutal occupation, the Soviets have tried—but failed—to divide the international supporter of the cause of Afghan freedom. They cannot be divided. The overwhelming votes in the United Nations General Assembly, year after year, are but one expression of the ongoing commitment of the world community to this cause. For our part we reaffirm our commitment to support this just struggle until the Soviets withdraw; until the people of Afghanistan regain their liberties, their independence, and the right to self-determination; and until the refugees can return in safety to their native land. Only such a settlement can command the support of the Afghan people; a settlement that does not command their support will not end this war.

Today, we pay tribute to the brave men, women, and children of Afghanistan and remind them that their sacrifice is not and will not be forgotten.

The Congress, by Senate Joint Resolution 272, has authorized and requested the President to issue a proclamation designating March 21, 1986, as "Afghanistan Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim March 21, 1986, as Afghanistan Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of March, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

RONALD REAGAN

<sup>1</sup>Text from Weekly Compilation of Presidential Documents of Mar. 24, 1986. ■

William Aceves  
6435 West 87th Pl.  
Los Angeles, CA 90045  
(213) 649-0855

April 4, 1989

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Ann Snuggs  
Chief, Operations Staff  
Information Access Branch  
Information and Privacy Staff, Room 1239  
Department of State  
2201 C Street N.W.  
Washington, D.C., 20520

89 APR 13 P11 58

RE: Freedom of Information Act Request Ref. # 8901032

Dear Ms. Snuggs:

Thank you for your quick response to my FOIA request. This letter is in reference to my Freedom of Information Act Request Ref: 8901032. Please incorporate my earlier correspondence with your office into this letter.

I have provided additional details to further clarify the type of records that I am seeking. I hope that this information will assist you in your search. Please refer to the enclosed Appendix II for the additional information.

In your letter, you stated that I have been categorized as "Other" for purposes of my FOIA fee assessment. Consequently, I would like to present the following evidence in support of my claim as a preferred FOIA requester. I would ask you to review my request for waiver or reduction, keeping in mind the following comments.

The language of the FOIA makes clear that Congress intended that fees not be a bar to private individuals, public interest organizations, or educational institutions seeking access to government records. At the same time, it permitted that fees be charged to corporations and individuals using the act for private gain.

The legislative history of the FOIA fee waiver/reduction provision calls for a liberal interpretation of the phrase "primarily benefitting the public." This suggests that all fees should be waived whenever the release of the information contributes to public debate on an important policy issue and when the person requesting the information is doing so with the intention of contributing to the uninhibited, robust, and wide-open debate that Congress intended to encourage.

This means that all fees should be waived if two criteria are met. First, the information will contribute to public debate on important policy issues. And second, the information is requested so that it can be used for this purpose.

Since the Freedom of Navigation program information fits the criteria spelled out by Congress for waiving fees in the public interest, I believe that your agency should waive such fees, or, at the very least, reduce them substantially.

Moreover, since this request is for material that clearly is of interest to the public, it would be unfair if the first requester were to bear the full financial burden of the initial search, and therefore the search fees should be waived or significantly reduced.

With these thoughts in mind, I present the following arguments in support of my request for the fee waiver or the significant reduction of fees.

First, I would request that I be granted a fee waiver pursuant to 22 C.F.R. § 171.15. This section provides that documents will be provided without charge, or at a charge reduced below fees assessed to the categories of requesters in § 171.6 and § 171.13 when the Department determines that waiver or reduction of the fees is in the public interest because furnishing the information is likely to contribute significantly to public understanding of the operations of the Department of State and the information is not primarily in the commercial interest of the requester.

I believe that my request for information is in the interests of the general public for the following reasons. To date, there has been no significant study undertaken by a member of the general public on the Freedom of Navigation program. In fact, it is conspicuously absent from the scholarly periodicals and other works. Given the importance of the Freedom of Navigation program to United States foreign policy, it is imperative that the public be given adequate notice of the program so they can make an educated and informed evaluation of the desirability of the program. The program has resulted in several military incidents with Libya that have resulted in the deaths of American military personnel as well as Libyan civilians and Libyan military units. In fact, the Gulf of Sidra has become a constant scene of military confrontation between American naval and air units and Libyan military forces. Also, Freedom of Navigation program exercises in the Black Sea recently led to a naval incident between United States naval units and vessels from the Soviet Union. Given this high state of international conflict that has resulted from the implementation of the Freedom of Navigation program, I feel that it is critical for American citizens to have complete knowledge of the program so they can determine its viability. And as I mentioned previously, to date

there is no significant information from which American citizens can make such a decision. I have searched all major data bases for this information with no success. For the above reasons, I believe that disclosure of the information is in the public interest. I have included statements from Edwin Smith, Professor of Law, at the U.S.C. and Carol Gustin, Associate Director, U.S.C. School of International Relations, in support of this declaration. I have also included a summary of my educational background and work experience in the area of foreign affairs.

As I mentioned in my previous correspondence with your office, the requested information will be used in the preparation of my graduate thesis on the Freedom of Navigation program. Once my thesis has been completed, it will be sent to University Publications for publication and dissemination. Consequently, the information requested will help contribute to the public understanding of the Freedom of Navigation program. After publication by the University, I intend to seek national publication in a major scholarly periodical. However, until I have formally disseminated the information and prepared my thesis, I will be unable to provide further clarification as to these plans for national publication. Nevertheless, this should not limit my request for a fee waiver since the dissemination of the requested material will in and of itself, allow public understanding of the operations of the United States Department of Defense.

For the above reasons, I request that I be granted a waiver of all charges. If this is denied, I request that the charges be significantly reduced. As a student seeking two degrees from the University of Southern California (I am in my third year at the Law Center and have completed my Master's Degree in International Relations.), the fee waiver or fee reduction will significantly assist me in my scholarly research. Moreover, my efforts to obtain this information will be significantly reduced if the waiver or reduction is not granted since my finances are significantly limited. This is relevant since my inability to finance a complete disclosure of the Freedom of Navigation materials will effectively prevent the information from being made available to the general public.

If you determine that I am not entitled to the fee waiver or reduction of fees, I would request that I be included in the "Educational Institution" category pursuant to 22 C.F.R. § 171.14. Under this category, fees shall be limited to only the cost of reproduction, (excluding charges for the first 100 pages) when the request is authorized by, and under the auspices of a qualifying educational institution whose purpose is scholarly research. The only requirements for this category is that the request be made by an educational institution of higher education which operates a program of scholarly research and that the records are not sought for a commercial use. As a research assistant at the University of Southern California Law School, my request falls within this category since I am affiliated with an



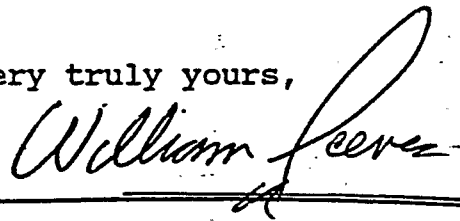
institution of higher learning. I have included statements from Edwin Smith, Professor of Law, at the U.S.C. and Carol Gustin, Associate Director, U.S.C. School of International Relations, in support of this declaration.

If my request for a waiver or reduction of fees is not substantially granted, I request an itemization of the charges I am being assessed. As you know, the FOIA permits fees to be charged only for the search and copying costs and not for the review of the material. While I recognize that search situations will vary among requests, according to the above-mentioned regulations, I am entitled to an estimate before I commit to a willingness to pay. Finally, as I am sure you are aware, the FOIA provides that search fees are to be waived -- even before the requested documents are located and reviewed for possible exemptions -- if the prospective release of any such material could be expected to benefit the public. [See Eudey v. CIA, 478 F.Supp. 1175 (D.D.C. 1979).]

I appreciate your assistance in this matter and look forward to hearing from you shortly. I would also request the name and telephone number of the official in your office who will actually be handling this request and to whom I can address further inquiries on its progress.

As provided in the FOIA, I will expect a reply within ten working days. If you have any questions regarding this matter, please do not hesitate to contact me at the above address.

Very truly yours,



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William Aceves

Enclosures

## APPENDIX II

For the purposes of this request for information under the Freedom of Information Act (5 U.S.C. § 552), and the United States Department of States Rules governing the Availability of Information (22 C.F.R. § 171 et seq), I request that any and all information relating to the following be made available to me:

A. In January 1979, the Carter Administration authorized a study of navigation rights and American interests towards the freedom of the sea. The study was presented to the National Security Council. In March 1979, Zbigniew Brzezinski directed the Department of Defense to develop a plan for implementing the decision to exercise these rights on the high seas. The plan was worked out by the Joint Chiefs of Staff and approved by Brzezinski and recommended a show of the flag to demonstrate American resolve. In July 1979, the Joint Chiefs sent directives to the Navy and Air Force commanders instructing them that they were authorized to approach coastal states to within three miles.

B. In August 1979, the Carter Administration ordered the Navy and the Air Force to undertake a policy of deliberately sending ships and planes into and over the disputed waters of nations that claim a territorial

limit of more than the three miles accepted by the U.S. and 21 other nations.

C. On August 12, 1981, elements of the Sixth Fleet began exercises in the Mediterranean Sea, near the Gulf of Sidra, Libya. Naval units involved included: U.S.S. Nimitz (CVN-68), U.S.S. Forrestal (CV-59). American naval aircraft operating approximately 60 miles from the coast of Libya were attacked by Libyan forces. The attack occurred at 0520 GMT Libya on August 19, 1981. The exercise concluded on August 19, 1981.

D. On July 25-26, 1984, U.S. forces entered the Gulf of Sidra. Naval units involved included: U.S.S. Saratoga (CVN-60)

E. Operation Attain Document I: First Phase: 24-31 January 1986. Naval units involved included: U.S.S. Coral Sea, and U.S.S. Saratoga (CVBGs). Operations conducted in the Mediterranean Sea in the vicinity of Libya. Also referred to as Operations in the Vicinity of Libya I (OVL-I).

F. Operation Attain Document II: Second Phase: 10-15 February 1986. Naval units involved included: U.S.S. Coral Sea, and U.S.S. Saratoga (CVBGs). Operations

conducted in the Mediterranean Sea in the vicinity of Libya. Also referred to as Operations in the Vicinity of Libya II (OVL-II).

G. Operation Attain Document III: Third phase: 23-30 March 1986. Naval units involved included: U.S.S. Coral Sea, U.S.S. Saratoga, U.S.S. America (CVBGs), U.S.S. Scott, U.S.S. Caron, U.S.S. Ticonderoga. Operations conducted in the Mediterranean Sea in the vicinity of Libya and in the Gulf of Sidra. Also referred to as Operations in the Vicinity of Libya III (OVL-III).

H. On February 12, 1988, U.S. warships in the Black Sea, transiting through Soviet territorial waters in innocent passage, were intentionally bumped by Soviet naval units. Naval units involved included: U.S.S. Yorktown (CG-48), U.S.S. Caron (DD-970).

002  
I. Communications by the Sixth Fleet, U.S. Commander-in-Chief, Europe (US-CinCEur) relating to any activities or information referred to in this appendix.

Board  
J. Activities by the Sixth Fleet in the Mediterranean Sea involving the Freedom of Navigation program.

Doc 2  
K. JCS Memorandum 59-83 (MJCS-83) relating to any

activities or information referred to in this appendix.

L. Peacetime Rules of Engagement (PROE) relating to any activities or information referred to in this appendix.

M. The Worldwide Peace-time Rules of Engagement relating to any activities or information referred to in this appendix.

N. Procedures of the Crisis Planning System in volume IV of the Joint Operation Planning System relating to any activities or information referred to any in this appendix.

O. Comprehensive policy statements by any office, department, organization, bureau, or component on the Freedom of Navigation program.

This list is not a complete inventory of all activities or information relating to the Freedom of Navigation program. The absence of any activity, exercise, or information involving the Freedom of Navigation program from this list shall not be construed to deny my desire to acquire such documentation and information.