

MVI

17 March, 1952

(MV DOT - a-11 Bd)

From: Chief, Merchant Vessel Inspection Division  
To: Commandant  
Via: Chief, Office of Merchant Marine Safety

Subj: Marine Board of Investigation; MB 25B717 (DOT), capsizing Mission Bay Channel, San Diego 2 December, 1951, with loss of life

1. Pursuant to the provisions of Title 46 C.F.R., Part 136, the record of the Marine Board convened to investigate subject casualty, together with its Findings of Fact, Opinions and Recommendations, has been reviewed and is forwarded herewith.

2. The MB 25B717 (DOT), a converted LCPL, with 11 persons on board, departed from Mission Bay for a fishing excursion at sea at or about 0830 on 2 December, 1951. While outbound, small craft warnings were displayed and the lifeguard stationed at the Channel entrance warned the MB 25B717 to return to the bay as the day's conditions were dangerous for small vessel operation. This warning was not taken advantage of or heeded. After fishing off La Jolla, the MB 25B717 at or about 1515 stood back for Mission Bay entrance. Upon reaching the entrance the MB 25B717 made one circle and entered channel, and at or about 1540, due to the rough conditions in the channel, she capsized, precipitating all persons on board into the water. Of the 11 persons on board, 5 were rescued by the efficient action of the municipal lifeguards, and the other 6 perished.

3. The Board made the following Findings of Fact:

"1. That the American M/B DOT, Motorboat Number 25B717, of San Diego, California, is a converted, spoonbill, LCPL 35' long, 9' beam, and 2'6" draft, with a homemade four bunk cabin, from the stem to approximately half the length of the vessel standing 18" above the hull at the stem, and approximately 30" above the hull at the after end. The wheel and controls are just abaft the after cabin bulkhead on the portside. The hull is made of five ply marine wood, with oak frames. A live bait tank 4' x 4' x 5' was carried aft. The boat is powered by a Chris Craft Model WXC3 160 horsepower marine engine, which the owner estimated drove the craft at a maximum of 15 miles per hour. This boat was registered 19 September, 1951, by Ancel W. Cutright of 2142 Felspar Street, San Diego, California, as a pleasure craft.

Chief, MVI Division to  
Commandant

17 March, 1952  
(MV DOT - a-11 Bd)

"2. That Mission Bay is a large shallow bay on the north border of the City of San Diego, now undergoing a long-term improvement program under local and federal support to make it into a recreation area which includes a marine stadium, small boat anchorages, and services, speed-boat courses, sailboat, rowboat and small motorboat rental services, etc., and which harbors approximately 1000 small craft.

"3. That the entrance to Mission Bay is a channel 900 feet wide between two rock jetties which extend 4000 feet directly into the open Pacific Ocean. That the center 375 feet of this channel was dredged to eight feet in 1950. The controlling depth at this time is approximately 4 feet at mean low water. When prevailing westerly winds and swells are high, seas break badly across the entire width of the outer 300 feet of the channel and high swells roll the length of the channel breaking lightly on shoals at the inner end.

"4. That the tidal current in this channel attains a maximum velocity of 4 to 6 knots and near maximum ebb will steepen a heavy swell while slowing down entering craft.

"5. That the City of San Diego maintains a 24 hour lifeguard watch from a tower located on the east end of the north jetty. The station is manned by competent lifeguards whose duties are to warn craft concerning dangerous conditions in the channel and to be of assistance in case of trouble. The tower is equipped with powerful binoculars, telephone, surf board, torpedo floats, and a powerful public address system used to warn outbound craft when they consider the channel unsafe for navigation. In addition, a 35 knot twin screw Fairliner cabin cruiser, ready for instant use, is tied up just inside the inner corner of the north jetty. The vessel is equipped with pertinent life-saving equipment. A short mast used for displaying small craft storm warnings is located in the immediate vicinity of the tower.

"6. That the owner/operator of the M/B DOT, Ancel W. Cutright, 42, and his guests:

Mrs. Ancel W. Cutright (Dorothy), 34, 2142 Felspar Street,  
San Diego, California;

Mr. Anthony Estridge, 7, Big Stone Lodge, Escondido, California;

Mr. Elihu Estridge, ADC, USN, 35, Miramar Naval Auxiliary Air  
Station, San Diego, California;

Chief, HVI Division to  
Commandant

17 March, 1952  
(MV DOT - a-11 Bd)

Mr. Algie G. Porter, ADC, USN, 37, Miramar Naval Auxiliary  
Air Station, San Diego, California;

Mr. Douglas Porter, 10, 4086 Eagle Street, San Diego, California;

Mr. Leroy J. Roderick, 53, 3867 Hickok Street, San Diego,  
California;

Mr. Chester A. R. Snyder, 54, 6628 Orr Street, San Diego,  
California;

Mr. Nicholas T. Stevens, 38, ADC, USN, Miramar Naval Auxiliary  
Air Station, San Diego, California;

Mr. Frank E. Swensrud, 41, 2414 Gatling Street, San Diego,  
California; and

Mr. Adolph P. Wingo, 45, 4186 $\frac{1}{2}$  Falcon Street, San Diego,  
California,

boarded the M/B DOT at her moorings in Mission Bay at or about 0800T,  
and after fueling at Dana Landing proceeded toward the sea at or about  
0830T. On passing the lifeguard station at the inner end of the north  
jetty a small craft storm warning signal was observed from the vessel.

"7. That the operator, Mr. Angel W. Cutright, did not know the mean-  
ing of a small craft storm warning signal.

"8. That Mr. Roger Grady, the lifeguard on watch in the signal tower  
as the M/B DOT passed out the channel, stated that he warned the DOT  
over his public address system that it was unsafe to proceed and felt  
sure that he was heard by the DOT. No acknowledgment was received.

"9. That none of the survivors who testified would admit having heard  
such a warning.

"10. That the vessel passed out through the channel without incident,  
and proceeded to a position off La Jolla where the party fished, and  
at or about 1515 stood back for Mission Bay entrance.

"11. That on arrival off the entrance at or about 1540 a strong ebb tide  
was observed to be running, and the seas were breaking on the bar in  
the entrance with only an occasional lull close to the north jetty.  
That the DOT then turned away and circled out to sea while the party

17 March, 1952  
(MV DOT - a-11 Bd)

aboard discussed the advisability of anchoring, proceeding to San Diego, or attempting to run the bar. That after deciding to enter, the DOT stood into the entrance near the north side at best speed obtainable against the ebb tide. That shortly after entering the bow of the DOT was swung toward the north jetty by an eddy and turned away by the rudder. That a heavy swell then caught the DOT on the starboard quarter listing her sharply to port and broaching her diagonally across the advancing swell so that she was surfing. That after this swell passed under her she was caught nearly broadside by the next swell which was breaking and rolled over spilling all hands into the water.

"12. That the lifeguards on watch, Lieutenant George Stanley and William Garrish, who were watching the DOT instantly ran for the rescue boat, the 35 knot ALERT, shouting to an ex-lifeguard, Mr. Canouse who was visiting, to phone Lifeguard Headquarters for more help. That Lifeguard Headquarters which was about one mile up the beach immediately dispatched a jeep with three lifeguards equipped with torpedo cans and called the Coast Guard and police, at 1557T.

"13. That the Coast Guard responded by instantly ordering the helicopter Number 236, which was then airborne above five miles away, to the scene, and launching PBM Number 59010, which was airborne six minutes after the call, and directing the CG-83300 which was on boarding patrol in San Diego harbor entrance to proceed. That the helicopter Number 236 was on the scene between four and five minutes after the call, the PBM 59010 dropped a life raft at the scene nine minutes after the first call. The helicopter 236 picked up an injured lifeguard from the water at the entrance at 1608T, 13 minutes after the first call. The CG-83300 arrived on the scene at 1650T and was informed by the ALERT that two persons were still missing. The CG-83300 searched until long after dark working into the beach as far as surf and draft would permit. The helicopter was secured at dark.

"14. That the M/B ALERT with lifeguards Lieutenant George Stanley and William Garrish aboard, reached the vicinity of the M/B DOT approximately four minutes after it capsized, at or about the same time three lifeguards who were dispatched from Lifeguard Headquarters, reached the north jetty in a jeep. The ALERT rescued five survivors from the water and picked up four bodies assisted by two of the lifeguards who swam to the boat from the north jetty. The ALERT then returned to its landing float at the inner end of the north jetty where it was met by doctors and police with resuscitation equipment. After discharging the survivors and dead the ALERT returned to the scene of the casualty and searched the vicinity until dark for the two missing persons, at which time the search was discontinued.

Chief, MVI Division to  
Commandant

17 March, 1952  
(MV DOT - a-11 Bd)

"15. That the following-named persons were rescued by lifeguards:

Mr. Ancel W. Cutright, 42, 2142 Felspar Street, San Diego 9, California, civilian, owner/operator of M/B DOT;

Mr. Algie G. Porter, 37, ADC, USN, Miramar Naval Auxiliary Air Station, San Diego, California, guest;

Mr. Douglas Porter, 10, 4086 Eagle Street, San Diego, California, guest;

Mr. Leroy J. Roderick, 53, 3867 Hickok Street, San Diego, California, civilian employee of Miramar Naval Auxiliary Air Station, San Diego, California, guest; and

Mr. Adolph P. Wingo, 45, 4186 $\frac{1}{2}$  Falcon Street, San Diego, California, civilian employee of Convair Aviation Company, San Diego, California, guest.

"16. That the following-named persons were drowned:

Mrs. Ancel W. Cutright (Dorothy), 34, 2142 Felspar Street, San Diego 9, California;

Mr. Anthony Estridge, 7, Big Stone Lodge, Escondido, California, guest;

Mr. Elihu Estridge, ADC, USN, 35, Miramar Naval Auxiliary Air Station, San Diego, California, guest;

Mr. Chester A. R. Snyder, 54, 6628 Orr Street, San Diego, California, guest;

Mr. Nicholas T. Stevens, ADC, USN, 38, Miramar Naval Auxiliary Air Station, San Diego, California, guest; and

Mr. Frank E. Swensrud, 41, 2414 Gatling Street, San Diego, California, civilian, guest.

"17. That the M/B DOT whose cabin was torn off when it capsized, drifted out of Mission Bay Channel, around the end of the south jetty, and stranded in the surf at the entrance of the Flood Control Channel, where there is a possibility of it being salvaged.

Chief, MVI Division to  
Commandant

17 March, 1952  
(M/B DOT - a-11 Bd)

"18. That sufficient life preservers were on the M/B DOT for all persons aboard and readily available in the cabin.

"19. That no instructions were issued by the owner/operator of the M/B DOT to his guests to don life preservers before the vessel entered Mission Bay Channel although Dorothy Outright did don a life preserver because she was unable to swim.

"20. That the harbor entrance to Mission Bay was closed by San Diego City Ordinance, Number 5007 (New Series), dated 4 December, 1951, as a direct result of the capsizing of the M/B DOT, depriving approximately 1000 pleasure and commercial vessels of free egress and entrance."

4. The Board expressed the following Opinions:

"1. That the capsizing of the M/B DOT on 2 December, 1951, was due to negligent, reckless, and unskillful operation.

"2. That Ancel W. Outright, the owner/operator of the M/B DOT was ignorant of the elementary essentials for safe operation of a motorboat.

"3. That Ancel W. Outright, owner/operator of the M/B DOT was negligent in failing to acquaint himself with the meaning of small craft storm warning signals, in failing to observe a storm warning signal displayed at the Mission Bay Lifeguard Station, and in failing to instruct his guests to don life preservers before attempting to enter Mission Bay Channel.

"4. That Ancel W. Outright, owner/operator of the M/B DOT operated his vessel in a reckless manner so as to endanger the life, limb, and property of the other persons aboard by entering Mission Bay Channel under the existing conditions.

"5. That satisfactory evidence could not be found to show that the M/B DOT was carrying passengers for hire.

"6. That the M/B DOT was equipped in substantial compliance with Coast Guard Motorboat Regulations for vessels of its class and service, except that only ten of sixteen life preservers met the requirements of Section 25.4-1(d) of these Regulations.

Chief, NVI Division to  
Commandant

17 March, 1952  
(MV DOT - a-11 Bd)

"7. That Ancel W. Cutright, violated the Motorboat Act of April 25, 1940, Section 13; 54 Stat. 166; 46 USC 526(1) by operating the M/B DOT in a reckless and negligent manner so as to endanger the life, limb, and property of other persons."

5. The Board made the following Recommendations:

"1. That this case be referred to the Attorney General of the United States for his review and determination as to whether Ancel W. Cutright, owner/operator of the M/B DOT, should be prosecuted under 54 Stat. 166; 46 USC 526(1).

"2. That the operators of all motorboats should be examined to establish satisfactory evidence that they have the elementary knowledge necessary for the safe operation of a motorboat.

"3. That such other steps as practicable should be undertaken to instruct all motorboat operators in matters of safety at sea, and general safe operation of their motor vessels."

#### REMARKS

6. Opinion 3 of the Board in effect states that the operator of the MB 25B717 was negligent in failing to acquaint himself with the meaning of small craft storm warning signals in failing to observe a storm warning signal displayed at the Mission Bay entrance, and in failing to instruct his guests to don life preservers before attempting to enter Mission Bay Channel. While this opinion is concurred with, the record clearly indicates that Ancel W. Cutright, owner and operator of the MB 25B717 was inexperienced in seamanship or small boat handling particularly under hazardous conditions of small vessel operation. In view of this fact, his failure to take advantage or heed the advice or warnings of the lifeguard stationed at Mission Bay Channel entrance, upon departure from Mission Bay for a fishing excursion at sea on 2 December, 1951, was culpable negligence which resulted in the negligent destruction of life, thus constituting violation of 18 USC 1115.

7. Recommendation 2 of the Board to the effect that operators of all motorboats be examined to establish satisfactory evidence that they possess the elementary knowledge necessary for the safe operation of a motorboat cannot be approved. Neither the Coast Guard nor any other agency of the Federal Government has statutory authority for the establishment of such requirements. Further, the record does not sustain the conclusion that the examination of operators of the motorboats with respect to their elementary knowledge in the safe operation of motorboats would prevent a casualty similar to that which

Chief, MVI Division to  
Commandant

17 March, 1952  
(MV DOT - a-11 Bd)

overtook the MB 258717. Coast Guard Headquarters is not unmindful of the necessity for improvement of safety of life at sea. In connection with the improvement of the standard of safety of motor vessels, the following bills for the extension of marine safety statutes and regulations to motor vessels are now before Congress for consideration:

- (a) H.R. 1762 - A bill for the safety of life and property by making all commercial fishing vessels subject to the rules and regulations of the United States Coast Guard Marine Inspection.
- (b) S. 1286 - A bill to amend the Act of June 20, 1936, so as to broaden the application of laws governing the inspection of steam vessels to vessels propelled by internal-combustion engines.
- (c) H.R. 7710 - A bill to provide that certain vessels shall be subject to the laws relating to steam vessels, and for other purposes.
- (d) H.R. 2316 - A bill to extend the requirements for fixing the minimum number of deck officers on steam vessels to certain additional vessels of the United States, and for other purposes.
- (e) H.R. 2317 - A bill to provide that certain vessels shall be subject to the laws relating to steam vessels, and for other purposes.
- (f) H.R. 3646 - A bill to provide that certain vessels propelled by gas, fluid, naphtha, or electric motors shall be subject to certain laws relating to the inspection and personnel of steam vessels.
- (g) H.R. 3657 - A bill to provide that certain vessels be subject to the laws and regulations relating to the inspection, safety, and navigation of steam vessels.
- (h) S. 647 - A bill to provide that certain vessels shall be subject to the laws relating to steam vessels, and for other purposes.
- (i) S. 2617 - A bill to provide for the safety of life and property by establishing certain rules and regulations for certain vessels engaged in commercial fishing.



Chief, MVI Division to  
Commandant

17 March, 1952  
(MV DOT - a-11 3d)

8. Recommendation 3 of the Board to the effect that steps as practicable be taken to instruct all motorboat operators in matters of safety at sea, and general safe operation of their motor vessels, is fully concurred with. This recommendation should be carried into effect to the greatest extent possible under the jurisdiction of the District Commander.

9. On page 156 of the record, question 239, Ancel W. Cutright, owner and operator of the MB 258717 at the time subject casualty occurred, was asked whether he cared to remain and hear the testimony of other witnesses or whether he preferred to leave. He was further advised that inasmuch as he may or may not be a party in interest, he would have a right to remain or to be excused as he desired. Under the provisions of R.S. 4450, as amended, and regulations thereunder, Mr. Cutright is a statutory party in interest and had the right to be present during all of the proceedings of the Board, and to examine and cross examine all witnesses and to produce witnesses in his own behalf. The failure of the Board to extend Mr. Cutright all these rights was a most serious error particularly in view of the recommended criminal action against him.

10. 46 C.F.R. 136.09-25 provides that the recorder of a Marine Board of Investigation shall notify the U. S. Attorney for the District in which the Marine Board of Investigation is being conducted, of the nature of the casualty under investigation, and the time and place the investigation will be made. There is no information in the record which would indicate that the requirements of this section of the regulations have been complied with.

11. Subject to the foregoing remarks, it is recommended that the Findings of Fact, Opinions and Recommendations of the Marine Board of Investigation be approved.

/s/ P. A. OVENDEN  
P. A. OVENDEN

Chief, MVI Division to  
Commandant

17 March, 1952  
(NY DOT - a-11 Bd)

Ind-1

M  
21 March, 1952

From: Chief, Office of Merchant Marine Safety  
To: Commandant

Subj: Marine Board of Investigation; MB 258717 (DOT), capsizing Mission  
Bay Channel, San Diego 2 December, 1951, with loss of life

Forwarded, recommending approval.

/s/H. C. SHEPHEARD  
H. C. SHEPHEARD

APPROVED: MAR 24 1952

/s/A. C. RICHMOND

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A. C. RICHMOND  
Rear Admiral, U. S. Coast Guard  
Acting Commandant