

**STATEMENT OF CAPTAIN TIMOTHY A. BROWN
PRESIDENT
INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS
to the
SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION
regarding the
UNITED STATES COAST GUARD MARINE SAFETY PROGRAM
AUGUST 2, 2007**

Good afternoon Mr. Chairman and Members of the Subcommittee:

I am Captain Timothy A. Brown. I have served as President of the International Organization of Masters, Mates & Pilots (MM&P) since 1991. I am a graduate of the United States Merchant Marine Academy at Kings Point, class of 1965. I earned my Master's license in 1970.

MM&P represents ship Masters, licensed deck officers and unlicensed mariners working aboard U.S.-flag commercial vessels operating in the foreign and domestic trades and on the inland waterways. We represent the licensed deck officers employed aboard vessels in the Maritime Administration's Ready Reserve Force as well as licensed deck officers employed aboard vessels operated by Military Sealift Command. MM&P also represents harbor pilots who guide ships in and out of ports throughout the United States.

In partnership with our contracted employers, MM&P operates the Maritime Institute of Technology and Graduate Studies (MITAGS) and the Pacific Maritime Institute (PMI). MITAGS is a recognized world leader in maritime training and education. MITAGS provides training for: MM&P members, other American mariners, U.S. Coast Guard Vessel Traffic System operators and seafarers from countries around the world.

Thank you for the opportunity to present the views of my organization on this very important issue: the role of mariners and the U.S. Coast Guard in protecting life and property at sea.

MM&P is proud of our members' professionalism and their commitment to safety. Mariner safety and welfare are at the heart of our mission as a labor organization. To accomplish our mission, MM&P sends representatives to a number of national and international forums to offer our expertise and to learn from the experience and wisdom of others.

At home, MM&P participates in the Merchant Marine Personnel Advisory Committee (MERPAC), the National Maritime Security Advisory Committee (NMSAC), the Towing Safety Advisory Committee (TSAC) and the Ship Operations Cooperative Program (SOCP), to name a few.

MM&P representatives participate as delegates to international organizations including the International Maritime Organization (IMO), the International Labor Organization (ILO) and the International Association of Lighthouse Authorities (IALA).

MM&P is frequently invited to participate in industry working groups.

MM&P is an active contributor to the discussion on maritime safety at home and abroad. We would, therefore, like to share our perspective on this important issue.

My purpose here today is to outline MM&P's areas of concern regarding the state of the administration by the Coast Guard of maritime safety functions and to offer suggestions about how we might work together to make improvements.

I would like to start by underlining the fact that America's mariners are an important national asset.

American mariners serve with our armed forces. One in 26 mariners died in the line of duty during World War II – a greater percentage than all other services except for the U.S. Marine Corps. During the Korean War, merchant mariners carried supplies and evacuated refugees. They did the same during the war in Viet Nam. American merchant mariners serve today in the Middle East.

Mariners operating in New York immediately mobilized to evacuate thousands from Lower Manhattan following the attack on the World Trade Center. They also provided relief to victims of the Gulf hurricanes in 2005 and to the tsunami victims in Banda Ache in 2005.

As Naval Reserve officers, many licensed mariners and pilots have served and are serving on active duty assignments at sea and ashore in the Middle East and elsewhere around the world.

As is the case with all of our nation's resources and assets, the programs and policies affecting our mariners must be managed properly with a view toward preserving the seafaring profession and ensuring safe and efficient commerce.

I offer my comments in this context.

Training and Education

The training and education of Coast Guard personnel run along a different track than the training and education of merchant mariners. For this reason, when Coast Guard investigators are sent to inspect or investigate, they view a mariner's work from a perspective that is totally different from that of the mariner.

MM&P members inform me that, very often, the Coast Guard inspectors they see aboard their vessels are inexperienced and lack technical knowledge about how merchant ships operate.

Organizational Structure and Culture

The culture of a military organization with a law enforcement mission is out of step with a maritime industry that has its own traditions, its own professional culture and that must live and function under commercial pressures.

As a military organization, the Coast Guard has a system for career advancement that values an individual's performance in a range of billets. Investigators may have

served for only a short time at sea. They may be looking forward to their next assignment – one which could better position them for a promotion. They may have served in drug interdiction or similar functions which, understandably, require a range of skills which do not properly prepare them for contact with civilian merchant mariners.

Listening to the Industry

As I mentioned earlier in my remarks, MM&P participates in a number of advisory committees domestically and worldwide. The Coast Guard participates in many of the same forums. We, along with others, are becoming increasingly frustrated with the Coast Guard's apparent unwillingness to listen to the industry.

I offer some recent examples:

1. The Coast Guard played an aggressive role at IMO toward the adoption of the *International Ship and Port Facility Security Code* (ISPS). A very important provision in the code affirmed the right of all seafarers to shore leave. In the regulations that implement ISPS, the Coast Guard watered down the shore leave language – over the objections of many in the industry. The result has been mariners being denied access to shore leave and services at many ports around the country.
2. Over the past year, the Coast Guard has been working on a Navigation and Vessel Inspection Circular (NVIC) that would impose expensive and unnecessary requirements for mariners to document their medical histories when they renew or upgrade their documents. The Coast Guard has declined to show that these far-reaching requirements will actually improve maritime safety or that they are necessary at all. Management and labor have both spoken out against this proposal.

Licensing and Documentation

I favor moving the mariner licensing and documentation function out of the Coast Guard. Mariners would be better served by an organization that is dedicated to licensing and documentation rather than a military organization with law enforcement and security missions that take precedence over these core commercial and maritime safety functions.

Some MM&P members report that they have waited months for their documents to be renewed. Often the result has been lost employment and missed opportunities for promotion. One member had his license renewal held up because he failed to report on his application a 50-year old misdemeanor offence.

This kind of overzealousness and the Coast Guard's lack of focus in this area are detrimental to the industry and to our nation's mariners—and adversely affect our ability to recruit and retain American mariners in sufficient numbers to meet the economic and national security requirements of our nation.

RECOMMENDATIONS

Mr. Chairman, in the spirit of improving our industry, I offer the following recommendations and MM&P's full support toward future efforts in this regard.

1. Shift accident investigations to a civilian organization.

The Coast Guard did not always have responsibility for marine accident investigations. Until World War II, accident investigations were carried out by the Bureau of Navigation and Steamboat Inspection. In fact, around the world, many countries have civilian agencies investigating marine casualties.

Maritime accident investigations require seasoned professionals and should be carried out by experienced civilian merchant mariners.

The present system, which enables the Coast Guard to investigate accidents and then prosecute mariners, is unfair and runs counter to what should be the purpose of accident investigations: preventing accidents from happening in the future.

2. Shift safety inspections to a civilian organization.

Vessel inspection skills and, most importantly, experience, exist in the private sector.

Today, private companies and individuals inspect vessels to determine their fitness for charters. When companies buy and sell vessels, experienced mariners inspect them to determine their value.

These inspections have a safety purpose because the public demands that the industry operate safely and in such a way as to minimize pollution. Charterers demand quality vessels and operators to ensure the safety of their cargoes. In addition, shipping companies are becoming more and more aware of their public image.

Great Britain and Germany are just two examples of countries that employ experienced civilian mariners to conduct port state control inspections.

3. Encourage U.S. Support for International Resolutions and Conventions.

The member states of the IMO have among them an abundance of collective wisdom relating to safety and the preservation of lives at sea. Through the IMO, there are guidelines and codes for the conduct and safety of maritime commerce. The IMO strives for consensus and, therefore, the widest possible adoption of its conventions and principles by the member states.

Recently, the Flag State Implementation Subcommittee agreed to recommend, to the full Maritime Safety Committee, adoption of *International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Accident*. This recommended code of practice is set to become part of the Safety of Life at Sea Convention (SOLAS) and so become binding on the flag states that have signed the SOLAS convention. The United States is a signatory to SOLAS.

These recommended practices assert that:

1. Investigations should be carried out with an eye toward determining the causes of accidents and preventing future accidents,
2. Seafarers' rights, including the right to legal advice and to avoid self-incrimination, should be protected during accident investigations,

3. Seafarers should be informed of protections available to them to prevent evidence that they give being used against them by the investigating authorities.

We believe these principles to be in accordance with the basic rights of citizens of the United States. However, I regret that the U.S. delegation spoke against these practices. Indeed, the Coast Guard now, as a matter of practice, declines to inform mariners of their rights and otherwise pressures mariners into giving statements or other evidence during accident investigations.

I believe this practice is in violation of 46 USC 6303, Rights of Parties in Interest and 46 CFR 4.07.7, Opening Statement.

4. Consider modifying 46 USC 6301.

The statute that governs investigation of marine casualties is 46 USC 6301. The statute itself is punitive and in opposition to the international principles I mentioned earlier.

Specifically, 6301 directs the Secretary of the department under which the Coast Guard is operating to:

“... prescribe regulations for the immediate investigation of marine casualties ... to decide ...

(2) whether an act of misconduct, incompetence, negligence, unskillfulness or willful violation of law ... contributed to the cause of the casualty ... so that appropriate remedial action under Chapter 77 may be taken; ...

*(4) whether there is evidence that an act subjecting the **offender** [emphasis added] to a civil penalty ... ;*

(5) whether there is evidence that a criminal act ... has been committed, so that the matter may be referred ... for prosecution ...”

It is plain to me that 6301 encourages the Coast Guard or any other agency that would be tasked with accident investigation to be overly aggressive toward mariners. The statute presupposes misconduct.

To attract young people into our industry, we must stop holding merchant mariners criminally liable. A key element to doing this is to change 46 CFR 6301 by bringing the statute more in line with the principles and to move licensing and revocation proceedings to a civilian agency.

CONCLUSION

Merchant mariners have a deep sense of professionalism and responsibility for the safety of life and the protection of the environment within the context of economic competition at home and abroad. They perform their work away from their families, in all weather, 24 hours each day, every day of the year.

Officers learn the fundamentals of command like leadership, courage, and commitment to professionalism in the academies and at the training schools. These principles are part of the culture of merchant marine officers.

In my view, we all need to recognize that our mariners are truly a national asset to be supported, trusted and respected.

MM&P is looking forward to continuing our commitment to a safe and economically efficient merchant marine. We offer our best efforts to the Congress, the Coast Guard and all interested parties into the future.

Thank you, Mr. Chairman. That concludes my statement. I look forward to your questions.

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