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Marine casualty investigation

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There are three important criteria for marine casualty investigations to be of value to the maritime industry. First, the report must be completed promptly. It does little good to see for the first time the report on a casualty that occurred three or more years ago. Second, the report must be publicly disseminated. The best report is of little value if it is available only to the principals. Third, the report must focus on the root cause of the casualty. The goal of the investigation process is the prevention of future casualties, not the allocation of blame (which is addressed in a wholly different manner).

International law provides that each flag state shall cause an inquiry to be held by or before a suitably qualified person or persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing the loss of life or serious injury to nationals of another state or serious damage to ships or installations of another state or to the marine environment. The flag state and the other state shall cooperate in the conduct of any inquiry held by that other state into any such marine casualty or incident of navigation. The International Convention for the Safety of Life at Sea (SOLAS Convention) extends this obligation to conduct marine casualty investigations to all ships subject to the Convention, wherever they may be.

How do the flag administrations measure up?

The evidence reveals a mixed bag. Some administrations, particularly the UK's Marine Accident Investigation Branch (MAIB) regularly fulfill all three criteria. Others, such as the US Coast Guard, meet most of the criteria most of the time, but are not consistent. Finally, many nations, mostly in the developing world, largely fail to meet any of the criteria on a regular basis.

The International Maritime Organization (IMO) recently adopted the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (commonly referred to as the Casualty Investigation Code). This Code comes into effect on 1 January 2010, but flag administrations are urged to start implementing its provisions immediately on a voluntary basis.

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The Casualty Investigation Code clearly states: “Marine safety investigations do not seek to apportion blame or determine liability. Instead a marine safety investigation . . . is an investigation conducted with the objective of preventing marine casualties and marine incidents in the future.”

The Code notes that proper identification of causal factors requires timely and methodical investigation, going far beyond the immediate evidence and looking for underlying conditions, which may be remote from the site of the marine casualty or marine incident, and which may cause other future marine casualties and marine incidents. Marine safety investigations should therefore be seen as a means of identifying not only the immediate causal factors, but also failures that may be present in the whole chain of responsibility. In other words, the investigator is to seek out the root cause.

Recognizing that time is of the essence, the Code states that the investigation reports “should be completed as quickly as practicable.” In this respect, national governments are obliged to provide the investigator with a reasonable level of support and the safety investigation should be afforded the same priority as other investigations, including criminal investigations being conducted into the same incident.

The Casualty Investigation Code also provides that the final version of all but the most routine marine safety investigation reports shall be submitted to the IMO and that all such reports “shall be made available to the public and the shipping industry”.

Marine casualty investigations in the United States

The vast majority of marine casualty investigations in the United States are conducted by the US Coast Guard. Some of the more serious casualties and casualties that directly involve the US Coast Guard are investigated by the National Transportation Safety Board (NTSB).

The US Coast Guard Marine Safety Manual states that the cognizant District Commander is to provide appropriate support to the marine casualty investigation.

This internal guidance notes that Coast Guard policy is to make available to the public the record of investigation of a vessel casualty at any stage of the investigation that the record is in a form suitable for release. The guidance then goes on to state that the record of investigation by a Marine Board will be considered complete and may be released to the public when the Commandant has taken action. In practice, this latter guidance has overwhelmed the former provision so that it is difficult to obtain marine casualty investigations until the investigations have been approved by the Commandant, which sometimes does not occur until several years after the casualty. The guidance further states that, when a member of the public wishes information from records kept by the Coast Guard, they must submit a request in accordance with the Freedom of Information Act (FOIA). Casualty reports should not be released by field units and FOIA requests for such reports are to be sent to Headquarters for processing.

Coast Guard guidance devotes considerable attention to causal analysis. It states: “The whole point of conducting an investigation and of analyzing the causes of an incident is to improve the system and prevent reoccurrence. Accordingly, the marine investigator’s job is to identify system failures and propose fixes (recommendations).” The search for root causes is in full alignment with the basic precept of the IMO Casualty Investigation Code.

Unfortunately, the Coast Guard guidance is silent with regard to the timely completion of marine casualty investigations. This silence is reflective of the commonly-encountered long delay between the occurrence of a marine casualty and final action on the investigation report by the Commandant.

Marine casualty investigations in the United Kingdom

The regulations for investigation of marine accidents in the UK provide that the sole objective of the investigation “shall be the prevention of future accidents through the ascertainment of its causes and circumstances. It shall not be the purpose of an investigation to determine liability nor, except so far as is necessary to achieve its objective, to apportion blame.”

In distinction from the US guidance, the UK regulations provide that the Chief Inspector of the MAIB shall cause a report of an investigation into an accident “to be submitted to the Secretary of State and made publicly available in the shortest time possible and in such manner as he thinks fit.” In practice, this means that investigation reports are routinely completed and posted on the Internet less than a year after the occurrence of the casualty. The reports are uniformly thorough and professional.

Marine casualty investigations in Australia

In Australia, investigations of marine casualties (along with casualties in other transport modes) are investigated by the Australian Transport Safety Bureau (ATSB). The underlying legislation provides that its main purpose is to improve transport safety by providing for independent investigations into transport accidents; the making of safety recommendations that draw on those investigations; and the publication of the results of those investigations in the interests of transport safety. It is not the purpose of the safety investigation process to apportion blame or determine the liability of any person with regard to the transport accident. The report of investigation is to be published (by electronic or other means) as soon as practicable after it is completed. In practice, ATSB reports of marine casualties tend to be thorough and professional and are generally posted on the Internet about one year after the casualty occurred.

Recommendations

There is no reason that the US Coast Guard has to adopt the administrative organization of either the United Kingdom or Australia with regard to the conduct of marine investigations. But there are some lessons to be learned. The Coast Guard should devote more effort toward completion of marine casualty investigations in a timely manner. Part of the problem is

undoubtedly due to resource constraints, but a significant issue is the entire lack of any direction or guidance placing an emphasis on timeliness. The Coast Guard should also get its reports of marine casualty investigations posted on the Internet immediately after final action has been taken by the Commandant. New reports should be written so that privacy information (such as names and addresses) is in a separate appendix. Old reports should be redacted prior to posting, but the redaction should be accomplished in a timely manner. Quality control efforts should be continued so as to ensure that marine casualty investigations and the reports of same accomplish their principal purpose: enhancement of marine safety.

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