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**JUN 12 2013**

## MEMORANDUM

*P. F. Zukunft* 6/12/13  
From: P. F. Zukunft, VADM  
CG PACAREA (PAC-00)

To: Distribution

Subj: FINAL ACTION ON THE ADMINISTRATIVE INVESTIGATION INTO THE  
HOMICIDE AND RELATED EVENTS NEAR SANTA CRUZ ISLAND, CA ON 2  
DECEMBER 2012

### 1. Overview:

On the evening of 1 December and early morning of 2 December 2012, Coast Guard Cutter (CGC) HALIBUT (WPB-87340) conducted law enforcement operations near Santa Cruz Island, California. The boarding team consisted of a Boarding Officer, Senior Chief Boatswain's Mate (BMCS) Terrell Horne III, and two Boarding Team Members (BTM). The boarding team was transferred between CGC HALIBUT and targets of interest (TOI) via the cutter's small boat, CG-17177 (HAL-1), operated by a coxswain.

A Coast Guard fixed-wing aircraft, CG-1708, reported observing a cargo laden panga vessel to CG Sector Los Angeles – Long Beach (LA/LB), who then alerted CGC HALIBUT to the presence of the TOI in their vicinity.

Both CGC HALIBUT and HAL-1 extinguished lights to operate covertly. CGC HALIBUT directed HAL-1 for a coordinated approach on the suspect panga which was observed not making way. HAL-1, with CGC HALIBUT trailing behind, approached the TOI bow-on. When HAL-1 was approximately 100 yards away, both CG vessels energized their navigation, law enforcement and spot lights while announcing themselves as U.S. Coast Guard in both English and Spanish. Shortly after the Coast Guard vessels announced their presence, the panga accelerated directly toward HAL-1. A BTM discharged seven rounds towards the panga in self defense. Both CG-1708 and CGC HALIBUT observed the panga hit HAL-1. BMCS Horne and a BTM were ejected from HAL-1 by the collision.

Immediately after hitting HAL-1 the panga came to a stop and drifted for a few seconds before coming back up to speed to flee the scene. HAL-1 came to a stop and then commenced recovery of the ejected crew members from the water. HAL-1 communicated to CGC HALIBUT that BMCS Horne had a life threatening injury.

Due to BMCS Horne's injuries CGC HALIBUT recovered HAL-1 and made best speed to the nearest port approximately 20 nautical miles away. CG-1708 tracked the panga as it fled south. CG Sector LA/LB coordinated emergency medical services (EMS) to meet CGC HALIBUT in

Port Hueneme. CG Sector LA/LB also directed CG Station LA/LB to launch their ready boat, CG-45643, to intercept the fleeing panga.

CGC HALIBUT moored in Port Hueneme and transferred BMCS Horne to waiting EMS. The attending paramedic pronounced BMCS Horne dead at the scene.

The Coast Guard Response Boat - Medium CG-45643 launched from Station LA/LB, intercepted the panga and detained the two personnel on board.

On 2 December 2012, the Medical Examiner-Coroner of Ventura County, State of California, conducted the autopsy on BMCS Terrell Horne, III. The Medical Examiner's report concluded the manner of death was homicide, caused by chop injuries to the head.

On 4 December 2012, the Commander of CG Sector LA/LB found that BMCS Horne's death on 2 December 2012 occurred in the line of duty and the Commander, Eleventh Coast Guard District concurred on 5 December 2012.

## **2. Findings of Fact and Opinions:**

The following narrative provides the key findings that inform my conclusions and actions:

### **CGC HALIBUT**

CGC HALIBUT is an 87-foot Marine Protector Class Patrol Boat (WPB) with an embarked 18-foot Cutter Boat – Medium (CB-M), HAL-1, used for transportation of crew members to perform boarding operations.

On 1-2 December 2012, CGC HALIBUT was ready to conduct all underway operations except for non-compliant vessel (NCV) use of force (UoF) warning shots and disabling fire from the cutter. CGC HALIBUT was overdue for annual NCV UoF training required and conducted by District 11. Their last NCV UoF workup was conducted in November of 2011.

On 1-2 December 2012, all crewmembers aboard HAL-1 were properly certified to perform their assigned positions. NCV UoF is not authorized from a CB-M.

### **CG Station LA/LB**

On 1-2 December 2012, CG Station LA/LB was a multi-mission unit designated as a Ports, Waterways and Coastal Security (PWCS) Level I station. Crews were equipped and trained to conduct warning shots and disabling fire in a defensive posture for the purpose of protecting assets. However, CG Station LA/LB was not designated as a Pursuit level IV unit. Therefore its boats could not use NCV UoF tactics such as warning shots or disabling fire to compel a fleeing vessel suspected of drug smuggling to comply with a lawful order to stop.

On 1-2 December 2012 all CG-45643 crewmembers were properly certified to perform in their assigned position. The boat was outfitted to conduct law enforcement and PWCS missions including a Remington 870 shotgun and copper sabot rounds.

### **CG District Eleven Air Station Capabilities**

CG Air Stations Los Angeles and San Diego were neither trained nor equipped for the employment of Airborne Use of Force (AUF) to engage NCV targets for the counter-drug (CD) mission.

### **Events leading to that night**

On the afternoon of Saturday, 1 December 2012, CGC HALIBUT sailed from homeport to Smugglers Cove, located on Santa Cruz Island. The cutter was assigned to provide Search and Rescue (SAR) response coverage inside CG STA Channel Islands Harbor's (CIH) area of responsibility (AOR) due to weather conditions being beyond the limits of STA CIH's operational assets.

Santa Cruz Island is the largest island of the Channel Islands chain off the coast of Southern California, and is comprised of privately owned areas and wildlife sanctuaries. Smugglers Cove, located on the southeast corner of Santa Cruz Island, creates a natural lee from the predominately west/northwesterly Pacific swell and is frequented by recreational boaters. Cutters moored to the "CG" buoy are often surrounded by recreational vessels.

Weather conditions in the vicinity of Smugglers Cove on the evening of 1-2 December consisted of calm seas, light winds, a moon with 85 percent illumination and an overcast sky. The overcast sky may have prevented most of the moon's light from reaching the area.

CG-1708, a C-130 fixed wing aircraft, conducted a law enforcement patrol from CG Air Station Sacramento. CG-1708 provided information to CG Sector LA/LB on potential TOIs in the vicinity of Santa Cruz Island. While CGC HALIBUT was conducting a boarding of a pleasure craft in Smugglers' Cove, CG-1708 reported to Sector LA/LB that another TOI identified as a panga with two persons and packages onboard was nearby. CG Sector LA/LB relayed information regarding the other TOI to CGC HALIBUT.

### **The Panga**

Using position information provided by CG-1708, CGC HALIBUT located a large panga roughly one nautical mile from their position. The panga appeared to be not making way, displayed no navigation lights and had two persons visible onboard.

CGC HALIBUT planned to intercept the panga by launching HAL-1 and then having both CGC HALIBUT and HAL-1 execute a simultaneous approach. CGC HALIBUT directed HAL-1 to take up station on CGC HALIBUT's starboard side, 200 yards abeam of the cutter. CGC HALIBUT and HAL-1 were operating covertly. CGC HALIBUT utilized a Maritime Forward Looking Infrared (MARFLIR) sensor during nighttime boarding operations.

At an approximate distance of 100 yards, HAL-1 first observed the panga and determined it was not making way and had no lights. HAL-1 and the panga were in bow-on relative positions, the panga showing a port bow aspect to HAL-1. CGC HALIBUT's Commanding Officer ordered navigation and law enforcement lights energized on CGC HALIBUT and HAL-1. Over a loudhailer CGC HALIBUT's crew identified themselves as U.S. Coast Guard. They ordered the crew of the panga to stop and comply in both English and Spanish. HAL-1 energized its blue light and crewmembers identified themselves and delivered verbal commands in both Spanish and English.

The panga got underway from a stationary position and aggressively accelerated toward HAL-1. One BTM discharged his weapon seven times towards the panga, with five rounds impacting the panga. The MARFLIR operator on CGC HALIBUT observed muzzle flashes and "shots fired" was broadcast on law enforcement channel CG-113.

The panga's bow collided with HAL-1. The point of impact was forward of HAL-1's port beam.

BMCS Horne grabbed the coxswain, removing him from the panga's path. Due to the collision BMCS Horne and another BTM were ejected from the boat and entered the water just abeam of HAL-1. On MARFLIR both HAL-1 crewmembers were seen being ejected. HAL-1 reported to CGC HALIBUT on VHF channel 16, "We've been rammed. We've been rammed... been hit, been hit."

Approximately 25 seconds elapsed from the time HAL-1 acquired visual contact with the panga until the time the panga rammed HAL-1.

HAL-1's helm and coxswain's seat back were bent and deformed due to the panga's impact. The steering wheel was crushed out of round. The seat-back was bent towards the stern with an angle toward starboard. Fiberglass and paint from the panga were removed from HAL-1 on the sponson (port side, amidships, forward) and the coxswain seat (portside, thigh position). Rubber from HAL-1's sponson was removed from the panga's stem.

The panga fled the scene on a southeast heading, nearly hitting the second BTM in the water. The panga's outboard engine propeller impacted BMCS Horne's head while he was in the water.

The Coxswain regained control of HAL-1 and recovered the two members from the water. HAL-1 reported head injuries to BMCS Horne and requested medical assistance. CGC HALIBUT recovered HAL-1, requested immediate medical evacuation through CG Sector LA/LB and began making way toward Port Hueneme at best speed.

### **The Pursuit**

CG-1708 followed the panga after it fled at a high rate of speed away from the scene. Sector LA/LB directed Station LA/LB to launch its ready boat and CG-45643 got underway. Sector San Diego launched helicopter CG-6033 and tasked CGC PETREL (WPB-87350) to respond.

After being vectored to the panga by Sector LA/LB, CG-45643 acquired the panga by radar at a range of four miles and determined it was not making way. When CG-45643 was approximately a half nautical mile from the panga CG-1708 positively handed off pursuit to CG-45643 and CG-6033, then departed due to being low on fuel. CG-6033 spotlighted the stopped panga and it accelerated to an estimated 40 knots. Once CG-6033 spotlighted the panga, CG-45643 energized all navigation lights, its blue light, and spot light and made best speed to close the distance to the panga. Approximately 20 minutes later the panga slowed while apparently attempting to transfer fuel between tanks. CG-45643 came alongside the panga and the boarding team took position with weapons drawn on the CG-45643's stern deck where they communicated task directions in both English and Spanish for the vessel to stop. The panga did not comply and accelerated away. Over the next 10 minutes the panga stopped twice more only to accelerate away when CG-45643 approached. Finally, the panga came to all stop with engine trouble and CG-45643 came alongside.

The boarding team directed the panga operator and crewmember to show their hands. The panga crewman did, but the operator ignored this task direction as well as the visual cues and kept reaching and working around the steering console and controls. A BTM administered two applications of pepper spray. The pepper spray had limited effect on the panga operator. The boarding team embarked on the bow of the panga. The panga crewmember remained compliant and was detained and handcuffed. After initially refusing task directions the operator was detained and handcuffed. Both the panga operator and crewmember were placed in personal flotation devices and transferred to CG-45643.

Both detainees were transferred to CGC PETREL along with articles recovered from the panga (satellite phone, clothing, toiletries, food, a large knife, shell casings and Mexican vessel registration). The panga was taken into stern tow and CGC PETREL proceeded to CG Base LA/LB where the detainees were transferred to agents waiting at CG Base LA/LB.

### **3. Key Findings and Conclusions:**

- A. I find the CGC HALIBUT and HAL-1 were ready for operations and fully mission capable.**
- B. I find the crew of CGC HALIBUT was qualified and certified to execute assigned missions with the exception of NCV UoF warning shots and disabling fire because their certification had expired.**
- C. I find that CB-M CG-17177 (HAL-1) was ready for operations and fully mission capable.**
- D. I find the Response Boat – Medium CG-45643 was ready for operations and fully mission capable.**
- E. I find the crew of CG-45643 was qualified and certified to execute assigned missions.**

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- F. I find that the crews of HALIBUT, HAL-1, and CG-45643 performed within all applicable policies, tactics, techniques and procedures.**
- G. I find the death of Senior Chief Boatswain's Mate Terrell Horne, III was caused by the deliberate actions of the panga operator.**
- H. Prior to the incident, District 11 requested that Station Channel Island Harbor and Station Los Angeles – Long Beach be designated Pursuit Level IV Stations. This change in designation was approved on 9 January 2013.**

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