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# MAJOR INCIDENT INVESTIGATIONS MANUAL



**COMDTINST M5830.4**  
**July 2015**





COMDTINST M5830.4  
10 July 2015

COMMANDANT INSTRUCTION M5830.4

Subj: MAJOR INCIDENT INVESTIGATIONS MANUAL

Ref: (a) Safety and Environmental Health Manual, COMDTINST M5100.47 (series)  
(b) Administrative Investigations Manual, COMDTINST M5830.1 (series)

1. PURPOSE. This Manual establishes policy, procedures, and standards for the appointment and review of Major Incident Investigations.
2. ACTION. All Coast Guard unit commanders, commanding officers, officers-in-charge, deputy/assistant commandants, and chiefs of headquarters staff elements shall comply with the provisions of this Manual. Internet release is authorized.
3. DIRECTIVES AFFECTED. None.
4. DISCUSSION. Major Incident Investigations (MII) are fact-finding bodies that are necessary or desirable in administering the Coast Guard, but are not specifically authorized or required by law, such as the Uniform Code of Military Justice or the Code of Federal Regulations. This Manual may be used as a general guide for operational Class A and Class B investigations. Other regulations may authorize different types of investigations to convene and run concurrently with the MII. In case of conflict between investigations, consult the convening authority's Staff Judge Advocate (SJA) and the Office of General Law, Commandant (CG-LGL). Users should carefully review the entire manual to become familiar with its structure and contents. A detailed table of contents is included to assist a user in locating specific procedures.
5. DISCLAIMER. This guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is intended to provide operational guidance for Coast Guard personnel and is not intended to nor does it impose legally-binding requirements on any party outside the Coast Guard.

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NON-STANDARD DISTRIBUTION:

## 6. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS.

- a. The development of this Manual and the general policies contained within it have been thoroughly reviewed by the originating office in conjunction with the Office of Environmental Management, and are categorically excluded (CE) under current USCG CE # 33 from further environmental analysis, in accordance with Section 2.B.2. and Figure 2-1 of the National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series).
- b. This directive will not have any of the following: significant cumulative impacts on the human environment; substantial controversy or substantial change to existing environmental conditions; or inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment. All future specific actions resulting from the general policies in this Manual must be individually evaluated for compliance with the National Environmental Policy Act (NEPA), DHS and Coast Guard NEPA policy, and compliance with all other environmental mandates.

7. DISTRIBUTION. No paper distribution will be made of this Manual. An electronic version will be located on the following Commandant (CG-612) web sites. Internet: <http://www.uscg.mil/directives/>, and CGPortal: <https://cgportal2.uscg.mil/library/directives/SitePages/Home.aspx>.

**NOTE:** If paper copies are required please complete Certificate for Need of Printing, DHS Form 500-07, which can be found at [http://www.uscg.mil/directives/Printing\\_Graphics.asp](http://www.uscg.mil/directives/Printing_Graphics.asp).

8. RECORDS MANAGEMENT CONSIDERATIONS. This Manual has been evaluated for potential records management impacts. The development of this Manual has been thoroughly reviewed during the directives clearance process, and it has been determined there are no further records scheduling requirements, in accordance with Federal Records Act, 44 U.S.C. 3101 et seq., National Archives and Records Administration (NARA) requirements, and the Information and Life Cycle Management Manual, COMDTINST M5212.12 (series). This policy does not have any significant or substantial change to existing records management requirements.
9. FORMS/REPORTS. The forms referenced in this Manual are available in USCG Electronic Forms on the Standard Workstation or on the Internet: <http://www.uscg.mil/forms/>; CG Portal <https://cgportal2.uscg.mil/library/forms/SitePages/Home.aspx>; and Intranet at <http://cgweb.comdt.uscg.mil/CGForms>.
10. REQUEST FOR CHANGES. Units and individuals may recommend changes via the chain of command to the Office of General Law Commandant (CG-LGL).

S. D. POULIN /s/  
Rear Admiral, U.S. Coast Guard  
Judge Advocate General





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- (7) – Sample Witness List
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## CHAPTER 1: POLICY FOR MAJOR INCIDENT INVESTIGATIONS

- A. Purpose and Scope. A Major Incident Investigation (MII) is an administrative investigation required to inquire into the facts and circumstances surrounding Class A and Class B Coast Guard operational mishaps and may be convened for non-operational Class A and Class B mishaps (Reference (a) defines Class A and B mishaps). Mishaps are considered operational when the mishap occurred during or in direct relation to the active conduct of a mission. This includes but is not limited to no-notice response missions, routine patrols, maintenance flights, training, familiarization, or inspections. Typically, a mishap resulting from or during the operation of a Coast Guard cutter, boat, or aircraft should be considered an operational mishap. Commanders in coordination with their Staff Judge Advocate will determine whether a mishap is operational, and, in questionable cases, consult the Office of General Law, Commandant (CG-LGL). Because the purpose of a MII is to investigate and report the cause, or causes, of the mishap and those factors that substantially contributed to the mishap, MII reports make no recommendations. Depending on the nature and severity of a mishap, a MII is conducted by a MII Board or by a Single Investigating Officer who perform no other duties during the investigation. The structure and processes of a MII differ from other administrative investigations because of the significance of the mishap, to enable an early release of factual information concerning the mishap to next of kin (NoK) and survivors, and to publicly release a complete and accurate report within 90 to 150 days after the mishap.
- B. Responsibility for the Conduct of Major Incident Investigations and Avoidance of Undue Influence. Although commanders convene MIIs, the MII Board President or Single Investigating Officer conducts the investigation, makes Findings of Fact, and renders a Statement of Opinion. The MII report does not necessarily represent the official position of the Coast Guard. Any action to exert undue influence on the MII Board President, other MII Board members, or the Single Investigating Officer is forbidden. Undue influence might be manifested by an attempt to direct a specific opinion or conclusion or to mandate changes to the MII report. However, the prohibition against undue influence does not prohibit the convening authority from communicating directly with the MII, receiving periodic updates of the MII's progress, requesting consideration of new evidence, or presenting for consideration alternative opinions and hypotheses interpreting the evidence. The convening authority's Staff Judge Advocate (SJA) may communicate directly with the MII and is the principal conduit to solicit comments by various staffs on the draft MII. The MII Board President or Single Investigating Officer remains free to reject any comment concerning the MII.
- C. Authority. The Commandant is authorized by 14 U.S.C. § 93(a)(5) to "conduct any investigations or studies that may be of assistance to the Coast Guard in the performance of any of its powers, duties, or functions."
- D. Uses. While the scope of the MII report is limited, the uses of MII reports are not. MII reports may be used to:
1. Brief the NoK of military and civilians killed and to individuals seriously injured in mishaps, subject to legal limitations on release of information.
  2. Release information to members of the public, media, Congress, and government agencies upon request, subject to legal limitations on release of information.

3. Assist in the adjudication of claims in favor of, or against, the United States that result from the mishap.
4. Determine whether punitive or adverse administrative action should be taken against persons whose negligence or misconduct contributed to the accident.
5. Fulfill the purposes of investigations required by other directives.

E. Applicability.

1. **Mandatory.** The policy and procedures prescribed in this Manual are required for the investigation of operational Class A and Class B mishaps, independent of the Mishap Analysis Board (MAB) directed by Reference (a). Refer to Reference (a) for the thresholds that characterize mishaps as Class A or B. Deviations from the policy and procedures prescribed in this Manual are addressed below in Chapter 4, paragraph I.
2. **Discretionary.** The policy and procedures prescribed in this Manual may be used to investigate non-operational Class A and Class B mishaps, in the discretion of the convening authority or higher authority. Otherwise the procedures in Reference (b) shall be used to investigate non-operational Class A and Class B mishaps.

F. Other Administrative Investigations and Applicability of the Administrative Investigations Manual, COMDTINST M5830.1 (series).

1. The use of a MII for Class A and Class B operational mishaps mandated by this Manual supersede the procedures in Reference (b) that otherwise apply to Class A and Class B investigations.
2. Commanders have discretion whether to use a MII or administrative investigation in other incidents. The MII is encouraged for non-operational Class A and Class B mishaps due to its investigatory advantages and efficiency. If a MII is elected, the MII procedures supersede the procedures in Reference (b).
3. For investigations convened pursuant to Reference (b) and not as a MII pursuant to this Manual, the final action authority will be a vice admiral for a non-operational Class A mishap and a vice admiral or other flag officer for a non-operational Class B mishap. Detailing the same officer as convening authority and final action authority is encouraged.
4. In mishaps in which a determination must be made whether death or serious illness or injury was incurred in the line of duty (LOD), a convening authority who convenes an MII will direct investigation into LOD as part of the MII or convene a separate investigation for that purpose. Investigation into LOD will comply with chapter 7 of Reference (b). In either event, unless reserved, the convening authority will designate the first flag officer in the chain of command of the unit of the member as final action authority for the LOD determination, and consistent with Reference (b), that officer will perform the functions of the convening authority in connection

with a LOD determination, including affording an informal hearing. This does not preclude the authority of the commanding officer of the unit of the member to conduct a preliminary inquiry, in coordination with the MII convening authority's SJA and with the commanding officer's servicing legal office, and make an administrative determination that the death, injury, or disease was incurred in the LOD and not due to member's own misconduct. Expedited LOD determinations are encouraged.

5. Reference (b) supplements this Manual for matters not specifically addressed in this Manual.

- G. Distinction between Major Incident Investigations, Mishap Analysis Boards, and other Investigations. The MAB is wholly focused on safety and mishap prevention while the MII serves the various purposes discussed above. Those charged with conducting MABs or MIIs will ensure they do not conflict. The processes for MABs and MIIs are designed to give priority to the MAB's collection of evidence and to safeguard its privileged character, but also to provide the MII with factual evidence from the MAB to facilitate the MII. Some mishaps may result in a claims investigation; for any such investigation there shall be direct coordination with the Office of Claims and Litigation, Commandant (CG-LCL). Some mishaps may result in criminal investigations conducted by the Coast Guard Investigative Service (CGIS) or by other law enforcement agencies. These investigations also have priority over the MII and may provide evidence to facilitate the MII. This table highlights the differences between MABs and MIIs:

Process	Purpose	Directive	Privilege
MAB	Safety – Mishap Prevention	Safety and Environmental Health Manual (COMDTINST M5100.47 (series))	Mishap Analysis Report (MAR) Part A not privileged (facts, non-confidential statements). MAR Part B privileged (confidential statements and analysis).
MII	All other purposes, including public release	Major Incident Investigation Manual (COMDTINST M5830.4 (series))	Not privileged; report is publicly releasable.*

**Table 1 – 1: Differences Between MABs and MIIs**

- \* As a general rule, the MII report, in its entirety, will be publicly releasable; however, it may be withheld, in part or in whole, under certain circumstances under the provisions of law (e.g. Freedom of Information Act, Privacy Act, Health Insurance Portability and Accountability Act).



## CHAPTER 2: CONVENING A MAJOR INCIDENT INVESTIGATION

### A. Convening Authority.

1. Unless otherwise directed by the Commandant, only a Vice Admiral is authorized to convene a MII for a Class A mishap, whether or not it arose in the course of operations. Area Commanders will normally convene MIIs in their respective areas of responsibility. The Deputy Commandant for Mission Support (DCMS) will normally convene MIIs for Class A mishaps involving DCMS units.
2. All flag officers are authorized to convene a MII for Class B mishaps. District Commanders, the Director of Operational Logistics, and Commander, Force Readiness Command, will normally convene MIIs for Class B mishaps in their respective areas of responsibility.
3. The convening authority and the approval authority shall be the same position for all MIIs.
4. A convening authority's Deputy who is a flag officer or senior executive may convene the MII, unless the convening authority withholds this authority. Chiefs of Staff and non-flag officer Deputy Commanders are not authorized to convene a MII. However, Chiefs of Staff and non-flag officer Deputies may issue supplemental convening orders.

### B. Convening Order.

1. The convening authority's SJA will draft the convening order. When drafting the convening order, the SJA shall assess whether an investigation is required by more than one regulation and whether investigative efforts should be combined or coordinated accordingly (i.e., claims investigation). Convening orders shall include the specific language found in Chapter 3.B.2.a.13 of Reference (b) for those investigations that include both MII and claims purposes. A copy of the convening order in Class A and Class B mishaps will be sent electronically to the Office of General Law, Commandant (CG-LGL).
2. The convening authority will normally convene a MII within ten days after the mishap.
3. The convening order will direct the MII Board President or Single Investigating Officer to complete a thorough investigation and MII report in compliance with this Manual within 60 days of convening. The convening authority may approve extensions of up to 30 days. Requests for additional extensions in Class A mishaps may be approved by the Vice Commandant, and for other MIIs may be approved by the next senior officer in the convening authority's chain of command.





## CHAPTER 3: COMPOSITION OF MAJOR INCIDENT INVESTIGATIONS

### A. When Required.

1. A MII is required for all Class A operational mishaps. A MII Board is required for all Class A operational mishaps, except for a Class A operational mishap limited to property damage only.
2. For Class A operational mishaps limited to property damage only, the convening authority has discretion to convene a MII Board or a Single Investigating Officer MII.
3. A MII is required for all Class B operational mishaps. The convening authority has discretion to convene a MII Board or a Single Investigating Officer MII.
4. For all non-operational Class A and Class B mishaps, the convening authority has discretion to convene a MII Board, a Single Investigating Officer MII, or other administrative investigation. The following table details the relationship between MII and types of mishap:

<b>Mishap</b>	<b>Type of MII</b>	<b>Convening and Approval Authority</b>
Class A operational	MII Board	Vice Admirals
Class A operational (limited to property damage only)	MII Board or Single Investigating Officer MII	Vice Admirals
Class A non-operational	MII Board or Single Investigating Officer MII	Vice Admirals
Class B operational	MII Board or Single Investigating Officer MII	All flag officers
Class B non-operational	MII Board or Single Investigating Officer MII	All flag officers

**Table 3 – 1: MII Designation for Class A and B Mishaps**

### B. Major Incident Investigation Board Composition.

1. The composition of the MII Board is tailored to the complexity of the mishap.
2. At a minimum, each MII Board shall have a MII Board President and a Legal Advisor. The appointment of a MII Recorder is recommended.
3. Other appointed MII Board members may include subject matter experts with the expertise necessary to assist with effective and efficient completion of the MII.

C. General Qualifications for Major Incident Investigation Boards.

1. The MII Board President and members will not be from the unit to which the individuals, aircraft, or vessel involved with the mishap are assigned, or from any other unit at the same echelon within the first flag-level command. Wherever practicable, the MII Board President should be detailed from outside the first flag-level command. Assignment of members from outside the flag-level command is also desirable. However, the Legal Advisor may be detailed from the first flag-level command.
2. The convening authority shall not appoint any person to the MII Board whose participation in the investigation could create a conflict of interest or an appearance of a conflict of interest or other impropriety.
3. MAB members may not serve as MII members for the same mishap.

D. Major Incident Investigation Board President Qualifications.

1. MII Board Presidents shall be at least an O6 for Class A MII Boards. Consider assigning a flag officer or flag officer select in fatal or complex mishaps.
2. At least an O4 shall be appointed as the MII Board President for a Class B MII where the convening authority elects to convene a MII Board.
3. For aircraft mishaps, the MII Board President should have experience with the same or similar airframe involved in the mishap.
4. For vessel mishaps, the MII Board President should have experience with being responsible for the movement and safe navigation of the same or similar vessel.
5. For other types of mishaps in which a MII is convened, such as a marine safety related mishap, the MII Board President should have relevant experience in the appropriate specialty.
6. Experience in particular operations or operating environments that may be related to an incident is desirable.
7. MII Board Presidents shall have completed the Air Force Safety Center (AFSC) Board President's Course, or equivalent training, prior to conducting a MII. Completion of the course is desirable for Single Investigating Officers but is not required. Only the Vice Commandant may approve exceptions in Class A mishaps; other convening authorities may approve exceptions in other mishaps in coordination with the next senior commander.

E. Major Incident Investigation Legal Advisor Qualifications.

1. Legal Advisors for Class A MIIs shall be at least an O4 judge advocate, or an O3 who has served as a Legal Advisor to a Class B MII.

2. Legal Advisors for Class B MIIs shall be at least an O3.
3. The Legal Advisor shall be a graduate of the Air Force Accident Investigation Course, or equivalent training. The Judge Advocate General may approve exceptions.

F. Composition of and Qualifications for Single Investigating Officer Major Incident Investigations.

1. A Single Investigating Officer MII is composed only of the investigating officer.
2. A MII Single Investigating Officer shall be at least an O4.
3. Completion of the AFSC Board President's Course, or equivalent training, is desirable for Single Investigating Officers but is not required.
4. Like MII Board Presidents, Single Investigating Officers should have familiarity with the platforms, operations, or specialties involved in the mishap.
5. The Convening Authority will identify a supporting legal advisor who will be available to the Single Investigating Officer at all times and provide support throughout the MII. However, that legal advisor will not be a member of the MII and may continue to perform other duties unrelated to the MII.



## CHAPTER 4: RESPONSIBILITIES

### A. Convening Authority.

1. Initiates a Class A operational mishap MII by issuing a convening order and appointing the MII Board President, Legal Advisor, Recorder, and other Board members. See Enclosure (1) of this Manual.
2. Initiates a Class A mishap MII involving property damage only or a Class B mishap MII by issuing a convening order and appointing a MII Board or a Single Investigating Officer MII (see Chapter 3.A.).
3. Directs logistical and administrative support for the MII; in appropriate cases, designates supporting commands.
4. Funds costs related to the MII.
5. Approves the MII report within 30 days of receipt. Approval does not indicate whether the convening authority agrees or disagrees with the MII report. Rather, approval indicates the convening authority has determined the report complies with applicable laws and regulations. While the report represents the opinion of the MII Board President or Single Investigating Officer, the convening authority retains the prerogative to return the report for additional consideration or further investigation.
6. No later than 90 days after approving the MII report, shall direct corrective actions within his or her authority and should consider sending a pre-decisional memo (non-releasable) to the Vice Commandant, via the chain of command, with further recommended actions.
7. After final agency action is taken on the MII, ensures the NoK and seriously injured personnel receive a copy of the releasable MII report. The convening authority should consider providing an in-person briefing to NoK and survivors, particularly in a Class A mishap.

### B. Convening Authority's Staff Judge Advocate.

1. Advises the convening authority when a MII must be convened, or whether one ought to be convened when doing so is discretionary.
2. Advises the convening authority on what type of MII to convene (MII Board or Single Investigating Officer MII). When drafting the convening order, advises on whether an investigation is required by more than one regulation and whether investigative efforts should be combined or coordinated (i.e., claims investigation).
3. Advises whether information, including personally identifiable information, is releasable under the Freedom of Information Act (FOIA).

4. Identifies potential MII Board President and MII Board members or Single Investigating Officer for the convening authority's approval, in coordination with DCMS and the Office of General Law, Commandant (CG-LGL).
5. Reviews information provided by the MAB to the MII when necessary to determine privilege before information is provided to the MII Legal Advisor for consideration in the MII.
6. Provides oversight, substantive guidance, and assistance as necessary to the MII Legal Advisor throughout the MII process.
7. Receives the draft MII report and coordinates its review within the command, and, outside the command, with higher echelons of command and affected programs at Coast Guard Headquarters. All comments shall be forwarded by the SJA to the MII Board President or Single Investigating Officer for consideration prior to sending the report to the convening authority for approval. The MII Board President or Single Investigating Officer may elect, but is not required, to revise the MII report based on comments.
8. Reviews the MII report for legal sufficiency and compliance with this Manual, Reference (b), and other authorities. The written legal review addresses significant comments received during coordination and not adopted in the MII report, where the SJA deems appropriate.
9. Prepares the convening authority's action. See Enclosure (2) of this Manual.
10. Submits the MII report to the convening authority for approval. The written legal review, which constitute pre-decisional, non-releasable information not part of the MII report, are provided to the convening authority separate from the MII report.
11. Coordinates with the convening authority's Public Affairs Office regarding the notification and release plan created by the Public Affairs Office. For high interest MIIs, the convening authority's SJA shall coordinate with the Office of General Law, Commandant (CG-LGL) and the Office of Governmental and Public Affairs, Commandant (CG-092) prior to public release of the MII report.
12. Notifies CGIS of operational mishaps that result in death or serious injury or when a Board President or Single Investigating Officer reports conduct that may require criminal investigation.

C. Board President.

1. Coordinates with the MII Legal Advisor or, if none has yet been appointed or made available, the convening authority's SJA to determine how to initiate the investigation.
2. Ensures appointed MII Board members, besides the legal advisor, have not had access to privileged safety information from the MAB and do not have conflicts of interest that would prevent an impartial accident investigation.

3. Ensures all MII Board members understand they are prohibited from disclosing information regarding the ongoing MII until the convening authority has approved the MII report.
4. Requests appointment of additional MII Board members to serve as advisors regarding medical, human factors, maintenance, or other areas of expertise, as necessary.
5. Completes a thorough investigation and MII report for which the Board President is solely responsible, including the Statement of Opinion, in compliance with this Manual and Reference (b), within 60 days of convening. The convening authority may approve extensions of up to 30 days. Requests for additional extensions in Class A mishaps may be approved by the Vice Commandant, and for other MIIs may be approved by the next senior officer in the convening authority's chain of command. Submits the MII report to the SJA for initial review and coordination, considers comments received in coordination by the SJA, and submits final MII report to the SJA for transmission to the Convening Authority.
6. Ensures that the MII does not conflict with other investigations and notifies the Legal Advisor of any evidence indicating criminality that may require criminal investigation.
7. Shall not include any recommendations in the MII report, but may, through a separate pre-decisional memorandum (not releasable), provide recommendations to the convening authority. Recommendations can be valuable to commands and programs in avoiding future mishaps and improving Coast Guard operations and policies. However, timely completion of the MII remains preeminent and submission of the MII report, therefore, will not be delayed by preparation of this memorandum.
8. Briefs the convening authority and other officials regarding the investigation results, as directed.
9. Releases members from the MII, except for the Legal Advisor, when their services are no longer needed. The MII Board President should be cautious not to release members prematurely.
10. Performs no duties unrelated to the MII until the MII report is submitted to the convening authority for approval. Ensure that the MII is the sole duty of all other Board members.

D. Single Investigating Officer.

1. Perform the same functions as a Board President unless otherwise provided in this Manual. When chapters 5 through 10 of this Manual refer to a task to be performed by the Board President, or a task that is to be performed in support of a Board President, the reference applies equally to a Single Investigating Officer.
2. Performs no duties unrelated to the MII until the MII report is submitted to the convening authority for approval.

E. Legal Advisor.

1. Provides legal advice and assistance to the MII as a member of the MII Board until the report is approved. Advise a Single Investigating Officer when there is no MII Board (See Chapter 3.F.5 for responsibilities when supporting Single Investigating Officer MII).
2. Receives and reviews evidence provided by any MAB convened to investigate the mishap, removing and returning to the MAB anything containing privileged safety information. Directs the MAB to consult first with the convening authority's SJA when there is any question whether information to be passed to the MII is privileged. Contacts the convening authority's SJA and the Office of General Law, Commandant (CG-LGL) for guidance, if needed.
3. Serve as liaison between the MII and the convening authority's SJA and, where appropriate, the Coast Guard Investigative Service.
4. Coordinates early release of information with the MII, the convening authority's SJA, and the convening authority's Public Affairs Office. For high interest MIIs as defined in chapter 7.D of this Manual, the convening authority's SJA shall coordinate with the Office of General Law, Commandant (CG-LGL) and the Office of Governmental and Public Affairs, Commandant (CG-092) prior to release of the MII report.
5. Oversees collection, preservation, and disposition of evidence.
6. Attends all witness interviews, conducts rights advisements to military and civilian witnesses when appropriate, and ensures questions are proper.
7. Edits the MII report to ensure a clear and consistent writing style with appropriately defined acronyms and technical terms to enhance public understanding.
8. Reviews the MII report for legal sufficiency, and ensures information required to be withheld under Coast Guard policy or federal law is not included in the publicly releasable report. If the MII report covers a claims investigation, ensure the final report is coordinated with the Office of Claims and Litigation, Commandant (CG-LCL).
9. Ensures the Statement of Opinion meets legal standards.
10. Performs no duties unrelated to the MII until the MII report is submitted to the convening authority.

F. Other Board Members.

1. Detailed by the convening authority when the MII is convened or when the Board President or convening authority conclude additional members are necessary. Board members may be selected based on their broad experience and maturity or for their subject matter expertise.



2. Perform duties assigned by the MII Board President. Board members provide subject matter expertise to the Board President, provide their views concerning the cause of the mishap, and assist the Board President as necessary in preparation of the Board report. While the views of Board members may inform the Board President's report, the MII report does not represent a consensus of the Board members and the Board President remains solely responsible for its content, to include the Statement of Opinion. A Board member may provide his or her pre-decisional, non-releasable, views to the convening authority when considered essential, although doing so is neither expected nor customary.
3. Perform no duties unrelated to the MII until released by the Board President.

G. Recorder.

1. Is not a member of the MII Board and may be a junior officer or an enlisted member. Although not required, a paralegal is well suited to the duty. Although a judge advocate often serves as Recorder for a Formal Administrative Investigation, the detail of a Legal Advisor to the MII makes appointment of a judge advocate to perform these duties unnecessary.
2. Performs administrative duties in support of the MII Board (see Chapter 8 of Reference (b)). Among these duties, the Recorder serves as custodian of documents and evidence, assists with transcriptions (e.g., cockpit voice recorder or air traffic control recording) and assembling the MII report, contacts and schedules witness interviews, and supports the logistical requirements of the Board members.
3. Performs no duties unrelated to the MII until released by the MII Board President.

H. Supporting Commands.

1. Appoint a liaison officer to assist the MII in obtaining accommodations and administrative support prior to the arrival of the MII.
2. Provide support to include, but is not limited to: work areas and office work space; computers with internet access; use of computers, printers, copy machines, and fax machines; office supplies; paper supplies; telephone service; use of government vehicles; use of audio-visual equipment; and administrative personnel to support the MII Board or Single Investigating Officer on request or when ordered by the convening authority.

I. Judge Advocate General, Commandant (CG-094). Acts on requests from convening authorities to deviate from any requirement prescribed in this Manual, not otherwise reserved to the Vice Commandant.

J. Office of General Law, Commandant (CG-LGL).

1. Develops MII policy and procedures and coordinates with other Coast Guard Headquarters directorates concerning related processes, including the Office of Health and Safety, Commandant (CG-113).

2. Prescribes qualifications, trains, and sustains a cadre of qualified Legal Advisors.
3. Training.
  - a. Coordinates with the Air Force Judge Advocate General's School to obtain quotas for the Accident Investigation Course to be attended by judge advocates and paralegals.
  - b. Coordinates with the Air Force Safety Center to obtain quotas for the Air Force Safety Center Board President's Course.
  - c. Develops Coast Guard MII training.
4. Provides assistance to SJAs and MII Legal Advisors, when necessary.
5. Coordinates with other commands and Coast Guard Headquarters directorates to facilitate the conclusion of the MII.

K. Deputy Commandant for Mission Support (DCMS).

1. Selects, trains and sustains through Office of Health, Safety and Work-Life, Commandant (CG-11) a cadre of qualified Board Presidents; maintains the roster of qualified Board Presidents.
2. Coordinates with Office of Health, Safety and Work-Life, Commandant (CG-11) to prescribe any additional qualifications to be selected for training and assist the convening authority in selection of Board Presidents.

L. Force Readiness Command (FORCECOM). Supports DCMS and the Office of the Judge Advocate General, Commandant (CG-094) in training and sustaining a qualified cadre of Board Presidents and Legal Advisors.

## CHAPTER 5: CONDUCTING THE MAJOR INCIDENT INVESTIGATION

### A. Initial Actions.

1. Prior to assembling to begin the MII, all MII Board members or a Single Investigating Officer shall review this Manual, the convening order, and References (a) and (b), as necessary.
2. The Legal Advisor should contact the Board President to provide an initial briefing. If a Legal Advisor has not been identified, then the Board President should contact the convening authority's SJA.
3. The MII Board President, Legal Advisor, and other members of the MII Board shall proceed to the site where the investigation will be conducted. Once appointed to the MII Board, the members shall be relieved of their primary duties until released by the MII Board President. A Single Investigating Officer will not be relieved of primary duties until released by the convening authority.
4. To avoid the inadvertent receipt of privileged safety information, the MII Board President should not contact any member of the MAB without consulting with the Legal Advisor, or, if a Legal Advisor has not yet been detailed or made available, obtaining an initial briefing from the convening authority's SJA. Thereafter, the MII Board President, or the Legal Advisor on the MII Board President's behalf, may engage with the MAB President to:
  - a. Determine the status of the search and rescue, recovery of remains, and salvage operations.
  - b. Coordinate a visit to the mishap site prior to removal of the wreckage, if the MII Board President so requests.
  - c. Determine the status of the MAB investigation and decide when and where to proceed with the MII.
5. The MAB President may not discuss privileged safety information with the MII Board President, but may relay the facts of the mishap and describe the technical reports that will be in the MAR Part A.
6. In any substantive discussions (e.g., phone calls, e-mails) between the MAB President and the MII Board President, the MII Legal Advisor, when possible, should be present. The MII Legal Advisor ensures that privileged safety information is not inadvertently relayed to other members of the MII Board.
7. The MII Board President coordinates with the MII Legal Advisor and contacts the supporting command to obtain work areas, equipment, and administrative support.
8. The MII Board's Legal Advisor shall coordinate the transfer of all non-privileged material of the MAB to the MII Board. In addition to an electronic copy of the MAR Part A, the MAB must transfer all non-privileged documents, including all original documents, gathered by the MAB,

but not included in the MAR Part A to the MII Board. A Single Investigating Officer may perform these tasks if no Legal Advisor has been assigned.

9. If privileged safety markings appear on any document, or if the MII Legal Advisor suspects any document contains privileged information, the MII Legal Advisor shall consult with the convening authority's SJA, the Office of General Law, Commandant (CG-LGL), and the Office of Safety and Environmental Health, Commandant (CG-113) before releasing the information to the MII Board.
  10. The MII Legal Advisor should brief the MII Board or Single Investigating Officer on the purpose and format of the MII Board's or Single Investigating Officer's report and explain the MII process. See Chapter 5.C. of this Manual for a suggested MII schedule.
  11. The MII Board President may consider assigning each MII Board member sections of the report to draft.
  12. In light of this review, the MII Board shall:
    - a. Determine any additional tests that should be conducted (e.g., metallurgy, hydraulics, simulator, forensics, control surfaces, etc.) and
    - b. Formulate a witness list, interview questions designed to elicit additional information to aid in finding the cause and/or substantial contributing factors, and interview witnesses.
  13. The MAB shall provide a list of all witnesses (including witnesses promised confidentiality, regardless of whether the MAB reduced their respective statements to writing). The list should include contact information and witness's position or role in the mishap (e.g., crewmember, maintainer, observer, or NoK /family member) to aid in identifying witnesses the MII Board desires to interview.
- B. Gathering and Reviewing Additional Evidence. During the course of the investigation, the MII Board or Single Investigating Officer shall review all non-privileged mishap-related evidence. Consider the following when handling evidence and preparing it for inclusion in the MII report:
1. Mishap-related recorded data. Aviation mishap artifacts typically include cockpit voice and data recordings. Vessel systems often have other data recording devices. Recorded data external to the mishap platform may be found in air or vessel traffic control systems, command centers, and navigation and search and rescue systems. All potential data sources should be sought and reviewed. Investigations typically use data to produce simulations that depict the mishap and transcribe voice recordings, particularly those from Cockpit Voice Recorders (CVR). Transcriptions, which may involve subjective judgments about the contents of recordings, should be coordinated with the MAB to ensure both investigations rely on common products. Transcripts are publicly releasable and may be included in the MII Board's report.
  2. Classified Information. MII Board members or a Single Investigating Officer holding appropriate security clearances may review classified evidence, as needed, during the

investigation. However, the MII report shall NOT contain classified information. If essential to include classified information to support the Statement of Opinion, classified testimony, documents, and information shall be included in a separate classified addendum. This allows the unclassified portion of the MII report to be publicly released without redacting text.

3. **Foreign Evidence.** For mishaps in foreign territories or involving significant foreign interests, consult with the convening authority's SJA or the Office of General Law, Commandant (CG-LGL), for procedures to gather evidence, gain access to evidence, or request evidence from foreign military or civilian authorities.
  4. **Medical Evidence.** Obtain and review all relevant medical evidence, including medical records, autopsy protocols, X-rays, and toxicology reports. Because of privacy concerns, it may not be appropriate to include these documents in the MII report. There is generally no reason to include copies of medical records or extracts from them in the MII report unless that information is directly related to the cause of the mishap or a substantial contributing factor. If there are any questions concerning medical evidence please contact the Office of Health, Safety and Work-Life Privacy and Security Officer.
  5. **Original Documents.** Documents, such as medical, dental, and personnel records, should be returned to their proper custodians after the MII report is approved. Transmittal letters of original documents returned to their custodians should be included in the post-investigation memorandum.
- C. **Suggested MII Schedule.** The MII Board or Single Investigating Officer must complete the MII report within 60 days from the date the MII convenes, unless granted an extension by the convening authority. The below is a suggested schedule for MII Boards (and may be adapted for Single Investigating Officer MIIs), however schedules for each investigation will vary based on its specific circumstances:

Day	Activity
Pre MII Start Days 1-5	Day 1 is the day the MII is convened (should be no more than 10 days after the mishap). After the MII is convened, the MII Board President, Legal Advisor, and other members of the Board proceed to the site where the investigation will be conducted. The Legal Advisor coordinates transfer of MAR Part A and non-privileged materials from the MAB to the MII Board members.
Days 6-12	The Legal Advisor screens MAR Part A and non-privileged MAB materials and briefs the MII Board members on the MII purpose and process. The MII Board President assigns sections of the report to MII Board members. MII Board members review MAR Part A and MAB materials, visit the mishap site, prepare interview questions, and schedule witness interviews.
Days 12-20	II Board members interview witnesses, conduct additional testing, and begin initial analysis. The MII Board President provides status information on the investigation, as required, through the Decedent/Casualty Affairs Officer to the NoK and/or seriously injured personnel.
Days 20-28	II Board continues witness interviews, begins drafting the Findings of Fact conducts follow-up interviews as necessary, and ensures necessary testing has been ordered.
Days 28-32	II Board members finish interviewing and reviewing equipment analysis reports, discuss cause and substantially contributing factors, and determine releasability of information.
Days 32-33	II Board members continue drafting the facts and monitor progress of testing.
Days 34-42	The Legal Advisor edits Findings of Fact and Executive Summary. The Recorder builds Exhibits. The MII Board President finalizes the Findings of Fact, Statement of Opinion, and Executive Summary and submits them to the convening authority's SJA for an informal review.
Days 42-54	With the MII Board members, the MII Board President reviews the convening authority's staff's suggestions, makes revisions to the report as necessary, and makes final edits to the Statement of Opinion.
Days 54 -60	Prepare one original report and copies, as requested by the convening authority; finalize the post-investigation memorandum; Certified Mail or express carrier (FedEx/UPS) the original MII report, additional copies, and evidence and materials to the convening authority's SJA via trackable means. The MII Board President prepares a briefing for NoK or seriously injured personnel as necessary.

**Table 5 – 1: Suggested MII Schedule**

## CHAPTER 6: OBTAINING WITNESS TESTIMONY

### A. General Considerations.

1. When multiple investigations inquire into an incident, each should conduct interviews independent of the others. Interviews by the MAB and by law enforcement agencies take precedence over MII interviews and the MII Board or Single Investigating Officer should avoid interference with those inquiries. If exceptional circumstances suggest otherwise, the MII Board, acting through the Legal Advisor, should consult with the convening authority's SJA before proceeding with interviews. The MII Board or Single Investigating Officer should obtain records of non-privileged interviews by other investigations, before conducting its own interviews where possible, without delaying the MII. They may be used to identify potential witnesses and for interview preparation, and should become part of the MII report. Despite the need to defer to other investigations, early interviews of witnesses are essential and the MII Board should seek to interview witnesses as soon as possible.
2. The MII Board President, in consultation with the Legal Advisor, shall determine the most appropriate order to interview witnesses. Consider interviewing key witnesses last or perhaps twice, once at the outset and once more after other witnesses have developed the background of the case.
3. Any information that is relevant should be collected regardless of the source. However, the MII Board or Single Investigating Officer should seek to collect information from the most direct source available. It is appropriate for the MII Board President to comment on the credibility of witnesses and the relative strength of evidence.
4. Pre-Interview Meeting. Before beginning the interview, or in advance of an interview, the MII Legal Advisor should explain to witnesses the differences between the MAB and the MII:
  - a. Explain the purpose of the MII,
  - b. Cover interview protocol,
  - c. Remind witnesses to avoid speculating, making recommendations, or stating an opinion as to the ultimate cause or causes of the accident, and
  - d. Address witness concerns.
5. If applicable, direct each witness not to refer to the MAB, including the MAB report itself or statements made to the MAB, during the MII interview. The MII Board or Single Investigating Officer should not know the questions asked and answered during a privileged interview.
6. All witness testimony will be sworn and recorded. Prior to questioning a witness, an oath will be administered, usually by the MII Legal Advisor. However, a MII Board President, Single Investigating Officer, and any commissioned or warrant officer serving as a Member or the

Recorder of the MII Board may administer oaths in accordance with 10 U.S.C. § 936 and 14 U.S.C. § 636. The form of the oath is as follows:

*“Do you swear or affirm that the evidence you shall give in the matter now under investigation shall be the truth, the whole truth, and nothing but the truth?”*

7. All sworn and recorded witness interviews should be summarized by the MII. The witness should be asked to review and sign the summary and the signed copy should be included as an exhibit. The written summary itself will not be sworn.
8. When necessary, the MII may obtain written statements from witnesses whose testimony is relevant to collateral issues. When a witness provides a statement (contrasted with summarized statements based on a recorded and sworn interview of other witnesses), the statement will either be sworn or signed as an unsworn declaration made under penalty of perjury in accordance with 28 U.S.C. § 1746.
9. Do not offer promises of confidentiality to witnesses. There is no authority to grant confidentiality while conducting a MII.
10. In accordance with the Health Insurance Portability and Accountability Act (HIPAA), the MII is authorized to interview medical personnel regarding individuals involved in the mishap without the authorization of the individual. See Article 1.H.3. of Reference (b) for general guidance on complying with the Privacy Act and HIPAA. See Article 5.A.5. of Reference (b) for guidance on authorized receipt and use of protected health information of Coast Guard military members.

**B. Persons Participating in Interviews.**

1. Whenever possible, the MII Board President shall be accompanied by the MII Legal Advisor when conducting witness interviews. When a Single Investigating Officer interviews witnesses, involvement of the Legal Advisor is desirable but unnecessary. When the Legal Advisor is present, the Legal Advisor should advise witnesses of their rights, if necessary. If the MII Legal Advisor is not present, the MII Board President or Single Investigating Officer should conduct the rights advisement.
2. Consider which MII Board members should attend each interview; it may not be necessary to have the entire MII Board present for an interview.
3. The Legal Advisor and other MII Board members present may participate in interviews at the discretion of the MII Board President. In the alternative, members may submit questions or areas of focus to the MII Board President before or during the interview for consideration.

**C. Witness Opinions.** Witnesses shall not be asked to speculate, guess, or provide an opinion as to the ultimate cause or causes of the accident. If an expert provides an opinion within his or her area of expertise, ask for the factual basis of his or her opinion. However, speculation by expert witnesses should be limited to the facts and circumstances surrounding the subject accident rather than Coast Guard-wide practices.



D. Witness Availability.

1. It is preferred that witness interviews be conducted in person. However, if that is not practicable, the MII Board may conduct the interview via telephone or video teleconference, or other remote technology.
2. The MII Board President or Legal Advisor shall take appropriate steps to confirm the witness's identity for all interviews.

E. Witness Introduction. Use the following witness introduction for all interviews:

1. If there is a MAB convened:

My name is \_\_\_\_\_. I am investigating the \_\_\_\_\_ mishap that occurred on \_\_\_\_\_, near \_\_\_\_\_. This investigation was convened by \_\_\_\_\_, and is separate and apart from the Mishap Analysis Board. This investigation was convened to inquire into the facts surrounding the mishap, to prepare a publicly-releasable report, and to gather and preserve all available evidence for use in litigation, claims, disciplinary actions, administrative proceedings, and for other purposes.

2. If there is no MAB convened:

My name is \_\_\_\_\_. I am investigating the \_\_\_\_\_ mishap that occurred on \_\_\_\_\_, near \_\_\_\_\_. This investigation was convened to inquire into the facts surrounding the mishap, to prepare a publicly-releasable report, and to gather and preserve all available evidence for use in litigation, claims, disciplinary actions, administrative proceedings, and for other purposes.

F. Rights and Privileges of Witnesses.

1. General Guidance. Both military and civilian witnesses have the right against self-incrimination and other rights that may be implicated. Interviews should still be initiated even if the interviewer expects the witness to invoke his or her right against self-incrimination or other rights.
2. Military Witnesses.
  - a. Military members must appear when called. Before questioning a military member suspected of committing an offense punishable under the Uniform Code of Military Justice (UCMJ), use the rights advisement provided in Enclosure (3) of this Manual. When suspicion of an offense punishable under the UCMJ arises after the interview begins, stop the interview and provide a rights advisement. If a rights advisement was provided initially but suspicion of a new offense arises, complete a new rights advisement form specifying the new suspected offense. The rights advisement form should be included in the MII report.

- b. If a witness asserts rights and requests an attorney, or otherwise refuses to answer questions, cease questioning and contact the convening authority's SJA for guidance.
- c. A witness only has a right to invoke the privilege against self-incrimination regarding information that might be used to incriminate the witness; the right cannot be invoked to avoid questioning on matters that do not involve violations of criminal law or do not incriminate that particular witness.

3. Federal Civilian Employee Witnesses.

- a. Coast Guard civilian employees must appear when called and may not refuse to answer questions simply because the answer may adversely affect another person.
  - b. If a civilian employee is a member of a collective bargaining unit represented by a labor organization, a union official or representative may have the right to be present during the interview depending upon whether the interview constitutes a disciplinary examination or a formal discussion. The Legal Advisor shall consult with the convening authority's SJA for guidance prior to interviewing federal civilian employee witnesses who are members of a bargaining unit.
  - c. If a civilian employee is not a member of a collective bargaining unit represented by a labor organization and refuses to answer a question on the ground that it would be incriminating, the Legal Advisor should seek SJA advice.
4. Other Civilian Witnesses. The MII Board should explain the MII process to civilian witnesses and request their participation. However, civilian witnesses may decline to participate in a MII. Although some government entities and forums have authority to issue enforceable subpoenas, a MII does not.
5. Lawyers who represent witnesses may attend interviews but may not participate. Interviews should not be delayed due to lawyers' schedules.

G. Conducting Witness Interviews.

- 1. Prepare for the interview: While there is no need to develop scripts for witness interviews, prepare a list of questions or key issues to be covered.
- 2. Ensure the witness's privacy. Conduct the interview in a place that will be free from interruptions and will permit the witness to speak candidly without fear of being overheard. Witnesses should not be subjected to improper questions, harsh or insulting treatment, or unnecessary inquiry into private affairs. Avoid witnesses waiting together before the MII Board calls them into the room to be interviewed.
- 3. Focus on relevant information. Unless precluded for some reason, the MII Board President should begin the interview by generally telling the witness about the subject matter of the

investigation, without “seeding” anticipated testimony by revealing details of the investigation or incident unnecessarily. Generally, any questions seeking evidence that is relevant and useful to the investigation is permissible.

4. Let the witness testify in his or her words. The MII Board President, and all others present during the interview, must avoid coaching the witness or suggesting the existence or non-existence of material facts. Use of open ended questions is recommended.

#### H. Concluding the Interview.

1. Conclude each interview by reminding the witness of the official nature of the interview and instruct him or her to refrain from discussing his or her testimony with anyone without the MII Board President’s permission until the MII report has been released to the public.
2. Expect to recall some witnesses. Subsequent testimony from other witnesses may cause you to seek clarification of previous testimony. For this reason, consider retaining witnesses in the local area until they are no longer needed for further interviews.

#### I. Verbatim or Summarized Testimony.

1. Preserve all witness testimony with audio recording. Notify each witness that the interview will be recorded. Thereafter, testimony can be transcribed verbatim, or summarized. For most MII’s, summarized testimony suffices. The audio recording is retained along with other tangible evidence but is not part of the MII report.
2. Testimony should be summarized and documented in individual witness summarized statements. The witness should be asked to sign and swear to the summarized statement. Witnesses may decline to sign or swear to statements which should be recorded in the summarized statement. A witness may ask to modify or add to a statement. The MII Board President may decide to rewrite the statement to incorporate the changes, to require the witness to make pen-and-ink changes and initial them, or to provide an addendum that will be included in the MII report.
3. Unprivileged witness statements from related investigations that are obtained by the MII Board and which are relevant to the MII should be included in the MII report.



## CHAPTER 7: EARLY PUBLIC RELEASE OF INFORMATION

### A. General Considerations.

1. Conducting a thorough and timely investigation is a high priority for the Coast Guard, NoK, seriously injured personnel, and the public. Public disclosures of MII information are made by the convening authority or persons designated by the convening authority or by this Manual, unless authority is withheld. Releases should respect the authority and responsibility of the MII Board President for the integrity of the MII.
2. Unauthorized disclosure of mishap information or documents gathered during the MII compromises the integrity of the MII process.
3. Prior to the public release of the MII report, MII Board members and Coast Guard personnel who have been given or have obtained access to MII information or documents are prohibited from disclosing that information or the contents of the MII report for other than official and authorized purposes.
4. Prior to public release of the MII report, the only authorized disclosures of substantive MII information or the contents of an MII report are for the purpose of facilitating the MII investigation. Any other disclosures must be approved by the convening authority's SJA or in accordance with chapter 7.C and 7.E of this Manual. Release of procedural status information is less sensitive and is addressed in chapter 7.B of this Manual.
5. This prohibition does not preclude the MII Board from disclosing necessary information to a witness in order to fully develop questioning. In such cases, the witness shall be instructed not to disclose any information learned during the interview.

### B. Releasing Major Incident Investigation Procedural Status Information.

1. It is important to keep NoK, seriously injured personnel, and the public apprised of MII procedural status information, such as the start of each phase of the investigation, search and rescue, recovery of remains, salvage operations, etc. MII procedural status information does not include substantive findings of the MII.
2. The convening authority may release MII procedural status information to the extent that such releases will have no effect or bearing on the ongoing MAB or MII. Releasing MII procedural status information for high-interest mishaps does not require Coast Guard Headquarters notification. However, NoK and seriously injured personnel shall be notified prior to release of any MII procedural status information to the public or media.

### C. Early Release of Factual Information. NoK, mishap survivors, Coast Guard personnel, and the public often desire to know facts relevant to the mishap as soon as they are available. Coast Guard policy is to release accurate key factual information as soon as it is available. When the requirements below have been satisfied, the convening authority, or the SJA, unless such authority is

withheld, shall authorize the public disclosure of data and other factual information regarding the accident prior to public release of the MII report.

1. The release of factual information shall occur if release will not undermine the ability of the MII, MAB, or CGIS to continue to conduct their investigations, and the release would not compromise national security.
2. Early release of factual information must include coordination with the MII Board President, the convening authority's SJA and the convening authority's Public Affairs staff. In high-interest mishaps, also comply with Chapter 7.E of this Manual. The bias for early release of information does not mean incremental releases of fragmentary information which in isolation can frustrate recipients or potentially interfere with the MII. Release must be in accordance with the Privacy Act, HIPAA, FOIA, and other authorities meant to protect privacy and other interests. See DHS Sensitive Policy Directive 4300A dated March 14, 2011 or any successor DHS policy for further guidance.
  - a. Releasing specific accident investigation details to NoK or seriously injured personnel constitutes public release.
  - b. If the mishap involved persons or entities outside the Coast Guard, or if there are pending external law enforcement investigations, consider advising them before approving the wider public release of factual information. Consult with the convening authority's SJA and Public Affairs and with the Office of General Law, Commandant (CG-LGL) for additional guidance in unusual situations.

D. Release of Video and Audio Recordings.

1. Video and audio recordings in real time related to the mishap, including but not limited to the cockpit voice recorder (CVR), air traffic control recordings, and other radio communications are critical evidence and sensitive because they involve the privacy interest of survivors and NoK. Accordingly, Coast Guard policy is that video and audio recordings of crew members incident to mishaps will not be released to the public unless required to be released under FOIA, 5 U.S.C. § 552. Request for exception should be addressed to the Office of General Law, Commandant (CG-LGL).
2. Requests from family members to listen to CVR or other audio or video recordings shall be forwarded through the convening authority's SJA to the Office of General Law, Commandant (CG-LGL), for consideration under FOIA, 5 U.S.C. § 552.

E. High-Interest Mishaps.

1. High-interest mishaps include those that result in death or serious personal injury, significant civilian property damage, or are likely to generate high intense public, media, or Congressional interest.

2. In high-interest mishap cases, early release of factual information requires notice to the Office of General Law, Commandant (CG-LGL) and the Office of Governmental and Public Affairs, Commandant (CG-092), followed by notification to NoK and seriously injured personnel, prior to releasing it to the general public.

F. Releasability Overview.

	<b>Procedural Status Information</b>	<b>Specific Details</b>
<b>High Visibility Mishap</b>	Convening authority may release; no CGHQ notification required.	Convening authority may release after notice to CGHQ (CG-LGL and CG-092) and to NoK and survivors.
<b>Non-High Visibility Mishap</b>	Convening authority may release; no CGHQ notification required.	Convening authority may release; no CGHQ notice required.

**Table 7 – 1: Releasability Overview**





## CHAPTER 8: THE MAJOR INCIDENT INVESTIGATION REPORT

- A. Overview. The MII report is comprised of nine sections: the Action of the Convening Authority, the Executive Summary, the Preliminary Statement, the Table of Contents, the Findings of Fact, the Statement of Opinion, the Attestation, Enclosures, and Exhibits. Enclosure (4) of this Manual is a template of a MII report.
- B. Publicly-Releasable Report.
1. The MII report will be a publicly releasable document, so to the extent possible only information that would be releasable under FOIA should be included in the MII report. To the extent that non-publicly releasable information is included in the MII report, it must be redacted prior to public release. The MII Legal Advisor, in coordination with the convening authority's SJA, can answer questions regarding releasability.
  2. Because the report is releasable, items which should be excluded from the report include, but are not limited to, the following:
    - a. Privileged safety information. Privileged material is typically material that is derived from the deliberative safety analysis process. More information on safety privilege can be found in Reference (a).
    - b. Information required to be withheld under FOIA or Privacy Act, such as personal identifying information, to include Social Security Numbers, birth dates, ages, home addresses, and home telephone numbers.
    - c. Non-relevant information concerning persons not involved in the mishap.
    - d. Controlled Unclassified Information (e.g., which includes sensitive documents marked formerly, For Official Use Only, Law Enforcement Sensitive Security Information and similar markings). Confirm that all documents in the MII report are appropriate for public release. Ensure markings are properly removed from any documents included in the MII report. The MII Legal Advisor can help facilitate the proper removal of markings.
    - e. Contractor proprietary data. Do not include proprietary data unless the MII obtains written approval from the contractor for release of such information.
    - f. Recommendations or suggested corrective actions. Use caution when identifying the lack of a specific procedure, remedy, or solution as a causal factor. Avoid doing so merely as a means of making a recommendation or suggested corrective action which is not a function of the MII report. If the MII Board President has recommendations he or she may provide those recommendations to the convening authority in a separate pre-decisional memorandum.
    - g. Original personnel, training, medical, or flight records of mishap personnel. If releasable under FOIA, copies of these documents may be included in the Exhibits. The originals must be returned to the proper record custodians when the MII has completed its investigation.

- h. Video and audio recordings including but not limited to cockpit voice recorder, air traffic control recordings, and other radio communications. Transcripts may be released, but redact non-releasable information, or other information that should be safeguarded due to privacy concerns such as inappropriate or otherwise irrelevant comments, taking care to indicate where information has been redacted. Redactions should be reviewed by the Legal Advisor. See Chapter 7.D. of this Manual for further guidance.
  - i. Any graphic description of injuries, to include those depictions routinely found in autopsy protocols, medical records, human remains scatter diagrams, or photographs showing human remains.
  - j. Any document that estimates or gives monetary damage amounts of potential or actual third party claims against the government, but the Legal Adviser should coordinate with the Office of Claims and Litigation, Commandant (CG-LCL) to provide this information.
  - k. Classified information.
  - l. Names unnecessary to the releasable MII report. When possible, names of individuals involved in a mishap event should not be disclosed in the MII report. Coast Guard policy and federal law require names not to be released if doing so would, or could, constitute a clearly unwarranted invasion of personal privacy that is not outweighed by the public's right to know how the Coast Guard performs its statutory missions. Usually, names of witnesses not involved in the mishap – particularly non-employee civilian witnesses – will not be included as their names in and of themselves provide no information of how the Coast Guard conducts its missions. The inclusion of mishap personnel, MII Board members, and witness names in the publicly-releasable MII report shall be consistent with Coast Guard policy on the release of Coast Guard personnel names, the FOIA, and privacy concerns. The MII Legal Advisor shall consult with the convening authority's SJA with regards to whether names of individuals involved in a mishap event will be included in the MII report. Omitted names shall be replaced by job identifiers or roles in the mishap such as, mishap pilot, mishap navigator, witness 1, etc. A list of these names and their respective identifiers will be forwarded to the convening authority with the MII report.
  - m. Signatures. Remove all signatures from the report so they cannot be misused. If the signature is relevant to the mishap or investigation and the entire signature is removed, replace it with a marking that states, "signed." If the signature is not relevant, it may be removed entirely. This does not apply to the signature of the MII Board President or Single Investigating Officer or of the Convening Authority in the Action.
- C. Organization of Report. Assemble the MII report in the sequence below. Additional guidance concerning several of the sections follows. The Action of the Convening Authority is discussed in Chapter 4.A. and Chapter 9.
- 1. Action of the Convening Authority,

2. Executive Summary,
3. Preliminary Statement,
4. Table of Contents,
5. Findings of Fact,
6. Statement of Opinion,
7. Attestation,
8. Enclosures (as defined in chapter 5.B.8 of Reference (b)) and
9. Exhibits (as defined in chapter 5.B.6. of Reference (b)).

D. Executive Summary. A brief summary of the facts and circumstances of the mishap in a style easily understood by the general public, much like a press release. It shall be one to two pages in length. Although contained in the body of the report, it is only a summary and the balance of the report, and the Findings of Fact and Statement of Opinion in particular, control. Provide the following information in the Executive Summary if applicable:

1. Date, time, and location of the accident.
2. Identification of the aircraft or vessel by number, name, unit, and unit location.
3. Brief summary of the facts and circumstances of the accident.
4. Number of injuries or deaths, both military and civilian.
5. General description of damage to aircraft, vessel and/or other property.
6. Abbreviated Statement of Opinion on the cause(s) of the accident or factor(s) that substantially contributed to the accident and the legal standards applied.
7. Do not name personnel involved in the mishap in the Executive Summary. Instead refer to their position, e.g., "Mishap Pilot" or "Mishap Pilot 1," etc.
8. State findings in the third person; for instance, "The MII Board President [or Single Investigating Officer] found ..."

E. Preliminary Statement. The preliminary statement should explain who convened the investigation and why the investigation was convened. The preliminary statement should be no longer than one page and shall include the following:

1. Authority. Reference the authority for conducting the investigation, including this Instruction, the convening authority, and letters or orders appointing the MII Board members.
2. Purpose. Use the following language: “This is an investigation convened to inquire into the facts surrounding the Coast Guard mishap involving \_\_\_\_\_, to prepare a publicly-releasable report, and to gather and preserve all available evidence for use in litigation, claims, disciplinary actions, administrative proceedings, and for other purposes.”
3. Board Composition. List the Board Members by position.
4. Conduct of the MII Board. Describe significant events and activities related to the Board (e.g. when did the Board meet, delays in the Board’s work, and changes in Board personnel).
5. Interaction with other investigations. Describe interaction, if any, with other investigations (e.g. MAB, CGIS, and NTSB).

F. Finding of Fact.

1. A thorough enumeration and discussion of the facts relevant to the accident predominately in a narrative style. Anticipate the audience will not have a technical background and explain all technical terms for the general public.
2. The proper length of the Findings of Fact varies with each mishap.
3. Each Finding of Fact must be supported by documentary evidence, which will become an exhibit to the report. The finding should refer to the exhibit on which it is based.
4. Findings of Fact must be based on credible evidence, but cannot be an inference the Board draws from that evidence.
5. Do not include opinions regarding the cause of the accident in the Findings of Fact.
6. The Findings of Fact should be self-contained. A reader should not have to refer to any other documents to understand the complete story of the accident.
7. Outline of the Findings of Fact. Use the following outline to construct the Findings of Fact.
  - a. Accident Summary. This is a brief synopsis similar to that used in the Executive Summary. Do not describe the cause(s) of the mishap.
  - b. Background. Include relevant units, agencies, programs, resources, procedures, and mission tasking. Include here or in other appropriate places in the Findings of Fact references to

governing directives and publications that bear directly on the mishap.

- c. Sequence of Events. A description of the mission, planning, accident, impact, search and rescue, and recovery.
- d. Maintenance. A summary of any aircraft or vessel maintenance records relevant to the investigation.
- e. Airframe or Vessel Systems: A description of the pre- and post-mishap condition of relevant aircraft and vessel structures and systems, based on engineering evaluations, analysis, and reports, if applicable.
- f. Weather. A description of the forecast and observed weather on the date of mishap and prescribed operational weather limitations.
- g. Crew Qualifications. Indicate each crewmember's training currency, performance, experience level, and overall qualifications. In aircraft mishaps, summarize experience by hours of flying time and include a 30-60-90 day breakdown.
- h. Medical. A summary of the medical qualifications of the crew, crew rest and duty time, post-mishap injuries, cause of death, and lifestyle factors relevant to the mishap.
- i. Operations and Supervision. Describe the operational tempo and experience level of the crew and the oversight of the mission.
- j. Human Factors Analysis. Describe the human factors that directly related to the mishap. Use the Department of Defense Human Factors Analysis & Classification System as a guide.
- k. Additional Areas of Concerns. Other relevant areas not covered elsewhere in the Findings of Fact.

#### G. Statement of Opinion.

- 1. One of the primary objectives of the investigation is to provide the MII Board President's opinion as to the cause(s) and substantially contributing factor(s) of the mishap. The opinion is publicly releasable along with the rest of the MII report. It will be written in the first person and must be supported by facts in the Findings of Fact to which it refers, which must be supported by evidence in the Exhibits.
- 2. Cause(s) of the Mishap. The opinion to the cause of the accident must be supported by clear and convincing evidence.
  - a. The opinion is an inference drawn from the Findings of Fact.
  - b. Clear and convincing evidence means the MII Board President was able to reach a conclusion without serious or substantial doubt. In other words, the opinion must be

supported by credible evidence that shows it is highly probable that the conclusion is correct. However, clear and convincing evidence does not mean that another person, looking at the same facts, may not reach a different conclusion. It is less than "beyond a reasonable doubt" but more than "a preponderance of evidence." The opinion should state, "I find by clear and convincing evidence that the cause of the mishap was...."

3. **Substantially Contributing Factors.** Identify factors, if any, which substantially contributed to the mishap. This is particularly important if the MII Board President is unable to determine a cause.
  - a. Opinions concerning substantially contributory factors are inferences drawn from the Findings of Fact.
  - b. Substantially contributory factors must be supported by a preponderance of the evidence and explain the connection with the mishap.
  - c. Preponderance of evidence is the greater weight of credible evidence. That evidence that, when fairly considered, produces the stronger impression and is more convincing as to its truth when weighed against the opposing evidence. The opinion should state, "I find by a preponderance of evidence that each of the following factors substantially contributed to the mishap...."
4. The MII Board President shall consult the Legal Advisor to determine if available evidence meets the clear and convincing or preponderance of the evidence standard of proof.
5. For aircraft mishaps, include the following statement in separate paragraph: "Under 14 U.S.C. § 678 the opinion of the accident investigator as to the cause of, or the factors contributing to, the accident set forth in the accident investigation report, if any, may not be considered as evidence in any civil or criminal proceeding arising from the accident, nor may such report be considered an admission of liability of the United States or by any person referred to in such report."
- H. **Attestation.** The MII Board President will attest that the Findings of Fact and Statement of Opinion are those of the Board President and do not constitute an official determination by the Coast Guard concerning the mishap. The MII Board President's attestation includes his or her signature. Attestation occurs at the time the Board President forwards the final MII report to the convening authority.
- I. **Acronyms and Abbreviations.** It is important that the general public have a basic understanding of the language used in the report. Any acronyms (military acronyms, common usage abbreviations, symbols) in the MII report shall be listed in an enclosure to the MII report.
- J. **Draft MII Report Review and the Completed MII Report.** After the Legal Advisor reviews the draft MII report for legal sufficiency, the MII Board President shall forward the draft MII report for informal review pursuant to Chapter 9. The Board President should complete the report as soon as possible after being notified that the review period is complete.

- K. Confidentiality of the MII Report and MII Board Deliberations. MII Board Members may not discuss the draft MII report with anyone other than fellow MII Board Members, the convening authority's staff, and other subject matter experts to whom the draft report may be circulated without the MII Board President's knowledge and assent, in coordination with the Legal Advisor and the convening authority's SJA. MII Board members will not discuss the MII report or the Board's internal deliberations with anyone before or after its release to the public. Any Board Member who receives an apparently official inquiry concerning the MII will seek guidance from the Legal Advisor if the MII has not concluded or the convening authority's SJA thereafter.





## **CHAPTER 9: COORDINATION, APPROVAL, DISTRIBUTION, AND NEXT OF KIN BRIEFINGS**

### **A. Review of the Draft MII Report.**

1. The MII Board President will forward the draft MII report to the convening authority's SJA for informal review before it is finalized. The convening authority's SJA routes the draft MII report to the appropriate staff within the command and at higher headquarters, typically including the District, Area, Headquarters, and Headquarters units, for comments, providing addressees with three working days (or 72 hours, whichever is longer) for written response. During the three working day review period, the SJA will conduct an initial legal review and provide comments to the MII Board President and Legal Advisor, together with the comments received from the various staff elements.
2. Additional time beyond the three working days for coordinating comments and initial legal review must be approved by the convening authority or a Vice Admiral higher in the chain of command and will only be approved when justified by exceptional circumstances related to the scope or nature of the investigation.
3. Staff officials, other than the SJA or SJA's representative, generally should not communicate directly in any way with the MII Board members concerning the content of the draft MII report prior to approval of the MII report. However, the MII Board President, in coordination with the Legal Advisor and the convening authority's SJA may approve direct "operator to operator" or "expert to expert" discussions when necessary to resolve concerns that arise during the review. The MII Board President will ensure that the Legal Advisor and the convening authority's SJA are apprised of any contacts. It is imperative that no undue influence, real or perceived, be placed upon the MII Board by members of the convening authority's staff or anyone else's staff.
4. Staff comments are not publicly releasable and are not incorporated into the MII report, except to the degree that the MII Board President adopts them.
5. The SJA will forward to the MII Board President any comments received within one working day or 24 hours, whichever is longer following the response period.
6. After receiving comments from the informal review, the MII Board President may elect to continue the investigation, modify the report, or make no changes. The MII Legal Advisor shall advise the convening authority's SJA of the intended course of action.

### **B. Completion of the MII Report and Legal Review.**

1. The MII Board President shall complete the MII report as soon as possible after receiving notification that the review period is complete and will forward the completed report to the convening authority's SJA for legal review and submission to the convening authority.
2. The SJA will complete a legal review of the report and forward it to the convening authority within 30 days. Extensions are discouraged but may be approved by the convening authority,

when necessary. The legal review assesses whether the MII report complies with applicable laws and regulations and substantially complies with the requirements of this Manual. The legal review may also address legal issues, including potential, or pending, claims and litigation. The legal review is forwarded with the MII report to the convening authority, but is not publicly releasable and is not incorporated into the MII report.

C. Approval of the MII Report.

1. The convening authority reviews the MII report, and decides whether to approve the report as written, approve it with comments, or return it to the MII Board President for additional work. To facilitate an expeditious conclusion to the MII, the MII approval does not repeat or reformulate findings of fact, opinions, or provide recommendations and directed actions, unlike other administrative investigations. See Enclosure (2) of this Manual for required format of the convening authority's approval action.
2. The convening authority shall take action within 30 days of receiving the MII report, unless the Vice Commandant approves an extension. Approval of the MII report does not indicate the convening authority agrees with the MII report. Rather, approval of the MII report by the convening authority indicates the convening authority determined that the report complies with applicable laws and regulations.
3. The convening authority's action, approving the MII report, should be placed on the front of the MII report and distributed with the MII report.

D. Reopening the MII. Following approval of the MII report, the convening authority has discretion to reopen the MII upon discovery of additional evidence that could affect the Statement of Opinion.

E. Informational Briefing. The convening authority may request an informational briefing of the MII report from the MII Board President prior to its approval.

F. Distributing the MII Report. Prior to the convening authority's approval, the MII report may not be provided to any subordinate commands. However, after the convening authority approves the MII report, the convening authority's SJA shall e-mail the MII report to the following, Annotating on the e-mail that the report is "CLOSE HOLD UNTIL PUBLIC RELEASE." Addressees can further disseminate the report internally to facilitate public release and urgent corrective actions.

1. Vice Commandant,
2. Deputy Commandant for Operations,
3. Deputy Commandant for Mission Support,
4. Atlantic Area Commander,
5. Pacific Area Commander,

6. Force Readiness Command,
7. Director of Logistics,
8. Director of Governmental and Public Affairs, Commandant (CG-092),
9. Director of Health, Safety and Work-Life, Commandant (CG-11) and
10. Office of General Law, Commandant (CG-LGL).

G. Tracking Directed Actions. Directed actions arising from the MII should be tracked pursuant to the process identified in chapter 6.F. of Reference (b).

H. Briefings to NoK and Seriously Injured Personnel.

1. Before public release of the MII report, the NoK and seriously injured personnel will be briefed on the results of the investigation. Usually the MII Board President serves as briefer to the primary NoK and seriously injured personnel. The convening authority may, within his or her discretion, direct briefings for other close relatives or friends of the deceased member(s).
2. Multiple NoK and seriously injured personnel briefings. If multiple briefings are required, the convening authority may select additional briefers to ensure briefings occur simultaneously. It is important that each NoK and seriously injured person receives substantially the same briefing. Therefore, each briefing officer must fully understand the results of the MII and clearly brief those results.
3. Briefing officers are advised to:
  - a. Personally express the condolences of the Coast Guard for the death or injury resulting from the mishap;
  - b. Personally deliver a copy of the MII report; and
  - c. Provide a basic briefing on the investigation results, including the cause(s) and the substantially contributing factor(s) of the mishap, and to answer questions of the NoK, family members, or seriously injured personnel, based upon the facts contained in the MII report.
4. Briefing officers should coordinate briefings with NoK Casualty Assistance Calls Officers and with unit liaisons where assigned.

I. Congressional Briefings. Following the briefings to the NoK and seriously injured personnel, but before public release, Congressional Briefings shall be conducted, as appropriate. The Office of Governmental and Public Affairs, Commandant (CG-092) will coordinate the Congressional Briefings.

J. Release and Posting of Major Incident Investigation Reports.

1. The convening authority's SJA is the release authority for the MII report, unless authorization is withheld by the convening authority. In Class A mishaps, the public affairs posture is active and the release of the report will be announced by press release. The convening authority will decide the public affairs posture in other mishaps.
2. All Class A MII reports shall be posted on the Coast Guard FOIA reading room unless there is a legal reason not to post it. (e.g., such as the report must be treated as Controlled Unclassified Information requiring withholding in accordance with a FOIA exemption that should be exercised in the circumstances, notwithstanding the presumption of releasability). Class B MII reports may be posted at the discretion of the release authority.

## CHAPTER 10: POST-INVESTIGATION MATTERS

### A. Post-Investigation Memorandum.

1. The post-investigation memorandum is a formal record of transmittal of all investigative evidence and documents to the convening authority's SJA. The memorandum consists of a cover letter with attachments. It should be properly marked "PERSONAL DATA – PRIVACY ACT OF 1974 (5 U.S.C. § 552a)" in recognition of witness and MII Board member personal information. See Enclosure (5) of this Manual.
2. The MII Board President forwards the post-investigation memorandum, ancillary evidence and any separate pre-decisional memorandum (non-releasable) described in chapter 4.C.7 of this Manual to the convening authority's SJA no later than 15 calendar days after forwarding the completed MII report to the convening authority's SJA. The MII Board President's responsibilities are not complete until the post-investigation memorandum with ancillary documents and evidence has been forwarded and has returned original records to the proper custodians, disposed of or transferred custody of wreckage.
3. Attachments. Attach the following documents to the post-investigation memorandum:
  - a. Original documents. Forward original documents regarding destroyed aircraft or vessels or deceased personnel; video recordings; audio recordings of witness interviews; photographs; and digital media. Original records such as medical, dental, and personnel and training records should be returned to the proper record custodians.
  - b. Evidence Inventory. Create and forward an inventory of all documents, audiocassettes, videotapes, etc., being forwarded to the convening authority's SJA. If some items are not releasable under the FOIA (e.g. autopsy photos, Privacy Act information), clearly identify and segregate those items on the inventory.
  - c. Classified Recordings. If a classified interview was conducted, forward the classified recording separately in accordance with the proper procedures for forwarding classified information.
  - d. Photo Inventory. Indicate the number of digital camera memory cards or compact discs (and the number of images on each). Generally identify the subject matter of the photographs and identify and provide contact information for each photographer. This can be included as part of the basic inventory above, or as a separate document.
  - e. Record Transmittal Letters. Include copies of letters reflecting the return of medical, dental, personnel, flight, maintenance, or other records to the original custodian. Ensure the letters include the full address of the unit or person to whom records were returned. A sample records transmittal letter is included at Enclosure (6) of this Manual.

- f. Witness List, Statements, and Summaries. Include a consolidated list of witnesses, including full names, units, work telephone numbers, and duty addresses. A sample witness list is included at Enclosure (7) of this Manual. Forward all witness statements and summaries.
  - g. MII Board Members. Include a list of MII Board members, including full names, MII positions, work telephone numbers, units, duty e-mail addresses, and duty addresses. See Enclosure (8) of this Manual.
  - h. Names. If names of individuals involved in the mishap are omitted from the MII report, include a list of their names, work telephone numbers, duty e-mail addresses, duty addresses, and reason for redacting their names from the MII report.
- 4. The convening authority's SJA shall forward a copy of the post-investigation memorandum, with attachments, to Office of General Law, Commandant (CG-LGL). The SJA may forward the post-investigation memorandum together with the MII report (see chapter 10.B. of this Manual).
  - 5. Forward a separate memorandum to the convening authority concerning matters unrelated to the mishap but requiring further review.
- B. Disposition of Records. In accordance with Reference (a), when applying the appropriate Standard Subject Identification Code of 5830, the convening authority's SJA will retain the original MII report, any recommendations, the post-investigation memorandum, and its enclosures for three (3) years. Three years from final action on the MII, the original records should be transferred in accordance with the policy guidance prescribed in Reference (a). Once final action is taken, the convening authority's SJA will forward a copy of the MII report and the post-investigation memorandum and its enclosures to the Office of General Law, Commandant (CG-LGL). The Office of General Law, Commandant (CG-LGL), will maintain these records for three (3) years or until no longer needed for reference purposes and then destroy them.

SAMPLE MII CONVENING ORDER

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commander  
United States Coast Guard  
Atlantic Area

431 Crawford St.  
Portsmouth, VA 23704-5004  
Staff Symbol: XXXXX  
Phone: (757) 398-XXXX  
Fax: (757) 391-XXXX

5830

MEMORANDUM

From: FILL IN NAME, VADM  
LANT

Reply to  
Attn of:

To: TBD

Subj: MAJOR INCIDENT INVESTIGATION (MII) INTO THE CIRCUMSTANCES  
SURROUNDING [DESCRIPTION OF MISHAP] ON DD MMM YYYY NEAR  
[LOCATION]

Ref: (a) Major Incident Investigation Manual, COMDTINST M5830.4 (series)  
(b) Administrative Investigations Manual, COMDTINST M5830.1 (series)

1. You are designated as the Board President of a Major Incident Investigation (MII) board. You shall conduct the investigation pursuant to the guidance in Reference (a) into the circumstances surrounding [DESCRIPTION OF MISHAP] in the vicinity of [LOCATION] on [DD MMM YYYY]. You are not authorized to conduct a hearing nor are you required to take testimony under oath. Other members of the MII board are:

TBD Legal Advisor  
TBD SME  
TBD CGIS rep  
TBD Recorder/Admin

2. You and the other detailed members will be relieved of all other duties once you begin your investigation until your investigative report is submitted. You may consider releasing any member when their responsibilities are complete except the Legal Advisor.

3. No CGIS investigation has so far been initiated but a criminal investigation by civil authorities is underway. Your investigation shall not interfere with the ongoing criminal investigation. The criminal investigation shall take priority for witness interviews and other evidence collection.

4. Your report will include an Executive Summary, Preliminary Statement, Table of Contents, Findings of Fact, and a Statement of Opinion. Your Legal Advisor is required to review all evidence, documents, transcripts, and statements prior to inclusion in your report. All witnesses, documents, records, and other evidence within the control of the Coast Guard will be made available to you.

5. The Findings of Fact shall be presented in a narrative style. Each Finding of Fact must be supported by documentary evidence, which will become an exhibit in the report. A Finding of Fact is information based on credible evidence, not an inference the board draws from that evidence.
6. As the Board President, you will provide your opinion as to whether Coast Guard operations caused or substantially contributed to the death in question. The Statement of Opinion contained in your report must be supported by clear and convincing evidence.
7. Rely on your Legal Advisor to assist you in evaluating evidence to reach Findings of Fact and your opinion.
8. There will be no recommendations in the MII report. If you have recommendations, you may forward them to me by separate correspondence.
9. In order to assist you with drafting the MII report, a draft Investigative Report template is enclosed.
10. You will submit the MII report to me within 60 days of the date of this memo. If you are unable to meet this timeline you must provide the reasoning and I may approve a 30 day extension. Before submitting the MII report, you shall submit the draft report to my Staff Judge Advocate (SJA) who will provide it to internal Coast Guard stakeholders for comment. The stakeholders will have three working days to provide comments. My SJA will provide you any comments received. You may consider the comments as you deem appropriate, however, you are under no obligation to incorporate the comments into the report.
11. All witness interviews will be recorded and all witnesses will be sworn before answering questions. You should provide written summaries of each witness' testimony and ask each witness to review and sign the summary. Written witnesses statements should only be requested or accepted in unusual circumstances, and you are to contact my SJA before doing so.
12. You shall comply with the Privacy Act of 1974 (See, Articles 1-H and 10-H and Exhibit 4-C of Reference (b)). You shall also comply with Article 31 of the UCMJ, with regard to anyone who you may suspect has committed a violation of the UCMJ. See Chapter 6.F. of Reference (a) and use the rights advisement form provided as Enclosure (3) of Reference (a). Consult with your assigned Legal Advisor if you suspect UCMJ violations have occurred.
13. The MII report may be publically releasable, subject to any Freedom of Information Act and Privacy Act exemptions. As such, you must write the report in a manner that will make it understandable to members of the general public.
14. Travel and billeting will be funded by [LANTAREA, PACAREA, etc.]. Logistical and administrative support will be provided by (XXXX ).
15. My point of contact for any questions is my SJA, CAPT Ima Lawyer, who may be reached at XXX-XXX-XXXX.



Subj: MAJOR INCIDENT INVESTIGATION (MII) INTO THE CIRCUMSTANCES  
SURROUNDING [DESCRIPTION OF MISHAP] ON [DD MMM YYYY]  
NEAR [LOCATION] 5830

Enclosure: (1) Investigative Report Template #

Copy:



SAMPLE APPROVAL AUTHORITY ACTION

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commandant  
United States Coast Guard

2703 Martin Luther King Avenue, SE  
Washington, DC 20593  
Staff Symbol: CG-xxxx  
Phone: (202) 372-XXXX  
Fax: (202) 372-XXXX

5830

## MEMORANDUM

**FINAL ACTION OF MAJOR INCIDENT INVESTIGATION REPORT INTO THE  
CIRCUMSTANCES SURROUNDING THE [DESCRIPTION OF MISHAP] IN THE  
VICINITY OF [LOCATION] ON [DD MMM YYYY]**

The report of the Major Incident Investigation Board, conducted under the provisions of the Major Incident Investigation Manual, COMDTINST M5830.4 (series) and CG [LANTAREA, PACAREA, etc.] memo 5830 of [DD MMM YYYY], that investigated the circumstances surrounding the [DESCRIPTION OF MISHAP] in the vicinity of [LOCATION] on [DD MMM YYYY], complies with applicable regulatory and guidance. Accordingly, this report is approved.

Signature Block





<b>I understand that:</b> <i>[Suspect should initial each paragraph]</i>	
<b>Suspect's Initials</b>	<b>Suspect's Rights</b>
_____	1. I have the right to remain silent. I do not have to answer questions or make any statement.
_____	2. Before I decide whether I want to answer questions or make a statement, I may consult with a lawyer. If I decide to consult with a lawyer, the interviewer will stop the questioning. I may consult with a military lawyer provided without cost to me, or a civilian lawyer obtained at no expense to the government, if the government intends to continue questioning me. If I decide to consult with a lawyer, I have the right to have an appointed military lawyer, a civilian lawyer obtained at no expense to the government, or both, present during any further questioning.
_____	3. If I decide to answer questions or make a statement, anything I say may be used as evidence against me in any court-martial, nonjudicial proceeding, administrative proceeding, or civilian court.
_____	4. Even if I decide to answer questions or make a statement, I may at any time stop answering questions, refuse to make any further statements, or request to consult with a lawyer.
_____	5. <b>I have carefully read the above. I understand my rights.</b> Any questions I have asked concerning my rights have been answered to my satisfaction.

**With full knowledge of my rights and the information contained on both pages of this form, I voluntarily make the following elections:**

<p>a. <b>I do not desire</b> to consult a lawyer.</p> <p>b. <b>I desire</b> to make a statement and/or answer any questions.</p>	<p>c. <b>I desire</b> to consult a lawyer.</p> <p>d. <b>I do not desire</b> to make a statement or answer any questions.</p>
--	--

\_\_\_\_\_

[Time and Date]

\_\_\_\_\_

[Signature of Suspect]

\_\_\_\_\_

[Signature of Witness]

**Interview Instructions**

1. If the suspect elects **either block c. or d., stop questioning.** Consult the servicing legal office before reinitiating any further questioning of this suspect concerning these suspected offenses.
2. If the suspect elects **both blocks a. and b.,** the interviewer **may continue questioning.**
3. Any **written statements** by the suspect should be **prefaced with** the following statement: *"With full understanding of my rights, I make the following statement freely, voluntarily, and without any promises or threats made to me."* The statement should be **signed and dated by the suspect and a witness.**

SAMPLE INVESTIGATIVE REPORT

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commandant  
United States Coast Guard

2703 Martin Luther King Avenue, SE  
Washington, DC 20593  
Staff Symbol: CG-XXXX  
Phone: (202) 372-XXXX  
Fax: (202) 372-XXXX

5830

## MEMORANDUM

From: A. B. Pilot, CAPT  
Board President

To: CG AREA COMMANDER

Subj: MAJOR MISHAP INVESTIGATION BOARD REPORT

Ref: (a) (Convening Order)  
(b) Major Incident Investigation Manual, COMDTINST M5830.4 (series)

1. **Action of the Convening Authority:** The action of the convening authority should explain the corrective actions directed and action taken.

2. **Executive Summary:** A one-page summary of the facts and circumstances of the mishap in a style easily understood by the general public.

3. **Preliminary Statement:** The preliminary statement should explain who convened the investigation and why the investigation was convened.

4. **Table of Contents:**

5. **Findings of Fact:** A thorough discussion of the facts relevant to the accident in a narrative style. The length of the Findings of Fact will vary depending on the complexity of the mishap. The Findings of Fact must be supported by documentary evidence which should be cited in and included as an exhibit to the report. The following outline should be used to construct the Findings of Fact:

a. Authority and Purpose: A reference to who convened the investigation and why the investigation was convened.

b. Accident Summary: A brief synopsis of the accident similar to that used in the Executive Summary.

c. Background: Information regarding relevant units, commands, programs, resources, procedures and mission tasking.

Subj: MAJOR MISHAP INVESTIGATION BOARD REPORT

5830

- d. Sequence of Events: A description of the mission, planning, preflight, accident, impact, search and rescue, and recovery.
  - e. Maintenance: A summary of the aircraft or vessel maintenance records related to the mishap.
  - f. Airframe or Vessel Systems: A description of the condition of relevant aircraft and vessel structures and systems post-mishap based on engineering evaluations, analyses, and reports, if applicable.
  - g. Weather: A description of the forecasted and observed weather on the date of the mishap and prescribed operational weather limitations.
  - h. Crew Qualifications: Indicate each crewmember's training currency, performance, experience level, and overall qualifications. In aircraft mishaps, summarize experience by hours of flying time and include a 30-60-90 day breakdown.
  - i. Medical: A summary of the medical qualifications of the crew, crew rest and duty time, post-mishap injuries, cause of death, and lifestyle factors relevant to mishap.
  - j. Operations and Supervision: A discussion of the operational tempo and experience level of the crew and the oversight of the mission.
  - k. Human Factors Analysis: A discussion of human factors that directly relate to the mishap. Examples include complacency, overconfidence, distraction, and channelized attention.
  - l. Additional Areas of Concerns: Areas not covered in the above (i.e., governing directives and publications relevant to the mishap mission).
6. **Statement of Opinion**: One of the primary objectives of the investigation is to provide the Board President's opinion as to the cause(s) and/or substantially contributing factor(s) of the mishap. It will be written in the first person and must be supported by facts in the Findings of Fact, which must be supported by evidence included in the Tabs.
- a. Cause of the Mishap: The opinion to the cause of the accident must be supported by clear and convincing evidence.
  - b. Substantially Contributory Factors: Substantially contributory factors must be supported by a preponderance of the evidence and explain the connection with the mishap. Substantially contributory factors must be included if the Board President is unable to determine a cause of the mishap, but may also be used if the Board President does determine a cause of the mishap.



Subj: MAJOR MISHAP INVESTIGATION BOARD REPORT 5830

7. **Signature:** The Findings of Fact and the Statement of Opinion will be signed by the Board President.

#

Enclosures: (1) Evidence inventory  
(2) Ancillary evidence and wreckage location listing  
(3) Records transmittal letters  
(4) MII Witness List  
(5) MII Board Members List



SAMPLE POST-INVESTIGATION MEMORANDUM

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commandant  
United States Coast Guard

2703 Martin Luther King Avenue, SE  
Washington, DC 20593  
Staff Symbol: CG-XXXX  
Phone: (202) 372-XXXX  
Fax: (202) 372-XXXX

5830

**MEMORANDUM**

From: CAPT John R. Doe  
MII Board President

To: CAPT Ima Lawyer  
Servicing SJA

Subj: POST-INVESTIGATION MEMORANDUM – MAJOR INCIDENT  
INVESTIGATION, [DESCRIPTION OF MISHAP] ON [DD MMM YYYY] NEAR  
[LOCATION]

Ref: (a) Major Incident Investigation Manual, COMDTINST M5830.4(series)

PERSONAL DATA – PRIVACY ACT OF 1974 (5 U.S.C. § 552a)

1. This memorandum is being forwarded in accordance with Reference (a), Chapter 10, and serves as a formal record of transmittal to your office of all investigative evidence and documents created or obtained by subject Major Incident Investigation.
2. You may contact me, in writing, with unresolved issues or recommendations.

#

Copy: MII Board Legal Advisor  
COMDT (CG-0944)

Enclosures: (1) Evidence inventory  
(2) Ancillary evidence and wreckage location listing  
(3) Records transmittal letters  
(4) MII Witness List  
(5) MII Board Members List



SAMPLE RECORDS TRANSMITTAL MEMORANDUM

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commandant  
United States Coast Guard

2703 Martin Luther King Avenue, SE  
Washington, DC 20593  
Staff Symbol: CG-XXXX  
Phone: (202) 372-XXXX  
Fax: (202) 372-XXXX

5830

**MEMORANDUM**

From: CAPT John R. Doe  
MII Board President

To: Records Custodian

Subj: [MEDICAL, PERSONNEL, TRAINING RECORDS, ETC.] – MAJOR INCIDENT  
INVESTIGATION, [DESCRIPTION OF MISHAP] ON [DD MMM YYYY] NEAR  
[LOCATION]

Ref: (a) Major Incident Investigation Manual, COMDTINST M5830.4 (series)

PERSONAL DATA – PRIVACY ACT OF 1974 (5 U.S.C. § 552a)

1. The attached [medical, personnel, training] records are no longer needed by the Major Incident Investigation Board (MII Board) convened by [PACAREA, LANTAREA, ETC.] to investigate the [DESCRIPTION OF MISHAP] on [DD MMM YYYY] at [LOCATION].
2. The records for the following individuals who were killed [or injured] in the crash are returned to you for appropriate disposition. If you ship these records elsewhere, please provide [CONVENING AUTHORITY'S SJA] with a copy of your transmittal letter for each of these records to ensure they can be retrieved in the future.
3. The following records are enclosed: NAME, RANK, LAST 4 SSN, TYPE OF RECORD
4. Please contact [POC] if you have any questions.

#

Copy: MII Board Legal Advisor

Enclosures: (1) Evidence inventory  
(2) Ancillary evidence and wreckage location listing  
(3) Records transmittal letters  
(4) MII Witness List  
(5) MII Board Members List



SAMPLE WITNESS LIST

PERSONAL DATA – PRIVACY ACT OF 1974 (5 U.S.C. § 552a)

Lieutenant Ima Witness (Mishap Pilot)

Emplid

Duty Station:

Phone:

Email:

Mr. Civilian Witness

Emplid

Address:

Phone:

Email:





SAMPLE MII MEMBERS LIST

PERSONAL DATA – PRIVACY ACT OF 1974 (5 U.S.C. § 552a)

MII Board Members List

CAPT John R. Doe (MII Board President)

Duty Station Address:

Phone:

Email:

LCDR Ben C. Matlock (Legal Advisor)

Duty Station Address:

Phone:

Email:

LT Subject M. Expert (SME Member #1)

Duty Station Address:

Address:

Phone:

Email:

LCDR Subject M. Expert (SME Member #2)

Duty Station Address:

Phone:

Email: