

Subject: CPC CyberFlash  
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### **From the Director's Desk**

The February 28, 2005 Navy Times had another article regarding the grounding of the fast-attack submarine San Francisco which occurred approximately 350 nautical miles South of Guam. The skipper was relieved of his command and given a career-damaging letter of reprimand. 7th Fleet commander, Vice Admiral Jonathan W. Greenert decided at a February 12, 2005 nonjudicial "admiral's mast" that Commander Kevin Mooney (San Francisco skipper) deserved a large portion of the blame. Vice Admiral Greenert concluded that "several critical navigational and voyage planning procedures were not being implemented aboard the San Francisco. By not ensuring these standard procedures were followed, Mooney hazarded his vessel."

The article is of interest for a number of reasons; I will give my perspective on two that I find most interesting:

(1) Not knowing what a nonjudicial admiral's mast procedure entails and the fact that the details of the mishap remain officially unreleased, it would be difficult to draw conclusions as to how and why the VADM handed down the decision he did. However, the fact remains that Commander Mooney has been punished and his career is essentially over. One could conclude that the statement made by the VADM alludes to a breach of duty which is a failure to meet a standard of care. The standard of care is the required level of expected conduct and the VADM concluded that the level of expected conduct was not maintained. Accordingly, the actions the skipper and his crew engaged in created unreasonable risk, which resulted in the grounding of the submarine and the death of one sailor. One of the challenges in establishing negligence is to define the qualities of a reasonable person in determining reasonableness. In other words, how would a reasonably prudent person in the same or similar circumstance act? Did the skipper act in an imprudent manner?

(2) The other critical element of this story is the Navy chart. Those in the business of surveying and charting understand the sheer size of the responsibility to survey the waters of the world. Some of the waters have never been surveyed or have not been surveyed for decades, or if surveyed they were accomplished via less accurate methods. Therefore, it is a well-known fact that nautical charts approximate depth of the water and the land water interface (shoreline). Understanding the quality and vintage of the product, should the skipper have foreseen the possibility of the sea mount? That in conjunction with the submarine's sophisticated forward and downward looking sonar equipment may have contributed to the VADM's decision to relieve Commander Mooney of his command. It is also a well known fact that Government immunity protects the government from tort liability. This immunity is derived from the English common law's prohibition of suits against the monarch. Further the military enjoys extensive immunity particularly during time of war.

This incident brings to light two very important points. The commanding officer is ultimately responsible for the safety of life and vessel (common contract that all commanding officers understand). But for me the leading test, in this case is should the skipper have reasonably foreseen, as a risk of his conduct, the general consequences or type of harm that would have been suffered by his crew and vessel. According to the Navy...Yes. Officers assigned to NOAA vessels and aircraft may find themselves in very similar situations. Draw from your training and experience, follow your procedures to the letter, and understand the limitations of your crew, equipment, and the products you use to navigate your platform because you are ultimately responsible.

Captain Jonathan W. Bailey, NOAA  
Director, Commissioned Personnel Center

### **Marketing Yourself for a Second Career**

Attention officers in the Washington, DC area: The Military Officers Association of America is providing a free two and one half hour professional lecture for officers who plan to leave the Service in the next one to five years. Colonel Jerry Crews, USA (Ret.) will be the presenter and spouses are cordially invited. The lecture is scheduled for Tuesday, March 15, 2005 from 0830 through 1100 at the Pentagon, Room BH650. For more information, please visit the web site [www.moaa.org/tops](http://www.moaa.org/tops).

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