FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT
INCIDENT NUMBER FWSB-16-OFF-12502

TAB C

CASE SUMMARY / INCIDENT REPORT

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT
INCIDENT SUMMARY REPORT

☐ JUVENILE ☒ ORIGINAL ☐ SUPPLEMENT

REPORT #: FWSB-16-OFF-12052

NARRATIVE

Vessel and Occupant Identification

Vessel 1 (V1):

Make:	Sea Vee
Year:	2016
Length:	32 Feet
Type:	Center Console
Registration:	FL 5123 PZ
Hull ID:	SXJ01692F516
Vessel use:	Recreational
Engine:	Twin 350 Horsepower Mercury Outboards

Operator/Owner: **Jose Fernandez Gomez**
W/M DOB: 07-31-1992
[redacted]
Status: **Deceased**

Occupant 1: **Eduardo Rivero**
W/M DOB: 09-22-1989
[redacted]
Status: **Deceased**

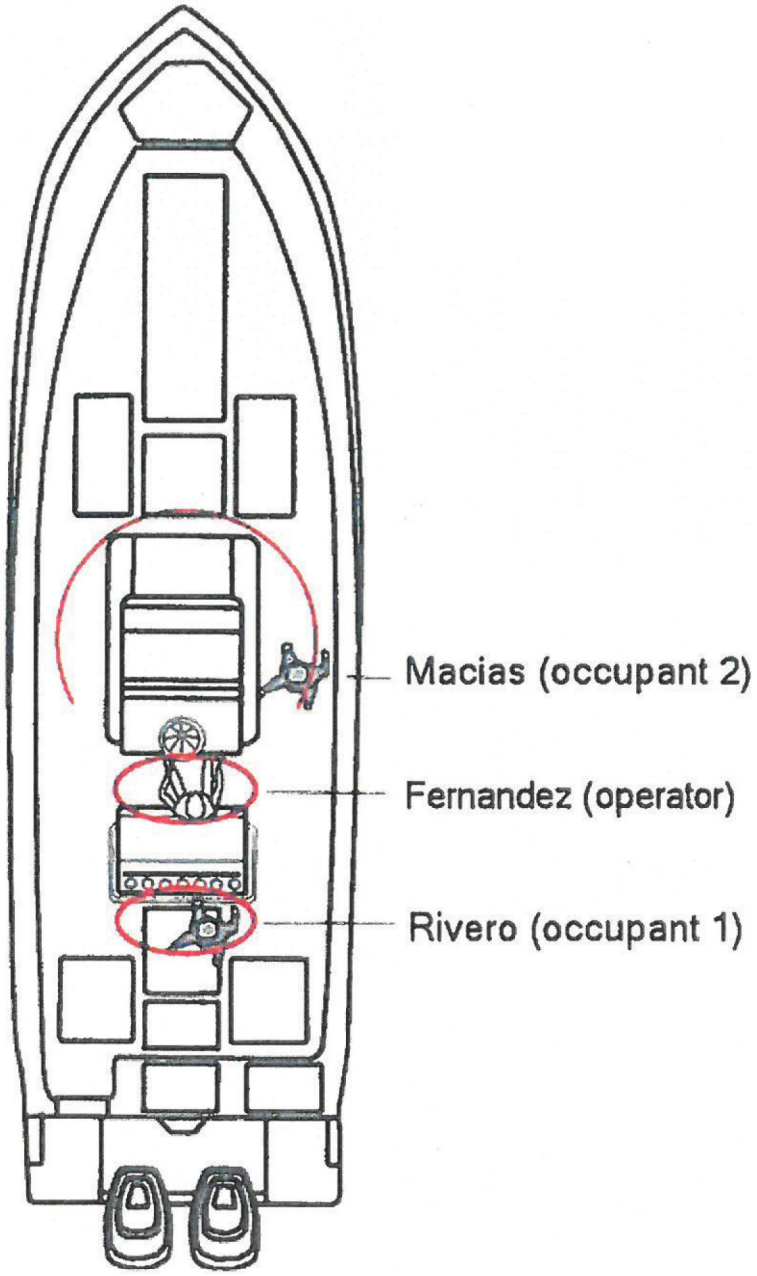
Occupant 2: **Emilio Jesus Macias**
W/M DOB: [redacted]
[redacted]
Status: **Deceased**

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V-1 Seating Diagram:

*The probable seating location of occupants was based on physical evidence collected during this investigation.



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FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
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INCIDENT SUMMARY REPORT

Synopsis

On Sunday, September 25, 2016, at 0302 hours, a vessel allision occurred involving one vessel that crashed and flipped upside-down on the north side of the Miami Government Cut north jetty. The vessel was a 32 foot SeaVee center console with three individuals on board. The vessel, V-1 had been traveling southwest from the Atlantic Ocean and allided into the north jetty as it attempted to enter Government Cut Channel at a very high rate of speed. All occupants were ejected from V-1 and died as a result of their injuries. Autopsies completed by Miami-Dade Medical Examiner's Office on September 25th determined blunt force trauma and drowning were the causes of death for all three occupants. A toxicology report determined alcohol and drugs were a factor in this case.

Accident Location

The accident occurred in Florida State waters of the Atlantic Ocean, within Miami-Dade County. The coordinates of the allision recorded on V-1's Global Positioning System (GPS) were N 25° 45.730' W 080° 07.553'. The north jetty of Government Cut is constructed of large submerged boulders that extend approximately 3,750 feet east from the shore. The Government Cut jetty boulders are visible from the surface of the water for the majority of the jetty and are clearly labeled on nautical charts and Global Positioning Systems with mapping capability. The entrance to Government Cut is marked by twelve alternating red and green flashing channel markers that delineate the channel for approximately 15,000 feet from the jetty. Red lighted buoy #12 is approximately 310 feet from the easternmost exposed tip of the jetty, it flashes red every 4 seconds. This vessel accident occurred approximately 210 feet west of the eastern most exposed tip of the jetty, at the jetty's highest point.

Navigational Controls

The prescribed rules listed in the United States Coast Guard Inland Navigational Rules which the State of Florida adopts in F.S. 327.33(3) and applicable Florida Statutes primarily govern this body of water.

Environment

Lighting Conditions:	Moon/Night
Wind Speed:	1.75 knots from the N, gusts to 3.69 knots
Weather Conditions:	Cloudy
Visibility:	10 miles
Moon Phase:	Last quarter
Water Conditions:	Calm, wave height of 2 ft. or less
Air Temperature:	80.4° F
Water Temperature:	91.2° F

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Pre-Accident

On Saturday, September 24, 2016, at approximately 2345 hours, Jose Fernandez Gomez left Cocoplum Yacht Club on V-1 named "Kaught Looking." Fernandez turned on his navigational and interior blue deck lights, and navigated north through Biscayne Bay to Museum Park, located at 1075 Biscayne Blvd. Eduardo Rivero valet parked his vehicle at Fernandez's residence, [redacted] and is believed to have walked to Museum Park Baywalk to meet Fernandez. Fernandez picked up Rivero by water at approximately 0020 hours on Sunday, September 25, 2016. Fernandez and Rivero travelled south to American Social Bar and Kitchen (known locally as American Social), located at 690 SW 1 CT on the Miami River. They arrived at 0048 hours. Emilio Jesus Macias met Fernandez and Rivero around 0100 hours at American Social. Fernandez, Rivero, and Macias spent approximately one hour and 45 minutes inside the establishment. While there, Fernandez purchased two bottles of "Don Julio" tequila, and three other alcoholic drinks; one well gin, one well vodka, and one up- "Kettle One" vodka. Macias purchased three "Tito" vodka drinks. Fernandez, Rivero and Macias left American Social by water at 0242 hours.

Accident

V-1 traveled east out of the Miami River, past the Port of Miami and continued east through Government Cut at 0258 hours. V-1 was traveling at a rate of 52.8 miles per hour (mph) as it went past South Point Pier and into the Atlantic Ocean. V-1 cut between the eastern tip of the jetty and Red Channel marker #12, heading northeast after passing Channel Marker #12. Red Channel Marker #12 is a lighted nun buoy approximately 310 feet from the easternmost exposed tip of the jetty, it flashes red every 4 seconds. A short time later, V-1 slowed and came off plane. It turned around at slow speed approximately one half mile offshore and traveled back towards the entrance of Government Cut at a high rate of speed.

At 0302 hours, V-1 allided with the north side of the north jetty at 65.7 mph; V-1 was stopped almost instantly. As V-1's port bow (left front) struck the initial impact boulder, V-1 began to elevate at the bow. This upward motion caused damage to the starboard bow (right front) as it struck another boulder on the jetty. As the initial impact boulder deeply penetrated the hull, it stopped the port (left) sides forward motion at a much faster rate than its starboard (right) side. V-1's stern (rear) yawed immediately to the starboard (right) as the front left stopped. These dynamics resulted in V-1's starboard chine at midship to strike another boulder which caused its starboard yaw to stop abruptly. V-1's sideways and rolling motion ejected all on board. These crash dynamics caused V-1 to completely roll over and come to rest on its t-top on top of the jetty in a matter of seconds.

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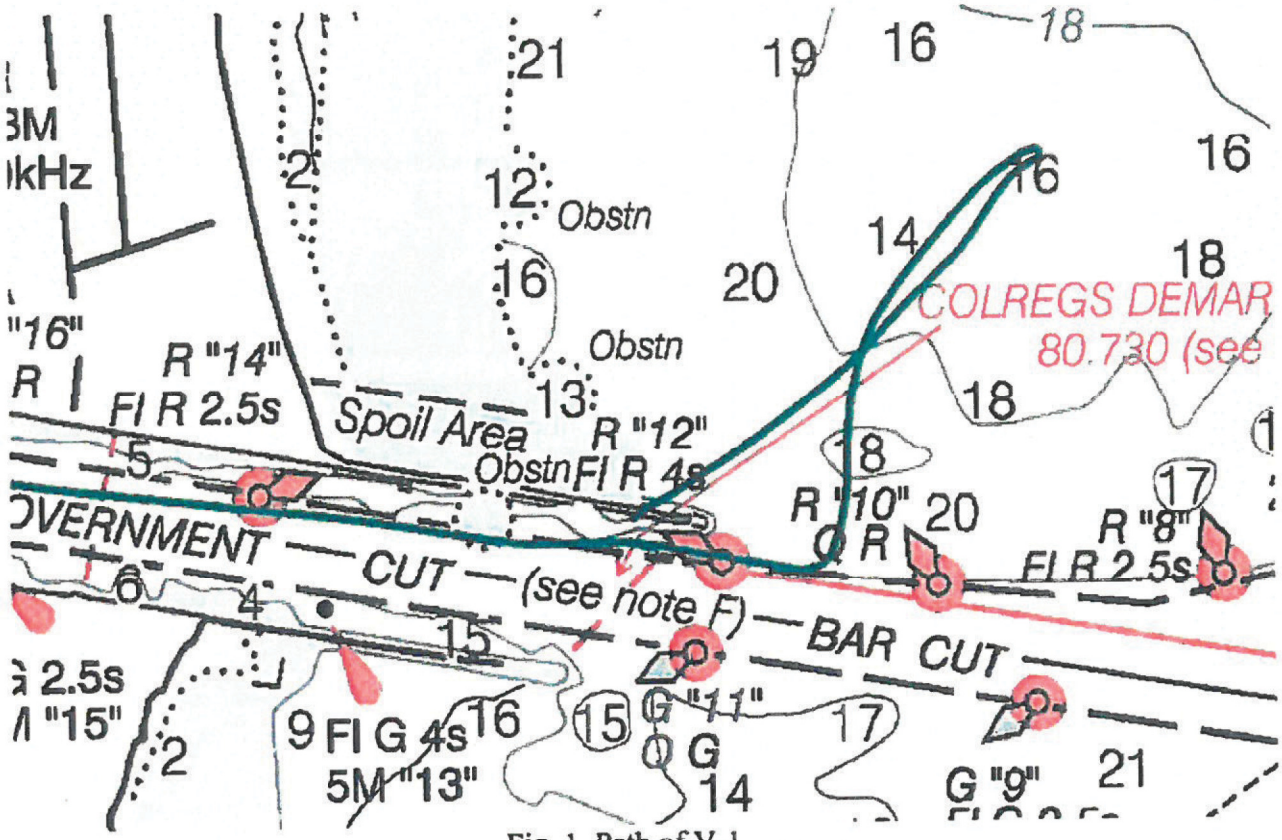


Fig. 1. Path of V-1

Post-Accident

At 0314 hours, a United States Coast Guard (USCG) crew aboard vessel #CG33128 left USCG Station Miami Beach for offshore patrol.

At 0320 hours, CG33128's crew notified USCG Station Miami Beach that they had located a crashed vessel upside-down on the Government Cut north jetty. CG33128's crew advised the vessel appeared to be a 25ft center console with interior blue lights and navigation lights still illuminated. The crew of CG33128 began a shoreline search of the north and south side of the jetty for survivors. They placed the bow of their vessel up to the jetty near the crash site and checked for survivors inside of V-1. None however were observed. As they conducted search patterns, they located V-1's front seat floating in the waters of the east turning basin, west of the crash site.

At 0331 hours, Florida Fish and Wildlife Conservation Commission (FWC) was notified of the boating accident.

At 0340 hours, Miami Dade Fire Rescue Department (MDFRD) boat #73 was dispatched to the north jetty. It arrived at 0357 hours and two divers, J. Vanbuskirk and J. Perez, were immediately deployed on the north side of the north jetty. The divers located Jose Fernandez Gomez submerged under the vessel, pinned between the top and a boulder. Emilio Jesus Macias was located near the bow of V-1, submerged in a tidal pool adjacent the

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'etty's surface. Eduardo Rivero was found underwater on the north side of the jetty, west of V-1's stern, his ıead and chest under a boulder. Fernandez, Rivero and Macias were all unresponsive and pronounced dead on scene at 0404 hours by MDFRD personnel. The MDFRD divers removed the three bodies and placed them aboard MDFRD boat #73. No photos or video were taken prior to removal of the bodies. Positioning, distances and orientation of the bodies were not documented.

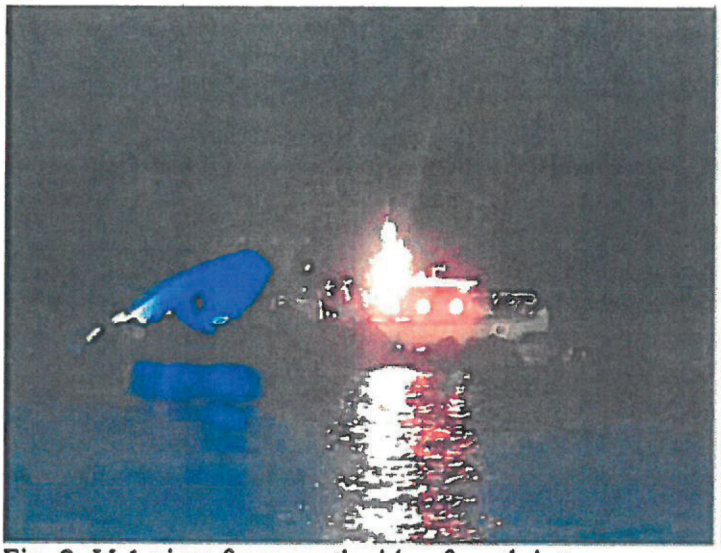


Fig. 2. V-1 view from south side of north jetty



Fig. 3. V-1 view from the north side of north jetty

At approximately 0410 hours, USCG and Miami Dade Police Department (MDPD) helicopters were flying over the crash site; MDFRD helicopter was on scene at 0420 hours. All emergency response units continued to conduct search patterns and rescue efforts as it was unknown if there were additional occupants.

At 0413 hours, FWC Lieutenant Kaloostian and Officer R. Almagro were called out to respond to the accident.

At 0442 hours, FWC dispatch was notified that MDFRD had recovered three deceased males from the accident scene.

At approximately 0500 hours, FWC Lieutenant Pomares called and notified me of a boating accident that had occurred at Government Cut. Three deceased occupants had been located and search efforts were ongoing for possible additional occupants. Lt. Kaloostian and Ofc. Almagro were en-route by water and FWC Investigator Taboas had also been notified. I immediately got ready and responded.

At 0516 hours, MDFRD boat #73's crew provided the victims' identities to USCG for Emilio Jesus Macias and Jose Fernandez Gomez. The information had been obtained from driver's licenses located inside two wallets recovered from their person. At 0527 hours, V-1's registration information was relayed as "FL 5123 PZ". The registered owner was Fernandez, one of the deceased.

At 0600 hours, Inv. Taboas and I met at Sea Isle Marina where the Miami Beach Police Department had ırganized a staging area. Inv. Taboas would conduct the next of kin notification. While doing so, he would try

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to ascertain if the families knew how many occupants were on board V-1. I would respond to the USCG Station Miami Beach and prepare the reports for the medical examiner.

At approximately 0630 hours, Lieutenant Kaloostian and Ofc. Almagro arrived at the allision site.

At 0707 hours, Inv. Taboas arrived at the Fernandez family residence and delivered the next of kin notification. While at the residence, a family member of Fernandez requested Inv. Taboas speak with Saymar Salas, the girlfriend of Emilio Macias, on the phone. Salas confirmed that Macias was on the boat with Fernandez the night before. Inv. Taboas notified Salas of Macias' death. Salas provided a name for the third unidentified male as Eduardo Rivero and confirmed that only the three men were on V-1 the previous night. Inv. Taboas obtained the next of kin information for the family of Rivero and advised them of Rivero's death.

At approximately 0715, FWC and Miami Dade Police Department (MDPD) vessels escorted MDFRD boat #73 with the three recovered deceased individuals to USCG Station Miami Beach. Lt Kaloostian and I were briefed by MDFRD boat #73 crew of their recovery efforts and were provided a red biohazard bag containing two wallets, three cell phones, one set of keys, one green knife and one gold chain. MDFRD boat #73 crew told Lt Kaloostian and I that the two wallets were recovered from the bodies of two of the deceased individuals. I inspected the three victims on the rear deck of MDFRD boat #73. The three victims were laid on their backs and had been covered with a yellow tarp. The first deceased victim was wearing a gray shirt with yellow stripes on the shoulders and blue jeans. He had sustained significant trauma to his head, there were a few scrapes on his chest and I observed foam in his nose. I did not observe any other visible trauma. I was able to identify him as Emilio Macias by his driver's license photo. The second deceased victim was wearing a black shirt with an American flag design, a gold chain and gray shorts. He had also sustained significant trauma to his face and had several scrapes on his chest and legs. I observed several small cuts on his knuckles and in particular a pink contusion on his right hand from his index finger to thumb. I was unable to confirm his identity through his driver's license photo due to his face trauma, but located a Major League Baseball identification card inside his wallet. I began an internet search for any known tattoos of Miami Marlin's pitcher Jose Fernandez. I located an image of Fernandez with a tattoo of a baseball surrounded by gears on his left calf. MDFRD boat #73 personnel rinsed off the faces of the three men with water and we checked the legs and pockets of all three men again. We located the tattoo of the baseball surrounded by gears on this second victim, now identified as Jose Fernandez Gomez. While searching the pockets of the men, we located a purchase receipt in Macias' pocket for "3 TITOS" vodkas. The purchase had been made at 0124 hours on September 25th, 2016, at American Social Bar and Kitchen. The third deceased victim, whose identity had been obtained by Investigator Taboas as Eduardo Rivero had trauma to his face, a few scratches on his chest and I observed foam in his mouth. He was wearing an olive green shirt, a gold chain and black jeans.

The Miami-Dade Medical Examiner's Office (MDME Office) had been notified and their transport personnel arrived at USCG Station Miami Beach at 0850 hours. The MDME Office transport personnel were provided with a preliminary police death investigation report for Fernandez, Macias and Rivero. This report listed an FWC Investigator was to be present at each autopsy.

Ofc. Almagro and I went to the north jetty via FWC vessel to photograph V-1 and the crash site. We were there from 0857 hours until 0930 hours. I observed V-1 to still have the interior deck blue lights, the blue underwater transom lights and a red navigational light illuminated. Ofc. Almagro and I then returned to the USCG station and picked up Lt. Kaloostian. FWC Ofc. Yanez boarded a MDPD vessel and we all made our way back to Government Cut's north jetty. Ofc. Almagro dropped Lt. Kaloostian and I off on the north jetty, where I conducted an initial inspection of V-1. I noticed that V-1 had sustained extensive damage to the forward port

hull. At the helm of V-1, I observed the throttles to be in the forward, full throttle positon, the steering column had been broken off and the steering wheel was missing, two of the gauges were gone and a portion of the Plexiglas above the switch panel was broken off and missing. The steering wheel had been placed on top of the T-top after it was located by the MDFRD boat #73 divers for evidence recovery. There was a white cooler and two light blue bean bags belonging to V-1 on top of the jetty, west of V-1. Inside this cooler I located Eduardo Rivero's wallet, one gold chain, one set of keys and one black pair of pants.

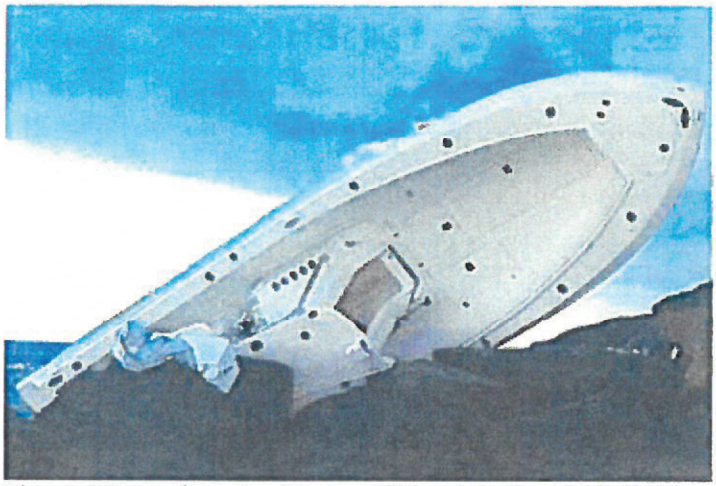


Fig. 4. V-1 red navigation and blue interior deck lights illuminated.



Fig. 5. V-1 blue transom lights illuminated.

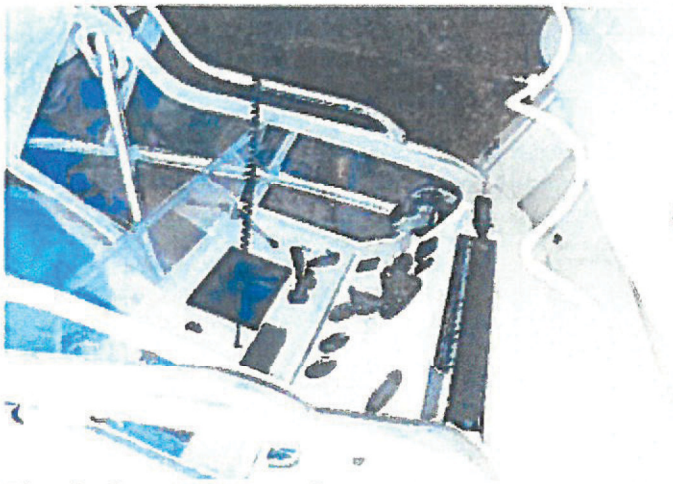


Fig. 6. V-1 center console: missing steering wheel, broken lower switch panel, throttles in full Throttle forward position.

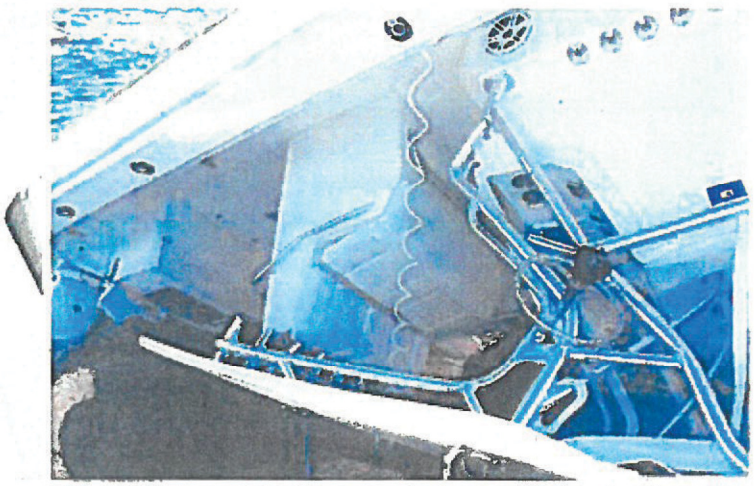


Fig. 7. V-1 upside down on jetty, steering wheel on t-top structure.

At 1125 hours, Lt. Kaloostian obtained and secured V-1's steering wheel onto our boat as evidence.

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At 1131 hours, three Sea Tow vessels removed V-1 from the jetty and began towing it to Miami Yacht Club.

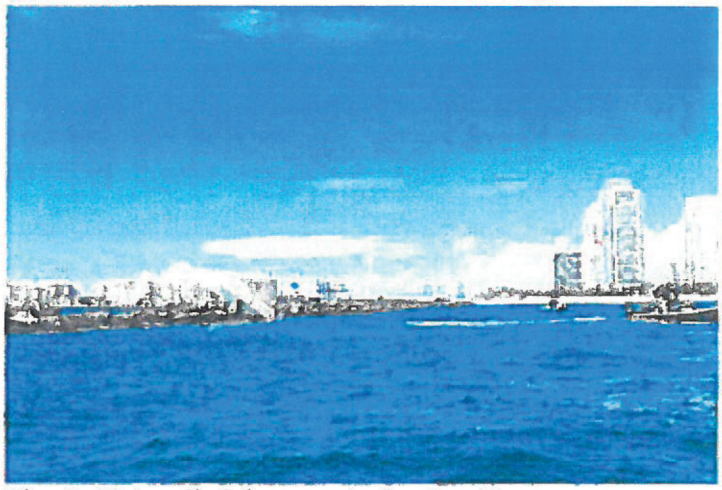


Fig. 8. V-1 pulled from rocks by Sea Tow



Fig 9. V-1 in tow by Sea Tow

At 1230 hours, V-1 was loaded onto a FWC trailer at Miami Yacht Club and seized as evidence.

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Fig. 10. V-1 on FWC trailer at Miami Yacht Club

At 1326 hours, MBPD Ofc. Perez met me at the Miami Yacht Club with items from V-1 that had been turned in by Good Samaritans. One black leather backpack was found by a Good Samaritan on the beach at 24th Street and given to the on duty lifeguard. One key with a black flotation device was found by another Good Samaritan on the beach at 1st Street and also turned in to the on duty lifeguard. The lifeguard personnel then notified MBPD and turned these items over.

MBPD Crime Scene Technician A. Amy processed the vessel for forensic evidence from 1330 hours until 1600 hours. Two fingerprints were lifted off V-1 steering wheel and retained by Tech. Amy for processing at the MBPD. Two DNA swabs "A" & "B" were taken from the steering wheel: one overall sample and one of what appeared to be a blood spot. One overall DNA swab "C" was taken from the throttles. One DNA swab "D" was taken of what appeared to be blood located inbetween the two GPS screens. One DNA swab "E" was taken of blood located on the top surface of the center console adjacent to the compass. One DNA swab "F" was taken of blood located on the most forward part of the underside of the T-top. One DNA swab "G" was taken of blood located on the spot light, above the t-top in front of the console. One DNA swab "H" was taken of hair located on the port metal structure of the center console. Each sample area was photographed; the swabs were documented on a property receipt and secured in an FWC evidence locker.

At 1525 hours, Lt. Pomares and Ofc. Rodriguez transported V-1 to the FWC Miami office evidence compound.

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At 1655 hours, I arrived at the FWC Miami office. Lt. Pomares and I completed the inventory for all items and valuables recovered from Fernandez, Rivero and Macias. These items were photographed, documented on a property receipt and secured in an FWC evidence locker.

The Fernandez family had been in contact with Inv. Taboas throughout the day and requested to collect Fernandez's property that evening. Amaury Hernandez, Fernandez's step-father, and two family members met Lt. Pomares and I at the FWC Miami Office at 1900 hours. I completed a release for returned property for Fernandez's items and Hernandez signed it. Hernandez informed us that a gold Rolex was missing from Fernandez's belongings. We informed them that no Rolex had been recovered. However, when a dive of the crash site takes place, we would notify police divers of the missing watch.

Monday, 09/26/2016

At 1018 hours, Inv. Taboas and I met Doctor Kenneth Hutchins, Associate Medical Examiner, and Investigator Ana Menendez of the MDME Office. Investigator Menendez informed me that the autopsies for Fernandez, Macias and Rivero had already been completed on September 25th even though the preliminary police death investigation report listed an FWC Investigator to be present. Dr. Hutchins had conducted the autopsies of Fernandez and Rivero and Doctor Edna Stroberg, Associate Medical Examiner, had performed the autopsy of Macias. Dr. Hutchins set aside a DNA card, a buccal swab, a head hair sample and fingerprints for the three victims. Inv. Taboas asked Dr. Hutchins if any of the victims smelled of alcohol, Dr. Hutchins said that each of them, independently did, but we would have to wait for toxicology for definitive results. While at the MDME Office, I requested a copy of the autopsy reports and photos.

After leaving the MDME Office, I received a tip via the myfwc.com email account, from an individual who stated that he had reason to believe Fernandez was driving the night of the accident. The individual included an email link to an Instagram account for a man named Will Bernal. Will Bernal, a friend of Rivero, posted a photo of a text message conversation with Rivero the night of the accident. In this text thread Bernal stated "keep him close to shore" and "keep Jose cool". He told Rivero if he needed Bernal to meet up with him to "cool down for support" to let him know. I made contact with Bernal the following day. Bernal told me he did not know what they needed to "cool down" about and gave me a synopsis of the text thread. No further action was taken.

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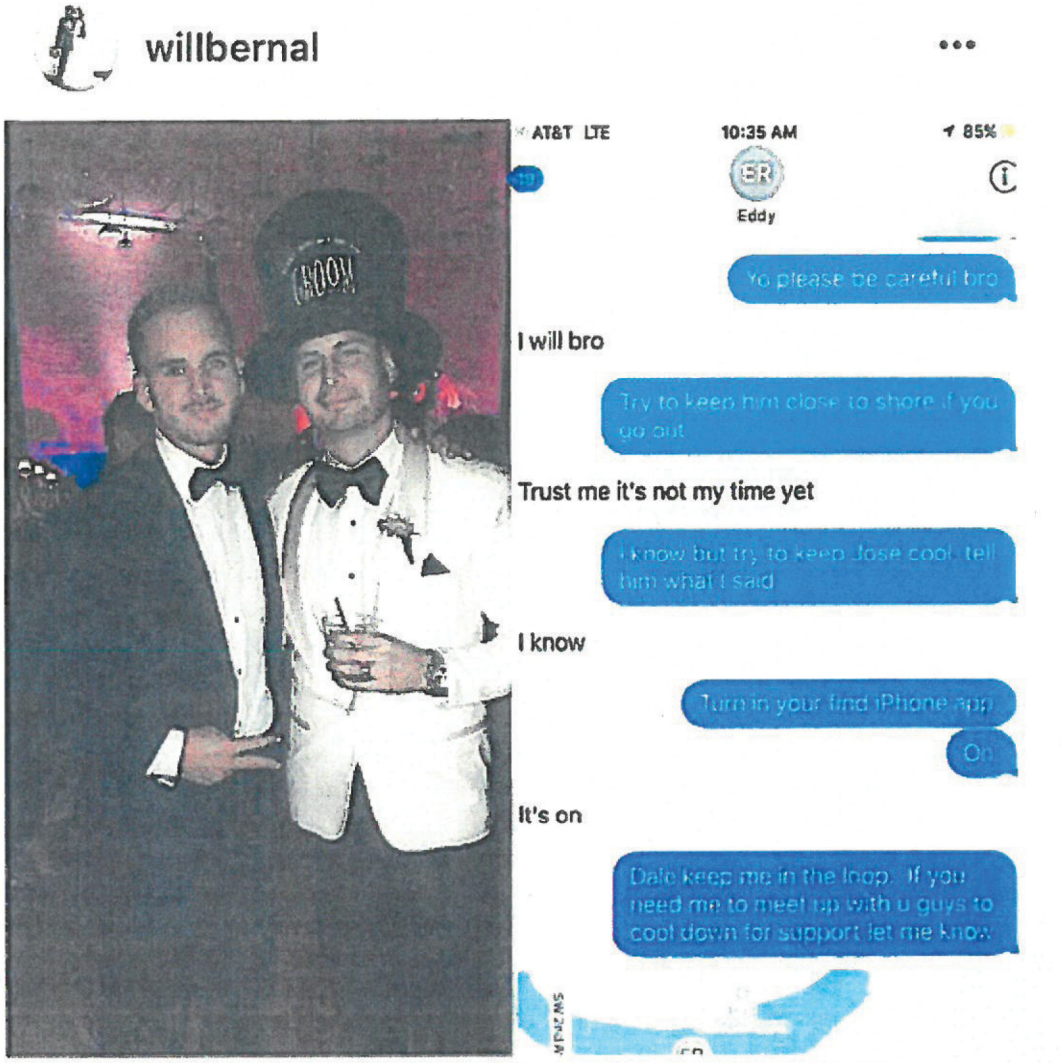


Fig. 11. Photo from Will Bernal's Instagram of last text with Rivero

At 1400 hours, Investigator Taboas submitted evidence items "A" – "H" to the MDPD laboratory for trace analysis.

Tuesday, 09/27/2016

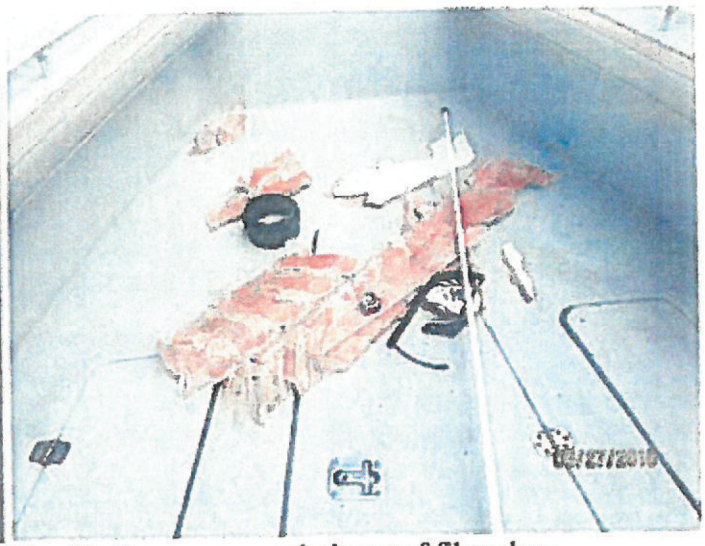
At approximately 0800 hours, Investigator W. Almagro and I met with Miami-Dade Assistant State Attorney David Gilbert to discuss search warrants for V-1 "Caught Looking" and the three recovered cell phones.

At 1000 hours, Lt. Pomares, Ofc. Yanez and Miami-Dade Police Divers met at the north jetty of Government cut, by vessel, to survey the accident area for additional evidence. As the divers approached the jetty they began to recover large fiberglass debris. At 1030 hours, Ofc Yanez advised FWC dispatch that MDPD divers had located the face of a gold Rolex in a void between the jetties. The band of the Rolex was missing and the dials on the face had been broken off. This Rolex matched the description of Fernandez's missing Rolex which was

provided by the Fernandez family the night of the accident. In the same void amongst the jetty boulders where V-1 came to rest were parts of V-1; the steering helm bezel, a piece of Plexiglas from the center console, small pieces of fiberglass and one iPhone DC charger. A short distance to the east, V-1's VHF antenna was located. All items were photographed. The items were documented on a property receipt and later secured in an FWC evidence locker.



Fig. 12. Recovery of Fernandez's Rolex.


Fig. 13. Two recovered pieces of fiberglass.

At 1113 hours, I met Lt. Pomares and Ofc. Yanez at USCG base Miami Beach. We returned to the allision site onboard a FWC patrol vessel. Lt. Pomares and I took additional photos of the jetty and crash site.


Fig. 14. Southeast view of damage left on jetty by V-1.


Fig. 15. Southwest view of damage left on jetty by V-1.

While at the allision site, we used a handheld FWC GPS to mark the location of the crash site and the east tip of the exposed jetty and red channel marker #12. These locations are identified on the below aerial photograph.

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Fig. 16. Google Earth aerial image of red channel marker #12, the east tip of exposed Government Cut jetty and V-1 crash site.

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Fig. 17. Red Channel marker #12 and the east tip of the exposed Government Cut jetty.

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Fig. 18. View of V-1 in relation to the east tip of exposed jetty and Red Marker #12.

Ofc. Yanez and I dropped off Lt. Pomares on the north jetty. He took several pictures of the boulders and the damage the boulders sustained from the impact at the crash site. The force at which V-1 impacted the jetty's boulders caused them to shift and collide into each other. This was evident from the damage sustained on the edges of the boulders, where they moved and ground against each other.

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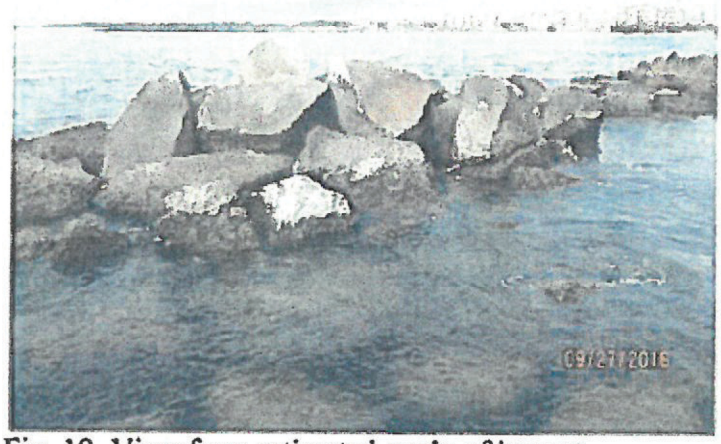


Fig. 19. View from estimated angle of impact. Boulder with most white transfer is initial impact point.



Fig. 20. View from estimated angle of impact



Fig. 21. View of back side of initial impact boulder.



Fig. 22. Damage to west edge of impact boulder

At approximately 1200 hours, I met FWC Lt. Smith at [redacted] We reviewed the security footage and found that it was recording at the time of the accident. In this video the white navigational light of Fernandez's vessel can faintly be seen transiting through Government Cut. The vessel travels north and off camera returning moments later heading south. The interior and exterior blue lights appear bright suddenly as the vessel comes to an abrupt stop, flipping upside down on the north Government Cut jetty [redacted] provided us with a copy of the video footage which was documented on a property receipt and secured in an FWC evidence locker.

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Wednesday, 9/28/2016

I obtained a search warrant reviewed by Assistant State Attorney David Gilbert and signed by Judge M. Zilbert, for V-1 in order to conduct an examination of the two Garmin GPS units and the two 350 horsepower Mercury Verado outboard motors. FWC Lieutenant Haney met me at the FWC Miami Office where we executed the search warrant and collected the GPS data from V-1's Garmin GPS units. A working copy of the data was analyzed by Lt. Haney and he determined the GPS had been functioning and recorded information prior to and at the time of the crash, including time, position, and speed of the vessel. The port (left) Garmin GPS clearly displayed the rock jetties and channel markers in the area. This data was stored on a USB, documented on a property receipt and secured in an FWC evidence locker.

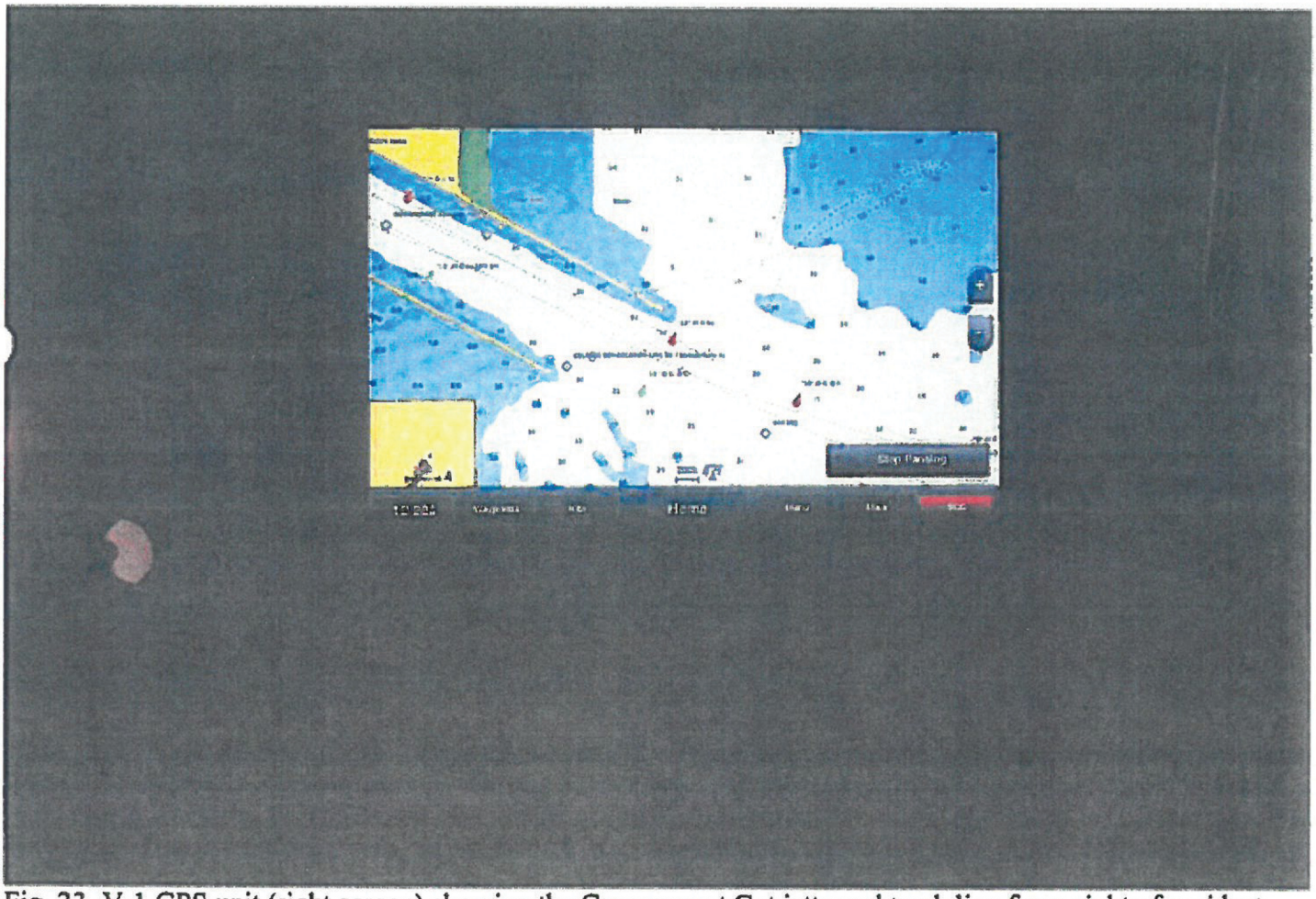


Fig. 23. V-1 GPS unit (right screen) showing the Government Cut jetty and track line from night of accident.

At 1208 hours, I received an email from USCG BM2 Adam Polacek, driver of USCG vessel #CG33128, with his statement describing the crew's discovery of V-1 and their search and rescue efforts the morning of the accident. BM2 Polacek stated he did not hear any music from V-1 due to the fact that he was inside the cabin of the USCG vessel. However, his three crew members Carner, Archer and Rubio stated that V-1 was playing loud reggaeton music.

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At 1737 hours, I received an email from Erika Benitez, the Public Information Officer for MDFRD, who provided me with seven photographs of V-1 on top of the jetty and a video containing footage of MDFRD diver's actions after the recovery of the victims. These pictures are the earliest images taken of the crash site.



Fig. 24. MDFRD divers searching V-1.



Fig. 2. V-1 view from south side of north jetty.



Fig. 25. V-1 on top of north jetty.



Fig. 3. V-1 view from the north side of north jetty

In the video, there are two MDFRD divers; Javier Perez and Jason Vanbuskirk. While Vanbuskirk is recording the video, Perez used a Halligan tool to pry at the starboard (right) Garmin GPS screen in an attempt to remove it from V-1. I later interviewed Perez who advised me their attempts to remove the GPS were in good faith as they hoped to preserve any evidence in the GPS for FWC in case the unit was damaged or later unretrieveable.

Officer's Signature (if not already on this page)

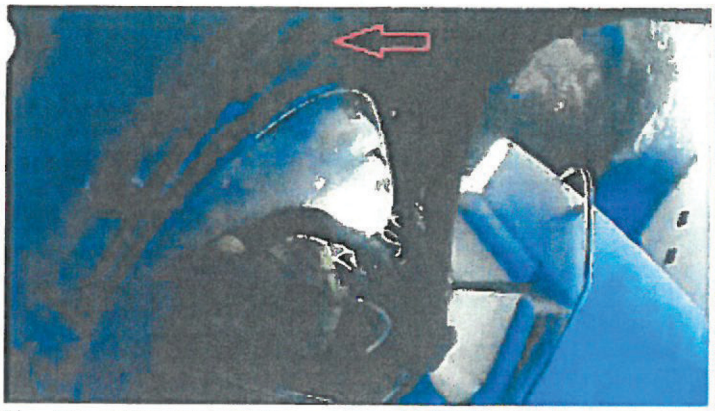


Fig. 26. MDFRD Halligan tool (still shot from video).



Fig. 27. MDFRD diver using Halligan tool on GPS (still shot from video).

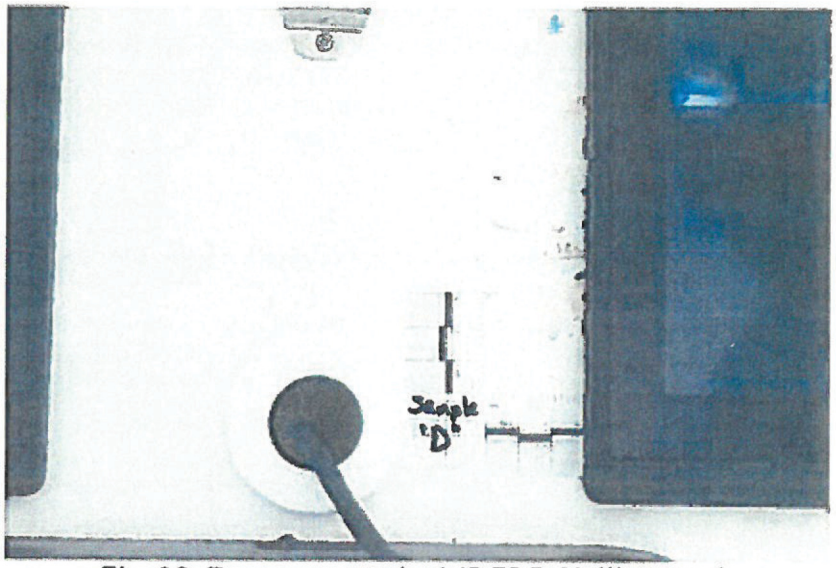


Fig. 28. Damage cause by MDFRD Halligan tool.

Since we were not aware of the MDFRD diver's actions at the time, when MBPD Crime Scene Technician Amy processed V-1, a possible blood sample was taken from between the GPS unit as "Swab from Sample D". After having watched the video, as would be expected, sample "D" came back negative for DNA.

At 1508 hours, I received a fax addressed to Inv. Taboas from the MDPD Forensic Services Bureau, containing the Laboratory Analysis Report for the samples taken from V-1 on Sept. 25th. The report lists the following:

1. Sample #1: Swab from sample A: possible blood from steering wheel, was a negative match for DNA.

2. Sample #2: Swab from sample B: overall surface swab of the steering wheel, a mixture of DNA profiles consisting of at least two contributors. The male DNA major component of the mixture was Fernandez. Due to the mixture of DNA profiles, Rivero and Macias were not included or excluded as possible contributors.

Officer's Signature (if not already on this page)

3. Sample #3: Swab from sample C: overall surface of throttles, a mixture of DNA profiles consisting of at least two contributors. The male DNA major component of the mixture was Fernandez. Rivero and Macias were excluded as possible contributors.

4. Sample #4: Swab from sample D: skin or blood from between the GPS of the center console. Negative match for DNA.

5. Sample #5: Swab from sample E: blood from the top of the center console, next to the compass. DNA match for Fernandez.

6. Sample #6 and #7: Swabs from sample F and sample G: blood from the bottom of the t-top and bottom of the spotlight: DNA match for Macias.

7. Sample #8: Possible Hair Fibers sample H: Not tested.

I called and spoke with the MDPD Forensic Services Bureau who advised me that sample H was not tested because the hair samples lacked roots for DNA testing.

Thursday, 09/29/2016

I obtained a subpoena for [redacted] September 24th 2016, beginning at 1130 hours, through September 25th, 2016 until approximately 0330 hours. I met with [redacted] and provided him with a copy of the subpoena.

I made contact with the USCG Intelligence and Criminal Investigation Team and requested an agent to extract any information related to the day of the accident from V-1 GPS units to determine the approximate time, speed, and course V-1 had been traveling at the time of the crash. At 1335 hours, USCG Petty Officer Pfrimmer and LTJG Hernandorena met FWC Lieutenant Haney at the FWC Miami Office and extracted the GPS data off of the Garmin GPS of V-1.

Friday, 9/30/2016

At 1024 hours, Gus Corp, Technical Area Manager for Mercury Marine met Lt. Pomares at the FWC Office and extracted the data from V-1's two Mercury engines. This data was stored on a Universal Serial Bus (USB) drive, documented on a property receipt and secured in an FWC evidence locker. Corp retained this data on his computer for analysis by Mercury. Corp would provide this information to Pete Chisholm, Product Safety Manager at Mercury Marine, who would later provide us with an Event Data Recorder Analysis Report. This report was received on October 25th, 2016.

At 1400 hours, FWC Captain Marvin, Lt. Pomares and I met with the families of Macias and Rivero at the FWC Miami Office. Each family provided me with signed permission to search forms for the cell phones of Macias and Rivero, respectively. The families provided me with as much information as possible to access the

phones (passcode and i-Cloud account information). Rivero's sister, Nicole Rivero, advised me that her brother's vehicle was missing and had not been located at American Social or any of the neighboring streets. Capt. Marvin obtained a locate analysis report in order to attempt to locate the vehicle. The report did not provide any recent sightings of the vehicle. I returned Macias' and Rivero's property to their respective families and completed release for returned property forms.

At 1500 hours, I transported the cell phones identified by the families as belonging to Macias and Rivero to Resident Agent James Head of the USCG Intelligence and Criminal Investigation Team. I requested that his agents attempt to provide me with any and all information that may relate to the accident, locations, photos, text messages, and phone calls.

At 1541 hours, I received an email from Mary Barzee Flores, counsel for [redacted] In this email she provided me with a copy of two purchase receipts made by Fernandez on September 25th, 2016. The first receipt was from 0109 hours for "1 BTL-DJULIO 1942" (Don Julio Tequila), "1 WELL GIN" and "1 WELL VODKA". The second receipt was from 0220 hours for "1 BTL-DJULIO 1942" and "1 UP-KETEL ONE". She requested the last four digits of any card numbers belonging to Macias and Rivero that may have been used in order to search for correlated transactions. [redacted]

Sunday, 10/02/2016

Ofc. Yanez met with the family of Rivero to retrieve Rivero's vehicle that was found at Fernandez's residence, valet parked on the 900 block of Biscayne Blvd.

Monday, 10/3/2016

At 1230 hours, I met with Inv. Menendez of the MDME Office. She provided me with a final copy of the toxicology report for Fernandez, Rivero and Macias and photos from the autopsy.

The cause of death listed for Fernandez was "Boat Crash".

The toxicology report lists the blood ethanol level found in Fernandez's iliac vein to be 0.147% and that of his ocular fluid to be 0.160%. Also found in his blood were cocaine (0.126mg/L), benzoylecgonine (0.282mg/L), ethylecgonine, methyleconine, levamisole and cocaethylene (< 0.05mg/L). Benzoylecgonine and ethylecgonine are normal metabolites of cocaine produced in the liver. Levamisole is a medication used to treat parasitic worms and often used as a "cutting" agent in cocaine. Cocaethylene is a metabolite produced when the combination of ethanol and cocaine are present in the body at the same time.

The autopsy found that Fernandez sustained blunt force injuries of the head: abrasions, lacerations, contusions of head, subscapular hemorrhage, skull fracture zygomatic, fractures mandible and maxilla. Blunt force injuries

of the torso and extremities: abrasions and contusions. Fernandez had cerebral edema, pulmonary edema, heavy lungs, foamy fluid in the airways and cardiomegaly.

While inspecting the photos from Fernandez's autopsy, I noted several important observations. As described above, Fernandez's mandible and maxilla were fractured in multiple places. The back right portion of his lower and upper jaw split and moved inwards, his back gums/teeth were visible at the center of his mouth. The majority of injuries on his face were to the right side: his forehead, eye, cheek, below the lip, on the corners of the mouth, and in particular a very elongated laceration on the right side of his face. There were multiple abrasions on his neck and chest. I also observed a large linear blue contusion on his right thigh above his knee and a linear blue-green contusion on his left thigh.

The cause of death listed for Rivero was "Boat Crash".

The toxicology report lists the blood ethanol level found in his iliac vein to be 0.065% and that of his ocular fluid to be 0.067%. Also found in his blood were cocaine (0.077mg/L), benzoylecgonine (0.482mg/L), ethylecgonine, methyleconine, levamisole and cocaethylene (< 0.05mg/L). Benzoylecgonine and ethylecgonine are normal metabolites of cocaine produced in the liver. Levamisole is a medication used to treat parasitic worms and often used as a "cutting" agent in cocaine. Cocaethylene is a metabolite produced when the combination of ethanol and cocaine are present in the body at the same time.

The autopsy found that Rivero sustained blunt force injuries of the head: abrasions, lacerations of the head, subgaleal hemorrhage, skull fractures, subarachnoid hemorrhage, and punctate hemorrhagic areas in the left temporal lobe white matter. Blunt force injuries of the torso and extremities: abrasions, contusions. Rivero had cerebral edema, pulmonary edema, heavy lungs, foamy fluid in the mouth, nose and airways, watery fluid in the stomach, and fluid in the sphenoid sinus.

While inspecting the photos from Rivero's autopsy, I noted an important observation. I saw what appeared to be a circular laceration on the left side of his forehead with a linear bruise in the center.

The cause of death listed for Macias was "Boat Crash".

The toxicology report list the blood ethanol level found in his lilac vein to be 0.044% and that of his ocular fluid to be 0.037%. There was also a presumptive finding of citalopram in his blood at an unconfirmed level.

The autopsy report found that Macias sustained blunt force injuries of the head: lacerations and abrasions of the face, subscapular and subgaleal hemorrhage. Blunt force injuries of the torso: abrasions of the chest, abdomen, back and right hip, contusions of the left lung, multiple lacerations of the kidneys. Blunt force injuries of the extremities: abrasions, lacerations, and contusions of the extremities. Macias had cerebral edema, pulmonary edema, heavy lungs, foamy fluid in airways, watery fluid in the stomach, fluid in the sphenoid sinus, excrescences of the mitral valve, and moderate atherosclerosis of the left anterior descending coronary artery.

While inspecting the photos from Macias's autopsy, I observed two lacerations on his face: one to his right eyebrow and one to the upper left side of his forehead. His forehead had significant bruising and numerous tiny scrapes. Both knees had cuts and bruising.

Officer's Signature (if not already on this page) _____

At 1300 hours, I met MBPD Technician Amy at Miami Beach Police Department Headquarters with the original fingerprint cards that I had picked up from the MDME Office earlier in the day. Amy submitted these cards to their lab to compare with the fingerprints she lifted from the steering wheel on September 25th, 2016.

Tuesday, 10/4/2016

At 1727 hours, USCG LTJG Nicholas Hernandorena emailed me his Digital Forensic Analytical Report based on the GPS information he extrapolated on 9/29/2016. This report provides a detailed track line, to include speed and path V-1 took on its travels from the late evening of September 24th into the early morning of the 25th:

2337 hrs. V-1 leaves Cocoplum Yacht Club.
0022 hrs. V-1 pulls into Museum Park.
0048 hrs. V-1 docks at American Social.
0104 hrs. V-1 is turned on and off.
0242 hrs. V-1 leaves American Social heading east on the Miami River.
0258 hrs. V-1 is transiting through Government Cut eastbound at 52.8 mph.
0259 hrs. V-1 exits Government cut in a northeastern direction, traveling at 49.0 mph.
0302 hrs. V-1 allided with the north jetty, with a final recorded speed of 65.7 mph.

I obtained a subpoena for [redacted] during the period of September 24th beginning at 1900 hours until September 25th at 1900 hours. I met with [redacted] and provided her a copy of the subpoena.

I obtained a subpoena for MDFRD instructing the department to provide a copy of any and all medical records and any video footage from the response to this incident.

Wednesday, 10/5/2016

I served a subpoena to MDFRD Subpoena Liaison Stacy Cherfrere, at their headquarters.

At 0930 hours, I met with Mary Barzee Flores, counsel for [redacted] She also provided me with a formal copy of the purchase receipts charged by Fernandez at [redacted] on September 25th.

Later that day I reviewed FWC files to determine if Fernandez, Macias or Riveo held a Florida Boater's Safety ID card; none of the men did.

Officer's Signature (if not a ready on this page)

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT
INCIDENT SUMMARY REPORT

Thursday, 10/6/2016

I reviewed the [redacted]

Tuesday, 10/11/2016

At 1200 hours, I met with MDFRD diver Javier Perez who was part of the MDFRD boat #73 crew and assisted in recovering the three bodies from the jetty the night of the crash. He provided me with a sworn written statement and a drawing of his observations from the night of the allision.

Perez discussed the scene with me, stating that upon arrival and entry into the water, Fernandez was the first to be located by the divers. Fernandez was physically pinned underwater between V-1's t-top and the jetty; he was unresponsive. The divers were unable to remove him due to the weight of the vessel. From on top of the jetty, he and the second MDFRD diver, Jason Vanbuskirk, observed Macias near the bow of the vessel at the south side of the north jetty. Macias was face down, submerged in what Perez described as a "tidal pool," he was

unresponsive. The divers continued their search, locating Rivero on the north side of the north jetty, to the west of V-1. He was underwater with his torso under a jetty boulder, his feet protruding away from the jetty. Rivero was also unresponsive.

Wednesday, 10/12/2016

I met with MDME Doctor Hutchins and Toxicology Division Director Doctor Boland to discuss the autopsy and toxicology reports. Dr. Hutchins and I reviewed the autopsy photos with his final report. Dr. Boland and I discussed the toxicology report. They explained that there is no way to determine a quantitative amount or history of cocaine ingested by Fernandez or Rivero, however the presence of the cocaine in the blood stream signifies that the cocaine was ingested anywhere from ½ hour to 4 hours prior to death. The presence of cocaethylene does confirm that alcohol and cocaine were consumed at the same time, from 15 minutes to 2 hours of most recent use.

Later that day, Lt. Pomares provided me with a SeaVee performance data report for V-1. This is a report created by SeaVee that includes performance handling information of a test run that is conducted prior to the vessel being delivered. The performance report for V-1 occurred on July 30, 2015 in Miami Dade's Biscayne Bay, on a day with 0-10 mph wind speeds and calm seas, similar weather conditions to the morning of the boating accident. On July 30, 2015, V-1 reached an average full open throttle speed of 65.9 mph (maximum speed).

When comparing this data to the USCG Digital Forensic Analytical Report, that lists the speed at time of impact as 65.7 mph; V-1 was traveling at full open throttle just prior to the crash.

Thursday, 10/13/2016

At 0800 hours, Lt. Carcasses, Lt. Pomares, Lt. Haney, Inv. Cook, Inv. Luher and I met at the FWC Miami Office compound to conduct an offset baseline damage assessment of V-1. V-1 was removed from evidence compound #4 and placed in the center of the general compound. At this location I took photographs from all around the vessel to document damage.

Officer's Signature (if not already on this page)

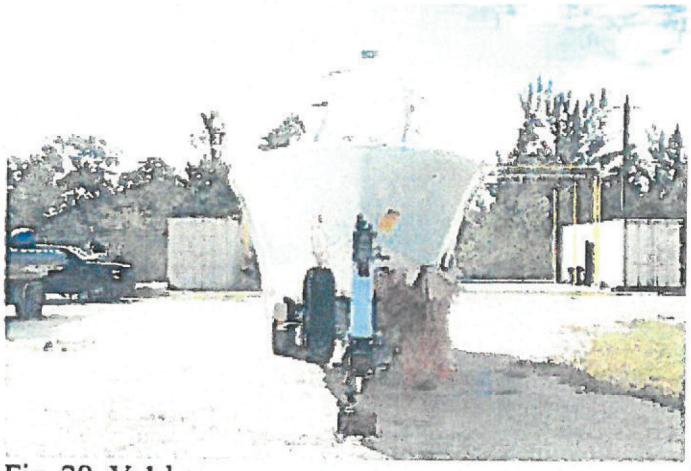


Fig. 29. V-1 bow.



Fig. 30. V-1 Stern.

I was also lifted above the vessel and took aerial pictures of V-1.

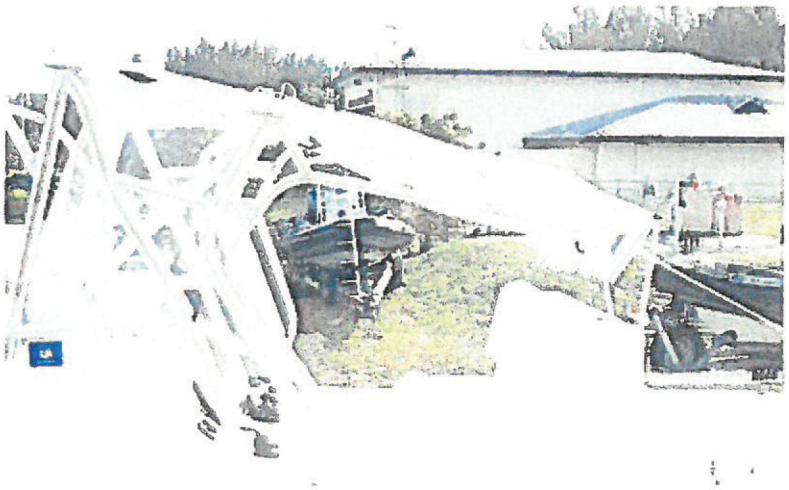


Fig. 31. View of t-top from port (left) side

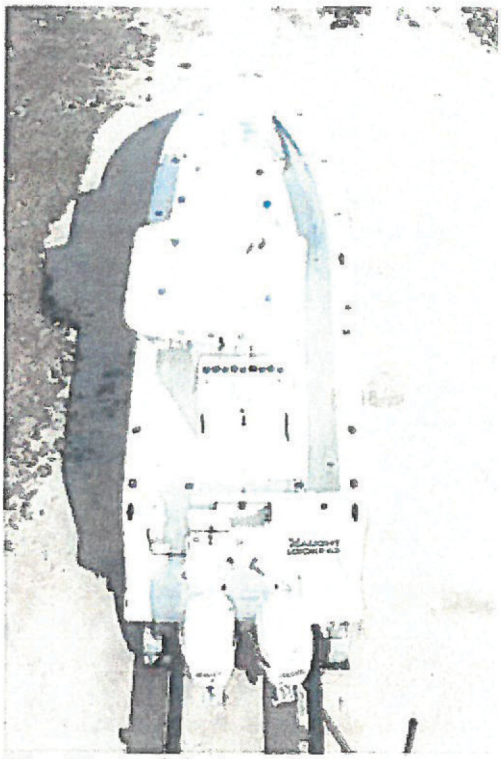


Fig. 32. Aerial view of V-1.

A baseline damage assessment was done in which V-1 was divided into four quadrants and then V-1 was moved to the cement pad. Once on the cement pad, its keel was leveled to the pad and measurements were taken. FWC Lieutenant Carcasses scribed the information and later completed the baseline damage assessment report documenting all damage.

Officer's Signature (f not already on this page)

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT
INCIDENT SUMMARY REPORT

Sunday, 10/14/2016

At 1506 hours, I received an email from Laurel Reichold, Project Manager for United States Army Corps of Engineers (USACE). Reichold provided me with a copy of the USACE Miami Harbor Jetty Survey. The Government Cut jetty was built in 1908, enlarged in 1929 and has been charted since at least 1936. This report provides a map detailing the amount of jetty that was either exposed or below water surface level at 0300 hours on September 25th. The crash site is also plotted on this map.

A search of the boating accident database, maintained by FWC Boating and Waterways Section, for accidents in Miami-Dade County that occurred in the geographical area of Government Cut since January 1, 1998 found 107 reportable boating accidents, not including this accident. After reviewing each of those 107 accidents, we identified nine that involved a vessel striking the jetty or underwater rocks/objects that may have been the jetty. Those nine accidents resulted in five injured persons and zero fatalities.

Monday, 10/17/2016

Miami Dade County Judge J. Bloch signed my search warrant that was reviewed by Assistant State Attorney David Gilbert, for Fernandez's phone in order to obtain any information that may have been stored on the phone, such as location, photos, phone records, or text messages having to do with the night of the accident. I did not obtain a permission to search form from the family because they were unable to provide me with any passwords or iCloud account information.

At 1400 hours, Inv. W. Almagro and [redacted] in downtown Miami. [redacted] Inv. Almagro, [redacted] then traveled to [redacted]

Tuesday, 10/18/2016

At 1030 hours, Lt. Haney and I arrived at the Florida Department of Law Enforcement (FDLE) in Miami for scheduled interviews with Emilio Macias Sr., Macias' father and Nicole Rivero, Rivero's sister. I was contacted approximately one hour after each of the scheduled appointment times by Chris Royer, who had been retained as lawyer for each family. Royer stated that he would be representing the immediate family and girlfriends of

both Macias and Rivero, and they declined all in person interviews. Royer stated he was not sure what relevance any questions for the family had to the accident. He asked I send any further requests to him by email and he would advise if his clients would provide any information.

At 1400 hours, Lt. Haney, Inv. Almagro and I met with Fernandez's mother, Maritza Fernandez; Fernandez's step-father, Amaury Hernandez; the attorney representing the family and the estate of Fernandez, Ralph Fernandez; and Maria Arias, Jose Fernandez's girlfriend. The interview was conducted in a group setting with all parties present except for Arias.

Inv. Almagro interviewed Maritza in Spanish and translated the conversation. Maritza told us that her son had hundreds of hours of boating experience and had traveled in and out of Government Cut numerous times. She said Jose owned one vessel prior to V-1 and was very familiar with the greater Biscayne Bay area. Maritza and her son would often go out on his boat after his baseball games, to the sandbar on the weekends or to Sea Isle Marina where they would dock and walk to dinner. She was adamant that he would never bring anyone on his boat and he was always the driver. She said that her son did not take his friends out on his boat and to her knowledge, Amaury was the only other person that had driven her son's vessel. Investigator Almagro asked Maritza if she was aware of any drug use in Fernandez's past, for example steroids or marijuana. Maritza did not know her son to be a heavy drinker or user of drugs. She had only met Rivero once before at her home and never met Macias.

Attorney Fernandez said that he knew Fernandez could "throw em down" and he "would not be surprised if he was a .2 something," referring to the blood alcohol content. He described Fernandez as controlling and a "hot head" but very persuasive and exuberant; he gave an example of Fernandez being able to convince someone to do something even if they had never done so before, just so that they could be close to him or be his friend. Attorney Fernandez then told me that he in fact knew that Fernandez had not been driving at the time of the accident because he was aware of someone who was on the phone with him at the time of the crash. He said that this person heard Fernandez giving someone directions when suddenly he heard the crash occur and the phone went dead.

Attorney Fernandez went on to say he had seen Fernandez take numerous phone calls while driving, but Fernandez would always pull the car over, or give someone else the helm of the vessel in order to not talk and drive; since Fernandez was on the phone, he could not have been driving. Maritza then showed me a screen shot of a text message between a man named Yuri Perez and a relative of Fernandez, "Hugo." In this text message, Perez states that he was talking to Fernandez on the phone at the time of the accident. I obtained Yuri Perez's phone number and Maritza emailed me the screen shot of the text. Attorney Fernandez provided Fernandez's phone number as 813-390-9063 and Maritza stated the carrier was AT&T.

Officer's Signature (if not already on this page)

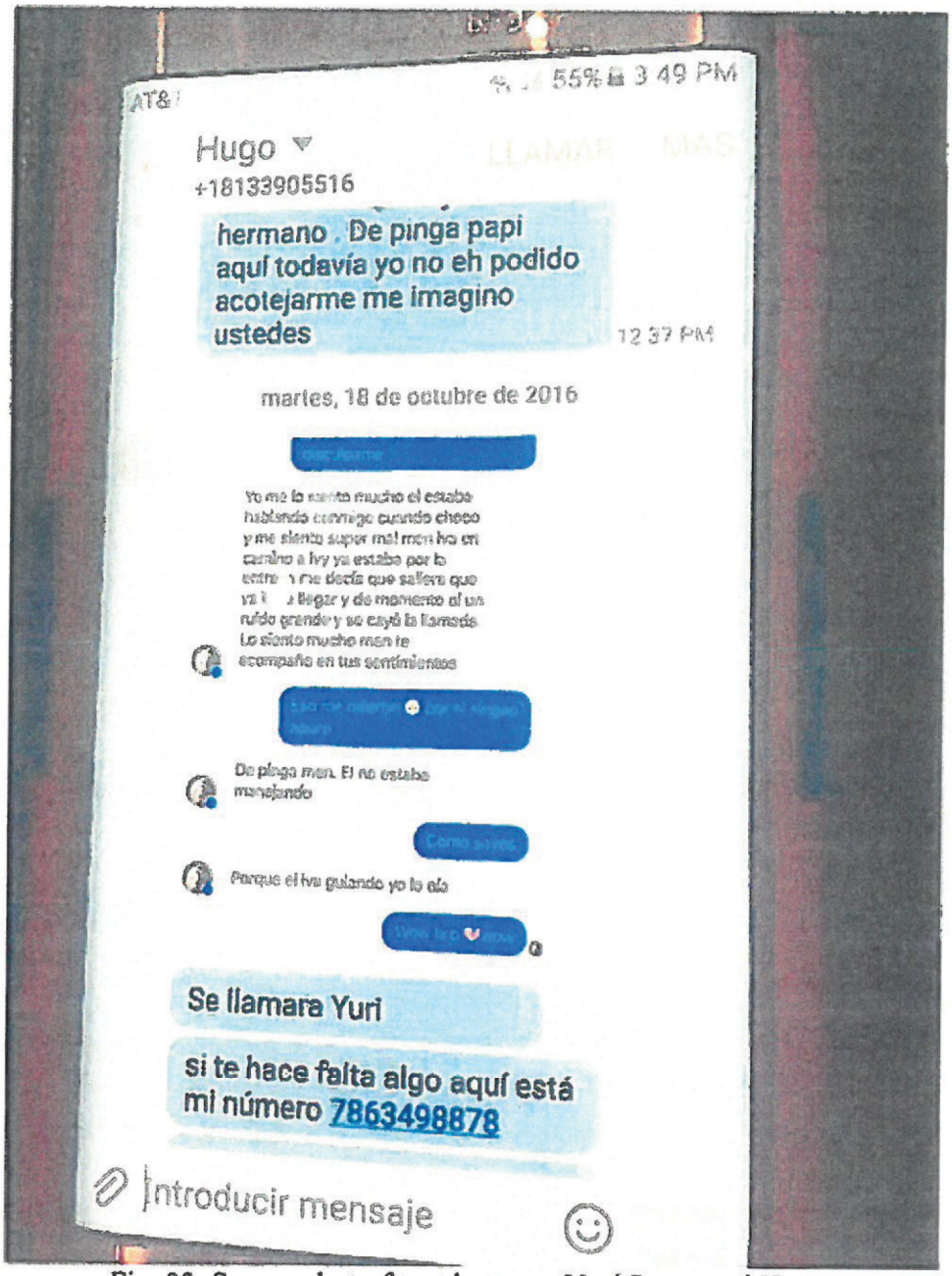


Fig. 33. Screen shot of text between Yuri Perez and Hugo.

Investigator Almagro then called Yuri Perez. Perez said he was a promoter for several clubs and Fernandez had called him that Saturday night to have a table ready at a club in Miami Beach called "Ivy." Perez said he was on the phone with Fernandez when he heard a loud noise and the call dropped. Perez advised he had already deleted all text messages and phone calls on his phone between him and Fernandez but was willing to meet us for an interview and show us his phone records.

Maria Arias was interviewed separate from the family by Lieutenant Haney, Investigator Almagro and I. She told us that she and Fernandez would often take V-1 to Sea Isle Marina where they would dock the boat and walk to dinner or go out for a sunset cruise. She said that Fernandez was always a very cautious and safe driver. On the night of the accident she and her friend had gone by American Social for about 15 minutes, around 0230

hours. They hung out with Fernandez, Rivero and Macias; she had just met Macias that night. Arias did not think Fernandez was behaving unusually and he did not seem impaired. When Arias left Fernandez for the night, they had planned to meet at home shortly afterwards. Arias was not aware of any drug use by Fernandez.

Wednesday, 10/19/2016

At 1400 hours, Lt. Haney and I met with Paola Loor, Senior Financial Analyst at Univision Communications Inc. A photo of Loor had been circulating on several different websites as the last photo of Fernandez, Rivero and Macias taken prior to the boating accident. Loor told us that she had first approached Fernandez inside American Social as a fan, introducing herself. The group took a shot of tequila together and after a few minutes of conversation she headed back to her table of friends. When the three men were leaving, Fernandez reached out to Loor and told her to go outside for a group picture. After the photo was taken, they talked for a few minutes outside. Loor did not notice any odd or intoxicated behavior from any of the men. The group said their goodbyes and Loor watched the men walk to V-1 but she did not remember seeing who was operating V-1 at the time.



Fig. 34. Rivero, Fernandez, Loor, Macias (left to right).

Monday, 10/24/2016

At 1315 hours, Inv. Taboas and I met with Yuri Perez, head promoter for Miami Vice Marketing Group. Inv. Taboas interviewed Perez in Spanish and translated the conversation for me. Perez said that he had been in contact with Fernandez several times the night of the accident. Perez provided Fernandez's phone number as 813-990-9111. He said Fernandez called him requesting a table for himself and two friends at "Ivy" nightclub on South Beach, where Perez had been promoting. Perez was on the phone with Fernandez, who had told Perez he was on the way and would be there in a few minutes; he heard him providing someone with directions. "I don't speak too much English but I heard him say go left, go straight". Shortly after, Perez heard a loud sound and the call disconnected; he said he tried to call him back but there was no answer. I asked Perez if he could show us the calls on his phone. Perez said he is constantly deleting information from his phone because it takes

'p too much storage and he no longer had the conversations. Perez filled out a permission to search form and gave Inv. Taboas his phone saying we could look through it all, he had nothing to hide. I requested Perez show us his phone records online to confirm his story. Perez complied and printed out a copy of his phone and text messages from the night of the 24th and 25th. These records do show that Perez was in contact with Fernandez the night of the 24th into the morning of the 25th, but he was not on the phone at the time of the crash as alleged. The last phone call prior to the crash between Fernandez and Perez was at 0250 hours, 12 minutes before the accident. V-1's GPS data shows that V-1 was still inside the Miami River 12 minutes before the accident.

Tuesday, 10/25/2016

At 1653 hours, Pete Chisholm, Product Safety Manager at Mercury Marine, emailed me a copy of their Event Data Recorder Analysis Report. In this report, Chisholm explains that each engine has a recording device or "black box" that alternates recording engine data in six data files, divided into two sets of three. One of the three sets are active when the engine is running and the second set of three contains data from the previous trip; every time the engines start they alternate. The three data files of each set record in different intervals: the ten second file records every ½ second, the 20 second file records every second, and the 100 second file records every five seconds. Chisholm provided graphs of this data for the night of the accident. The last 100 seconds file shows that the throttles were at 100% or "wide open throttle" for the 20 seconds prior to the engines stopping. This data corroborates information obtained from the GPS units on V-1 and the Digital Forensic Analytical Report provided by USCG.

Monday, 10/31/2106

At 0820 hours, Brian Stetler of Stetler Marine Surveys met with Lt. Pomares at the FWC Miami Office to conduct a damage assessment of V-1.

Tuesday, 11/1/2016

At 1344 hours, Brian Stetler emailed Lt. Pomares a copy of his damage assessment of V-1. In this report, Stetler provides photographs and descriptions of all major damage found to the structure and components, propulsion and steering, electrical systems, deck and safety equipment, auxiliary equipment, tankage, and through-hulls.

Wednesday, 11/02/2016

At 0900 hours, I met with Saymar Salas, girlfriend of Macias for ten years, and her attorney Chris Royer at the FWC Miami Office. During our interview Salas told me that she was aware of two times in their ten years 'ogether that Macias had been on a boat; one of these times was with her and her family. She remembered Macias being hesitant of the speed their vessel was traveling, even though she did not find it excessive. She said on the night of the accident Macias was called and texted several times by Rivero, who said that he was in

American Social with Fernandez and wanted Macias to join them. Macias left to meet Rivero. A few hours later, Macias texted Salas telling her to go outside and look for a boat near the bridge. She saw a white boat with blue lights approaching the South Miami Avenue Bridge and what appeared to be Macias waving to her from the stern (back) of the boat. She showed me the "last photo" taken of the three men and Loor and pointed out that Macias' hand was behind his back. She found this strange and told me she'd heard through a Sports Radio, Dan Le Batard's show, the men had been seen leaving the bar with a bottle of tequila and this may have been why his arm was behind his back. [redacted]

Friday, 11/04/2016

[redacted]

Saturday, 11/05/2016

I picked up the Miami Dade Police Department dive report written by Officer Espinosa from the Matheson Hammocks station. The report detailed the times, divers, and items they located.

Thursday, 11/10/2016

Lt. Haney obtained a cellular telephone disclosure order, signed by Assistant State Attorney T. Haggerty, for two known phone numbers, 813-390-9063 and 813-990-9111, associated with Fernandez's phone records.

Tuesday, 11/15/2016

At 0303 hours, AT&T Mobility Compliance Center sent lt. Haney records of both phone numbers associated with Fernandez. The records confirm that the last phone call Fernandez made was in fact to Yuri Perez at 0250 hours however, it was not at the time of the accident as alleged by Perez and Attorney Fernandez.

Officer's Signature (if not already on this page)

Friday, 11/18/2016

At 1106 hours, I received an email from Attorney Royer requesting that FWC interview Rivero's mother, sister and girlfriend. The meeting was scheduled for November 23rd at 1600 hours.

At 1136 hours, Miami Beach Police Department Crime Scene Investigator Amy emailed me her finalized crime scene report, in which she discussed her collection of evidence from the crime scene.

At 1308 hours, Lt. Pomares, Lt. Carcasses and I were conducting an inspection of V-1 within the FWC Miami compound. While inspecting the center console, Lt. Carcasses moved the lid of the compass from its resting forward position, completely to the rear. We observed four chips in the glass. One indentation seems to be filled with a white material. The compass is the mechanism of injury for Fernandez's extensive jaw damage I observed in the autopsy photos. Fernandez's blood, crime scene evidence sample "E", was also found adjacent to the compass.

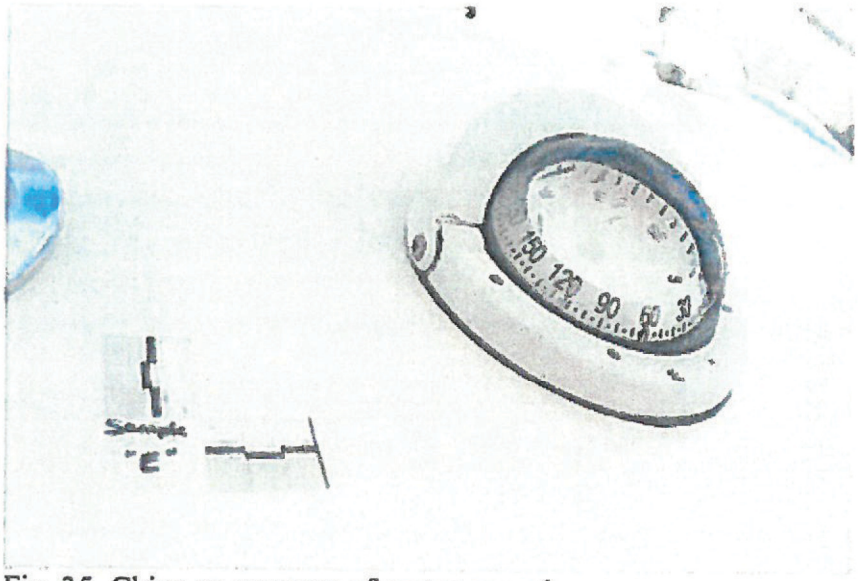


Fig. 35. Chips on compass of center console.

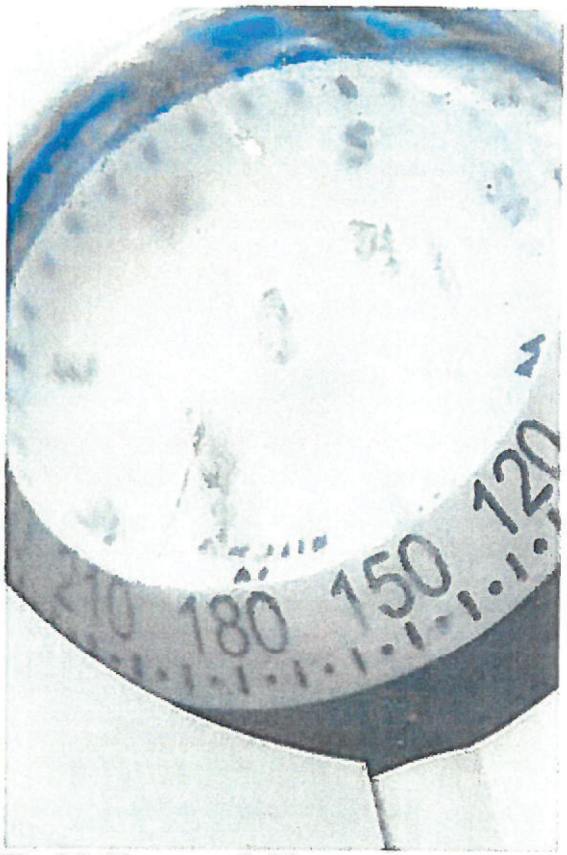


Fig. 36. Close up of chips.

While reviewing evidence in this case, including autopsy photographs, we noticed a circular wound on the forehead of Rivero. Further examination of this wound matches the shape of the bottom of the rod holders located at the back of the V-1 t-top. The rod holders are the only items on V-1 that could have made this type of injury.

Officer's Signature (if not already on this page)

At 1720 hours, I received an email by way of Capt. Marvin from Attorney Fernandez requesting a meeting to discuss several concerns regarding the investigation. A meeting was scheduled for December 1st at 1100 hours.

Monday, 11/21/2106

I spoke with Miami Dade Medical Examiner's Office Investigator Mendoza, who conferred with MDME Doctor Hutchins, that the material and impressions on the compass would not be able to be analyzed as a tooth material. They suspected it to be only a surface composite, not the pulp of a tooth, based on the autopsy photos and damage to Fernandez's teeth.

Tuesday, 11/22/2016

At 1030 hours, I conducted a phone interview with MDFRD diver Jason Vanbuskirk. Vanbuskirk advised that when he arrived at the north Government Cut jetty he observed the blue cockpit lights of V-1 illuminated and heard loud reggaeton music playing. He and Perez entered the water and swam to the jetty. Upon climbing on top of the jetty immediately observed Fernandez underwater, pinned under the t-top of V-1; they were unable to remove him and he was unresponsive. Vanbuskirk and Perez split to conduct a search for other occupants. Vanbuskirk located Macias, his body facing east, submerged near the surface of the jetty; Macias was also unresponsive. Vanbuskirk body-towed Macias to MDFRD boat #73 simultaneously with Perez who body-towed Rivero. Vanbuskirk did not observe Rivero in the water and could not attest to the directionality of his body upon recovery. Once both Macias and Rivero were on MDFRD boat #73, both divers returned to V-1. Vanbuskirk did not observe the recovery of Fernandez from under V-1 and could not attest to the directionality of his body upon recovery but stated diver Perez was able to retrieve him from under the t-top when either a wave or the jet propulsion from the fireboat lifted the weight of V-1. He did not recover any of the personal items found (wallet, cell phones and gold chain) after the three occupants were transported to MDFRD boat #73. Vanbuskirk told me that the GoPro video provided by MDFRD was only used to document the path that V-1 had taken prior to the accident in case there were additional missing occupants, a search effort would be conducted in an appropriate manner. When I asked about the use of the Halligan tool, he advised that the use of the Halligan tool is common in retrieving GPS unit. In this case, it was attempted incase V-1 was damaged, swamped or the GPS unit data unretrieveable.

At 1352 hours, I received an email from Lenette-Yvonne Holbrook, Latent Print Examiner and Forensic Artist, with the Miami Beach Police Department. Holbrook advised me that one of the two fingerprints lifted from the steering wheel and submitted for analysis was a match for Fernandez. Holbrook stated it was an "elimination hit" seeing as V-1 belonged to Fernandez and it is expected his prints would be on the steering wheel. Holbrook stated she did not find the other victim prints on any of the latent cards she received.

Wednesday, 11/23/2016

Lt. Haney and I met Attorney Chris Royer at the FWC Miami Office. We conducted phone interviews with Mirta Marin (Rivero's mother), Nicole Rivero (Rivero's sister), and Jennifer Peralta (Rivero's girlfriend).

 Officer's Signature (if not already on this page)

At 1619 hours, we spoke with Rivero's mother, Mirta Marin. Marin told us that she had no knowledge of her son ever being on a boat before and to her knowledge he had a fear of deep water caused by a traumatic water related experience when he was 11 months old. She was unaware that he had left home the night before the accident and assumed he had gone to bed around 2330 hours with the rest of the family after they ate dinner together at home Saturday night.

At 1630 hours, we spoke with Rivero's sister, Nicole Rivero. Nicole also had no knowledge of her brother ever being on a boat before and was sure it was the first time he had been on Fernandez's boat. She too did not know he had left the house after the family had gone to bed. She stated she had a close relationship with Rivero and had never known him to use drugs in the past.

At 1641 hours, we spoke with Rivero's girlfriend Jennifer Peralta. Peralta told us that she had not known Rivero was on a boat the night of the accident and was shocked when she heard this because she knew he was afraid of the Ocean. She and Rivero had been on a small boat once before in Mexico and recalled Rivero being "petrified" while on it. Peralta said she'd fallen asleep around 2230/2300 hours Saturday night when Rivero left home to attend a friend's birthday party. She had woken up around 0230 hours to learn he was with Fernandez and Macias at American Social. Attorney Royer later emailed me text message conversations between Rivero and Peralta from 0250 hours on September 25th. In these messages Rivero discusses the "emergency" need to be with Fernandez. Rivero also sent a screen shot of a text message conversation between Rivero and Maria Arias, Fernandez's girlfriend, in which Arias states Fernandez "has been drinking and is not in the best state of mind". Arias apologizes to Rivero for being put into the situation and asks him to take care of Fernandez.

Officer's Signature (if not already on this page)

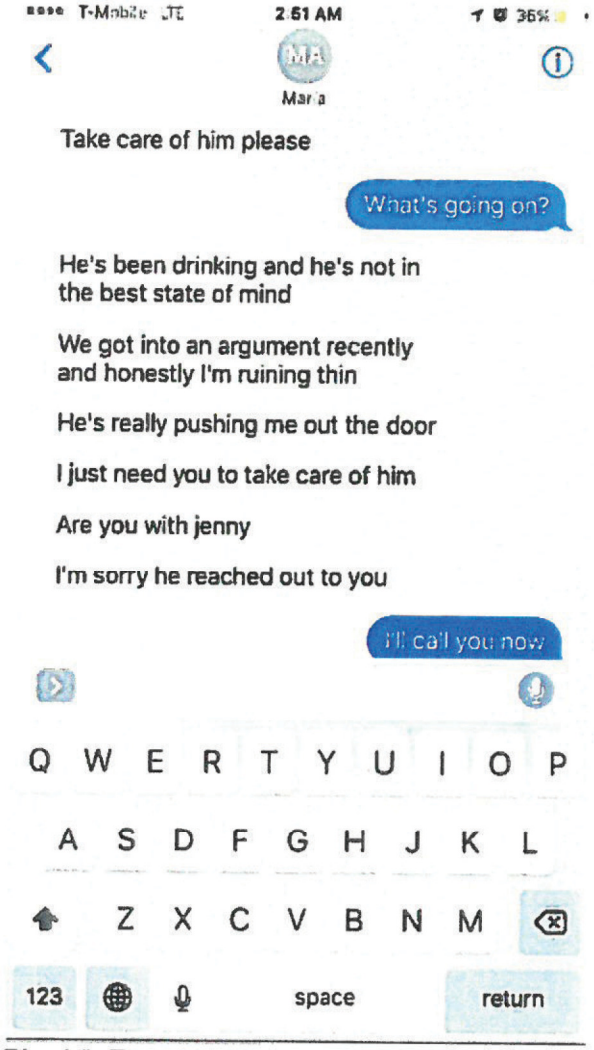


Fig. 37. Text message between Rivero and Arias.

Friday, 11/30/2016

At 0900 hours, I met with Miami Beach Police Department Crime Scene Technician Amy at the FWC Miami Office. After extensive review of photographic evidence from the scene of the accident and the MDME autopsy photos, I requested additional DNA swabs to be collected from V-1. Tech. Amy collected one DNA swab "I" from the surface of rod holders 1-3; one DNA swab "J" from the surface of rod holders 4-6; one DNA swab "K" of blood located on the center console seat; one DNA swab "L" of possible blood located on the port (left) deck; one overall DNA swab "M" from the surface of the center console compass; and one unknown residue sample "N" left on the upholstery of the port gunwale. Each sample area was photographed; the swabs and sample were documented on a property receipt and secured in an FWC evidence locker.

Officer's Signature (if not already on this page)

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
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Thursday, 12/01/2016

As a result of a letter received by the FWC Colonel Brown, at 1100 hours FWC Major Escanio, Capt. Marvin, Lt. Pomares, Attorney Brandy Elliott and I met with Attorney Ralph Fernandez at the FWC Miami Office. Attorney Fernandez wanted his concerns noted over the release of the toxicology and autopsy report prior to the conclusion of this investigation. Attorney Fernandez believed that these reports were skewed and unequally evaluated due to Mayor Carlos Gimenez influencing their expedicious development, and his personal physician's opinion that Fernandez could not have been the operator of V-1 based on autopsy findings. FWC Attorney Elliot expressed that the release of the toxicology and autopsy reports by MDME Office was not a violation of public records law. We also discussed the unusual quick turnaround with which the reports were completed. Following the meeting I reviewed the toxicology and autopsy reports again. I did not find any abnormalities or inconsistent evaluation amongst the three reports.

Friday, 12/02/2016

At 1535 hours, I submitted evidence items "I" – "N" collected from V-1 on November 30th to Miami Dade Police Department laboratory for trace and biology analysis.

Thursday, 01/19/2017

At 1718 hours, I received a fax from the MDPD Forensic Services Bureau, who sent Inv. Taboas the Laboratory Analysis Report for the samples taken from V-1 on Nov. 30th. The report lists the following:

1. Sample #1: Swabs from sample I, surface of rod holders 1-3: negative match for DNA.
2. Sample #2: Swab from sample J, surface of rod holders 4-6, J: negative match for DNA.
3. Sample #3: Swab from sample K, possible blood from center console seat: negative match for DNA.
4. Sample #4: Swab from sample L, possible blood from mid-ship port deck: weak positive for DNA. This DNA was amplified for analysis but yielded no DNA profile.
5. Sample #5: Swab from sample M, surface of compass: negative for DNA.

Sample #6, the upholstery from the port gunwale, was submitted to a separate division at MDPD (trace lab) and was still pending analysis.

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Friday, 01/20/2017

At approximately 0930 hours, I met USCG LTJG N. Hernandorena at USCG Station Opa-Locka. LTJG Hernandorena was able to repair and access Macias' cell phone. An examination of the phone from the night of the accident showed Macias performed an internet search for club Ivy on South Beach, suggesting the men were in fact planning on going to the night club where Yuri Perez was promoting that night. I also observed a photo taken on 9/25/2016 at 0132 hours, of a bottle of tequila on a table, a cup of limes and two cups full of a clear liquid. No other relevant data was found. At that time, Fernandez's and Rivero's phones were still unrepaired.

Friday, 02/17/2017

[redacted]

Monday, 02/20/2017

At 1424 hours, MBPD Crime Scene Technician Amy emailed me a copy of her crime scene report detailing her evidence collection on November 30th, 2016.

Thursday, 02/23/2017

At 1000 hours, I met Crime Scene Technician Amy at the MBPD Headquarters. She provided me with a CD containing all of the photos she took while collecting evidence from V-1.

At 1135 hours, Lt. Pomares, Lt. Haney and I inspected the diameter of the rod holders at the back of V-1's t-top. The diameter of the base of the rod holder is approximately 4 centimeters (cm) long. When comparing this to the autopsy photos, the diameter of the circular laceration on the left forehead of Rivero is also approximately 4 cm long. This matching dimension and shape indicate that the laceration to Rivero's left forehead was a result of his head forcefully hitting a rod holder upon V-1's impact with the north Government Cut jetty.

Officer's Signature (if not already on this page)

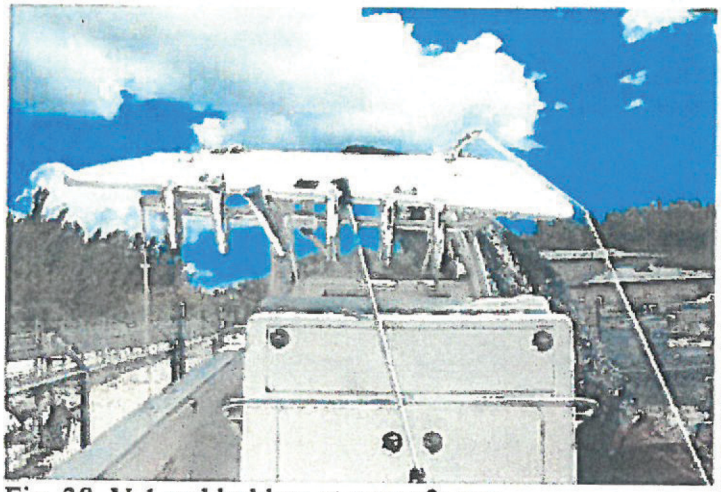


Fig. 38. V-1 rod holders at rear of t-top.

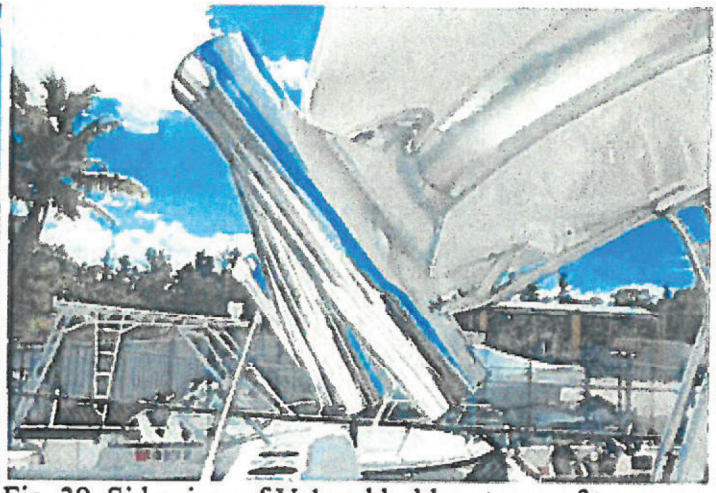


Fig. 39. Side view of V-1 rod holder at rear of t-top.

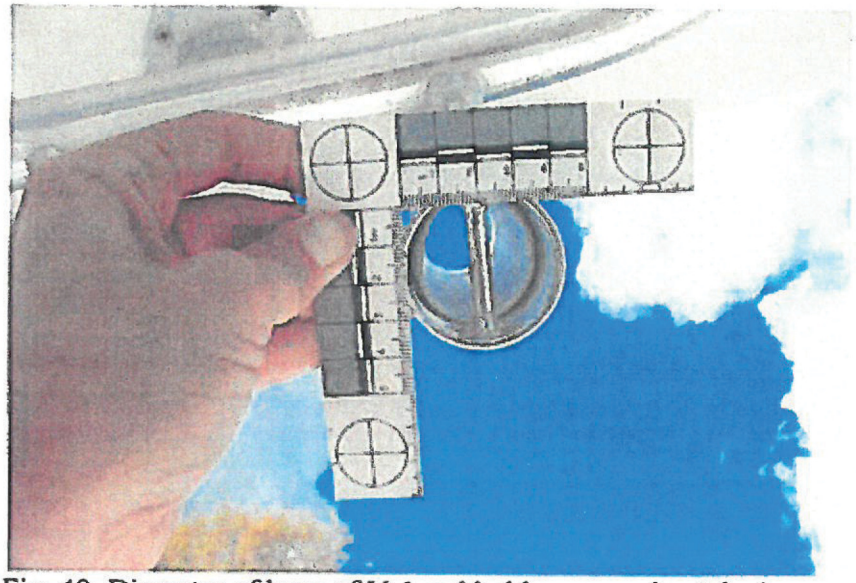


Fig. 40. Diameter of base of V-1 rod holder approximately 4 cm.

Wednesday, 2/22/2017

[redacted]

Officer's Signature (if not already on this page)

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
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Friday, 2/24/2017

At 1509 hours, I received an email from USCG IS3 J. Pfrimmer advising that after repair and sufficient charge on the batteries of Fernandez's and Rivero's cell phones, both phones were unable to power on with new parts & batteries. This eliminated the possibility of any leads relating to who procured the cocaine found in Fernandez and Rivero's system post-mortem.

[redacted]

Monday, 2/27/2017

[redacted]

Tuesday, 02/28/2017

[redacted]

Officer's Signature (if not already on this page)

[redacted]

Thursday, 3/2/2017

At 0930 hours, I spoke with Christopher Hamlon of the MDPD Forensic Services Bureau Analytical Section regarding upholstery "N" submitted November 30th, 2016. The sample was scheduled for analysis March 3rd. Results still pending.

Conclusion

Based upon the physical evidence and relevant facts gathered to date:

Jose Fernandez Gomez was the operator of V-1 at the time of allision. Fernandez's DNA was found on the steering wheel and the throttle, and his fingerprint was lifted from the steering wheel of V-1. At the time of impact Fernandez's body went forward, his legs hitting the Plexiglass of the center console lower switch panel causing it to snap. This impact is evident by the matching linear bruises located on his upper thighs and depicted in the MDME autopsy photos. As Fernandez's body traveled forward, he hit the right side of his face on the Jome navigational compass on top of the center console with such tremendous force that it fractured his mandible and maxilla (lower and upper jaw). Upon impact, his teeth left small chips on the round surface of the compass. As the momentum of V-1 ejected the occupants, Fernandez was thrown to the starboard (right) where he was pinned beneath the t-top as V-1 rolled over. There was no evidence found to indicate either Emilio Macias or Eduardo Rivero were possible operators of V-1.

Emilio Jesus Macias was standing near the front of the center console. At the time of impact, he was thrown forward and then ejected as V-1 yawed and rolled to the starboard side. Blood swabs from the underside of the front edge of the t-top and underside of the spotlight mounted to the topside t-top were a match for Macias. Due to the fact that there was a large center console and full vinyl enclosure between the helm and where his blood was located, he is excluded from being near the helm at the time of the crash. A match of his DNA was not located anywhere on the console, steering wheel or throttles. The location where his body was recovered near the bow of the vessel is consistent with him having been towards the front of the center console at the time of impact.

The vessel's t-top ends at the rear of the center console seat and is lined with six rod holders that protrude downward from the back of the t-top. The approximate 4 centimeter circular laceration on the forehead of Eduardo Rivero is consistent with the approximate 4 centimeter circular base of these rod holders. Rivero was standing behind the center console seat and was thrown forward and up into a rod holder at the time of impact. A match of his DNA was not located anywhere on the console, steering wheel or throttles. The location where his body was recovered is consistent with him standing near the rear of the vessel when the vessel yawed and rolled, ejecting him out of the starboard (right) rear of the boat.

Officer's Signature (if not already on this page)

Digital forensic analysis of the vessel GPS units determined V-1 to be traveling at 65.7 miles per hour just oefore impact with the north Government Cut jetty. Miami-Dade Medical Examiner's Office toxicology report found Fernandez's blood alcohol level to be 0.147% and noted the presence of cocaine. Fernandez operated V-1 with his normal faculties impaired, in a reckless manner, at an extremely high rate of speed, in the darkness of night, in an area with known navigational hazards such as the rock jetties and channel markers. Fernandez also operated the vessel with the interior blue lights on and the clear vinyl windshield enclosure on, which based on my training and experience would likely have also interfered with his night vision capabilities. Fernandez's impairment and manner of operation caused the accident which resulted in his death and the death of his occupants, Eduardo Rivero and Emilio Macias.

Based on these facts, I conclude that Fernandez violated the following laws:

- Fernandez operated V-1 in violation of F.S. 327.35 (3)(c)3a BUI Manslaughter:
  "(3) Any person... (c) Who, by reason of such operation, causes or contributes to causing... 3. The death of any human being commits BUI manslaughter, and commits... a. A felony of the second degree".

- Fernandez operated V-1 in violation of F.S. 782.072(1), Vessel Homicide:
  "Is the killing of a human being by the operation of a vessel as defined in s. 327.02 by another in a reckless manner likely to cause the death of, or great bodily harm to, another. Vessel homicide is a felony of the second degree".

- Fernandez operated V-1 in violation of F.S. 327.33(1), Reckless or careless operation of vessel.—
  "It is unlawful to operate a vessel in a reckless manner. A person who operates any vessel, or manipulates any water skis, aquaplane, or similar device, in willful or wanton disregard for the safety of persons or property at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure a person is guilty of reckless operation of a vessel... A person who violates this subsection commits a misdemeanor of the first degree."

- Fernandez operated V-1 in violation of F.S. 327.33(3), Reckless or careless operation of a Vessel:
  "Each person operating a vessel upon the waters of this state shall comply with the navigation rules. A person who violates the navigation rules and the violation results in a boating accident causing serious bodily injury as defined in s. 327.353 or death, but the violation does not constitute reckless operation of a vessel, commits a misdemeanor of the second degree."

    - Fernandez operated V-1 in violation of Rule 2 (Responsibility) listed in the U.S. Coast Guard Inland Navigational Rules Act of 1980, U.S.C. s. 2001 et. Seq. by which the State of Florida adopts in F.S. 327.33(3) (a). Rule 2 states that:

"(a) Nothing in these Rules shall exonerate any vessel, or the owner, master, or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(b) In construing and complying with these Rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from these Rules necessary to avoid immediate danger."

Officer's Signature (if not already on this page) _____

- Fernandez operated V-1 in violation of Rule 5 (Look-out) listed in the U.S. Coast Guard Inland Navigational Rules Act of 1980, U.S.C. s. 2001 et. Seq. by which the State of Florida adopts in F.S. 327.33(3) (a). Rule 5 states that:

"Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision."

- Fernandez operated V-1 in violation of Rule 6 (Safe speed) listed in the U.S. Coast Guard Inland Navigational Rules Act of 1980, U.S.C. s. 2001 et. Seq. by which the State of Florida adopts in F.S. 327.33(3) (a). Rule 6 states that

"Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions. In determining a safe speed the following factors shall be among those taken into account:

(a) By all vessels:

(i) The state of visibility;
(ii) The traffic density including concentrations of fishing vessels or any other vessels;
(iii) The maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;
(iv) At night, the presence of background light such as from shore lights or from back scatter from her own lights;
(v) The state of wind, sea and current, and the proximity of navigational hazards;
(vi) The draft in relation to the available depth of water.

- Fernandez operated V-1 in violation of F.S. 327.395(1)(a) that states:
"(1) A person born on or after January 1, 1988, may not operate a vessel powered by a motor of 10 horsepower or greater unless such person has in his or her possession aboard the vessel photographic identification and a boater safety identification card issued by the commission, or a state-issued identification card or driver license indicating possession of the boater safety identification card, which shows that he or she has:

(a) Completed a commission-approved boater education course that meets the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators;

(7) A person who operates a vessel in violation of subsection (1) commits a noncriminal infraction"

Officer's Signature (if not a ready on this page)

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
DIVISION OF LAW ENFORCEMENT
INCIDENT SUMMARY REPORT

ADMINISTRATIVE DATA

Number of Investigative Miles	Number of Investigative Vessel Hours	Total Number of Investigative Hours

Photograph(s) By (Print): Christina Martin, Manuel Pomares, MDFRD,

Date: 03/10/2017

I swear the above statement is correct and true to the best of my knowledge and belief.

Officer's Signature — ID#: N628 — Date: 03/10/2017

Officer's Name: Inv. Christina Martin — ID#: N628 — Date: 03/10/2017

Agency Phone / Cell Phone: (305) 956 – 2500 / ( ) –

Sworn to and subscribed before me, the undersigned authority this 10 day of March, 2017

Deputy of the Court, Notary, or Law Enforcement Officer Signature

Print Name: Lt. Manuel Pomares

Reviewed By (Print): Lt. Manuel Pomares — Date: 3/10/2017

Reviewer's Signature — ID#: K710

Officer's Signature (if not already on this page) _____