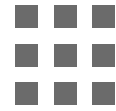




Maritime Security

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Maritime Security

An Introduction

Second Edition

Michael A. McNicholas



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Dedication

This book is dedicated to my parents, Francis and Virginia McNicholas, for their never-ending love and support, and to my children, Alexandra, Julian, and Maria, and my granddaughter, Mia; all who are the sunshine in my life.

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About the Author

Michael A. McNicholas

Mr. McNicholas is the Managing Director of Phoenix Group in Panama and Costa Rica and Pathfinder Consulting, LLC, in the United States. Michael has over 14 years of distinguished and progressive law enforcement, military, and intelligence experience and, most recently, 20+ years as founder/cofounder of several successful professional security corporations in Latin America and the United States. A former noncommissioned and commissioned officer (presidential direct appointment) in the U.S. Army, he served for 9 years in Airborne Infantry, Military Police, and Military Intelligence units and also is a former sworn police officer. Mr. McNicholas held a *top secret* security clearance in the Central Intelligence Agency, where he specialized in counter-narcotics trafficking and international terrorism and served on the Vice President’s Narcotics Interdiction Task Force and as the CIA Liaison to U.S. Coast Guard Intelligence.

Michael designed, implemented, and directed the internationally acclaimed seaport security program at Manzanillo International Terminal—Panama, the largest container port in Latin America, and currently deploys a 200+ man force (security officers, K-9, intelligence, and management) at the seaport. Mr. McNicholas spearheaded the successful efforts to have Phoenix Group designated as the first “Recognized Security Organization” (United Nations IMO classification) by the Republic of Panama Registry and the Dominican Republic. Mr. McNicholas is credited with co-pioneering the Maritime Security Team (antipiracy/stowaway/drug trafficking/terrorist) concept in commercial cargo shipping in Latin America. Phoenix Group deploys security personnel onboard over 500 ships per month in 11 ports in Latin America, and McNicholas’ personnel have captured 600+ stowaways and drug couriers, seized over 10,000 kilos of cocaine and heroin, repelled armed pirates in combat on two occasions and denied access in a dozen other pirate attempts, and mitigated two terrorist operations. Mr. McNicholas and his staff have conducted security surveys and training in every major seaport in Latin America and the Caribbean and has been a Sole Source contractor for a U.S. Intelligence agency.

In mid-2001, Mr. McNicholas was contracted by RAND Corporation, under funding by the Defense Intelligence Agency and the U.S. Joint Chiefs of Staff, to provide an intelligence analysis of the “origins and routes of arms procured by Colombian Guerilla, Para-Military, and terrorist groups.” From 2002 to 2004, Mr. McNicholas served as a special advisor to the Congress of the Republic of Panama for Counter-Narcotics, Terrorism, and Intelligence issues and has briefed multiple presidents of Panama. In June 2008, Michael was selected by the Office of the U.S. Secretary of Defense (OSD) as a Maritime Security SME for multiple maritime security-related projects and later that year trained

the USCG's International Port Security Assessment Command. In 2009, he was a speaker/panelist at a multiday conference on Somali piracy at the JFK School of Government at Harvard University and in 2010/2011 he conducted presentations at NATO's "Centre of Excellence—Defence Against Terrorism" in Turkey.

In 2012, Mr. McNicholas Chaired/lectured at the inaugural conference of the "Multinational Maritime Security Centre of Excellence" (MARSEC COE) in Turkey and currently he is a member of the Centre's Academic Advisory Board and continues to lecture there on an annual basis. In December 2012, Mr. McNicholas lectured at a joint U.S. ODNI-Naval Intelligence conference on Commercial Maritime Drug Trafficking and in 2013 he was selected by the U.S. Maritime Administration/USMMA/USCG to be a member of a five-person Subject Matter Expert team to develop the new Facility Security Officer Course Instructor Manual and Guidelines (ISPS/MTSA). In 2015 and 2016, Mr. McNicholas was the senior security advisory overseeing the design, development, and implementation of the port security program at the newly constructed seaport, Tuxpan Port Terminal, in Mexico.

Mr. McNicholas has lectured at Harvard University, Johns Hopkins University, the Pentagon, DIA, NATO, USMMA King's Point, British Border Forces, and at numerous conferences sponsored by the Office of the U.S. Secretary of Defense, U.S. Department of Homeland Security, the Office of the Director of National Intelligence, and the Shipping Industry. Mr. McNicholas is the author of *Maritime Security: An Introduction* (McNicholas, 2008; Elsevier, Inc./Butterworth-Heinemann), published in English and Chinese; "Port Security" (chapter (Chapter 13) of "Port Engineering: Planning, Construction, Maintenance, and Security" (Tsinker, Gregory, 2004, Wiley and Sons, Inc.)) of *Port Engineering: Planning, Construction, Maintenance, and Security* (Tsinker, Gregory, 2004; Wiley and Sons, Inc.); *Terrorism and Commercial Transportation: Use of Ships, Cargoes, and Containers to Transport Terrorists and Material* (NATO Science for Peace and Security Series, Vol. 98, 2012); and *Use of Commercial Shipping by Terrorist Groups and Their Cooperation with Other Terrorists Groups and Transnational Criminal Organizations* (MARSEC COE, Global Maritime Security: New Horizons, 2014, Turkish Naval Forces Printing Office); Mr. McNicholas graduated from the University of Baltimore with a Bachelor of Science degree and a Master of Science degree in Criminal Justice.



Contributors to This Edition

Captain Scott D. Genovese, U.S. Coast Guard (Retired), assumed his present position as Director, Global Maritime Operational Threat Response Coordination Center in April 2014. The Global Maritime Operational Threat Response Coordination Center serves as the Department of Homeland Security's Executive Secretariat for maritime operational threat response coordination and is directly responsible to the Departments of Defense and the National Security Council Staff to ensure timely and appropriate implementation of the President's Maritime Operational Threat Response Plan. The Maritime Operational Threat Response Plan (MOTR) is the coordinating process for federal agency actions in response to threats to the United States and its interests in the maritime approaches and maritime domain. Mr. Genovese retired from active duty in the U.S. Coast Guard in 2009. During his service he commanded U.S. Coast Guard Cutters in support of Operation Allied Force (Kosovo) and Operation Iraqi Freedom.

Captain Brian Wilson, U.S. Navy (Retired), is the Deputy Director, U.S. Global Maritime Operational Threat Response Coordination Center (GMCC) and is a visiting professor at the United States Naval Academy (Piracy, Maritime Terrorism, and Law of the Sea). The GMCC coordinates the U.S. Government's interagency response to maritime threats, including drug trafficking, migrant smuggling, and piracy. He has participated in bilateral and multilateral discussions on maritime security and whole-of-government coordination frameworks and previously served in the Pentagon developing maritime security policy for the Office of the Under Secretary of Defense (Policy).

Robi Sen has 20+ years of experience in computer and internet security. As a subject matter expert, he has innovated, designed, and built numerous novel security systems, sensors, electronic warfare platforms, and communication systems, for commercial corporations, DARPA, DOD, TSWG, SOCOM, and elements of the U.S. intelligence community. Some of Robi's most notable Cyber Security efforts include developing the first security enhanced version of Android, developing a large-scale passive wireless monitoring system, and developing a new type of Electronic Warfare/Cyber-Warfare platform focused on commercial-off-the-shelf devices that makes use of protocol exploitation. Robi also is a sought after lecturer and recently lectured on Cyber Security to the Naval Post Graduate Homeland Security 2014 Master Cohort. Robi is a prolific author and has written numerous papers, articles, and technical books on technology in general and security in particular. He is also a well-established inventor who has filed or contributed to numerous patents and currently has been awarded a patent for an innovative electronic warfare and

cybersecurity platform. Robi currently holds a Top Secret Security Clearance with the U.S. Government.

Lieutenant Commander Cara Condit, currently serves as the Deputy of the Environmental Law Division within the Office of Maritime and International Law. She is primarily responsible for providing advice on Environmental Crimes cases, including the enforcement of the Act to Prevent Pollution from Ships and the Federal Water Pollution Control Act. Prior to this assignment, Lieutenant Commander Condit served as appellate defense counsel at the Washington Navy Yard in Washington, D.C. Alongside her Navy and Marine Corps counterparts, she provided legal counsel to members entitled to an automatic appeal as a result of a court-martial sentence that included a punitive discharge from the service or over one year confinement. From 2011 to 2013, Lieutenant Commander Condit served as counsel for members in the Physical Disability Evaluation System process as well as those facing administrative separation boards. In addition, Lieutenant Commander Condit served as counsel for courts-martial, Boards of Inquiry and Reliefs for Cause. On a daily basis, she provided legal advice to Coast Guard members on their rights during investigations, adverse evaluations, and non-judicial punishments. Before becoming a judge advocate, Lieutenant Commander Condit served as the Executive Officer of USCGC BLOCK ISLAND in Fort Macon, North Carolina from June 2006 to August 2008 and as a Deck Watch Officer on USCGC TAMPA in Portsmouth, Virginia from May 2004 to June 2006. Lieutenant Commander Condit graduated from the Coast Guard Academy in 2004 with a Government Degree in International Affairs and Public Policy. Through the funded legal education program, she received a Juris Doctor from Suffolk University Law School in Boston, Massachusetts. She is a member of the Massachusetts Bar. Lieutenant Commander Condit also holds a Master of Law in National Security and Foreign Relations Law from George Washington University Law School in Washington, D.C. Individual military awards include the Coast Guard Commendation Medal with the Operational Distinguishing Device and the Coast Guard Achievement Medal.

Lieutenant Rebecca L. Castaneda, currently serves as a staff attorney in the Response Law Division. She is responsible for providing legal support to the Coast Guard's Office of International Affairs (DCO-I). LT Castaneda also is a duty attorney and provides real-time legal and policy advice to senior decision-makers to facilitate Coast Guard maritime law enforcement operations, including advising on domestic law enforcement authorities, international law, and interagency coordination requirements. Prior to joining the Coast Guard, LT Castaneda practiced law in Massachusetts as both a trial and disability attorney. Lieutenant Castaneda graduated from the University of California at Davis with a B.A. in English and a minor in Philosophy. She received a Juris Doctor from New England School of Law in Boston, Massachusetts, and is a member of the Massachusetts Bar. In law school, she was an associate editor for the *New England Journal of International and Comparative Law* and served as the editor-in-chief of *Due Process*. She joined the Coast Guard as a Direct Commission Lawyer in 2012. Individual military awards include the Commandant's Letter of Commendation.

Gerard R. Draughon has over 30 years experience in U.S. law enforcement, with 25 years with U.S. Customs and Border Protection and focused on seaport law enforcement. Gerry started his law enforcement career as a police officer in the Panama Canal Zone, where he was born and raised. After 5 years, Gerry was selected for employment with U.S. Customs and in 1979 started as a Customs Inspector at the Miami Seaport and Miami International Airport. In 1983, Gerry was promoted to Senior Customs Inspector and spearheaded various special operations at the seaports and airports in Miami, Fort Lauderdale, West Palm Beach, and Key West, Florida. Most notable, Senior Inspector Draughon was a “founding member” of the Miami Contraband Enforcement Team (CET), which was U.S. Customs’ flagship interdiction task force and became the model implemented at all U.S. Customs’ Points of Entry nationwide. Gerry’s photo and successes are recorded in the *New York Times* best seller *The Kings of Cocaine*, and he received an award personally from then President George H.W. Bush. In 1990, Gerry was promoted to Supervisory Customs Inspector and tasked with managing the field operations in Miami, Fort Lauderdale, Orlando, West Palm Beach seaports and international airports, as well as the U.S. Customs Preclearance Operation in Nassau, Bahamas. In recognition of his vast experience and successes, and his native Spanish language capability, SCI Draughon was frequently tasked by U.S. Customs’ Office of International Affairs and the U.S. Department of State to conduct training classes in Latin America. From 1990 to 2004, Gerry provided seaport and airport security training to police, military, and customs officers in Colombia, Panama, Costa Rica, Nicaragua, Guatemala, Ecuador, Bahamas, Brazil, Jamaica, and Venezuela. After retiring from U.S. CBP, Mr. Draughon continued to share his expertise, as an on-site trainer to Afghan Customs in Kandahar, Afghanistan, and, most recently, for several years as a U.S. Department of State–contracted trainer in seaport security and ISPS Code topics in dozens of ports in Latin America.

Ed Piper has over 30 years of diversified experience in law enforcement, security, intelligence, education, and training. Ed served as a commissioned officer in U.S. Naval Intelligence, the Military Police Corps, and as a police officer in the Baltimore City Police Department. Mr. Piper was a Primary Instructor at the Maritime Institute of Technology and Graduate Studies (MITAGS) for the CSO/SSO/PFSO Courses and has taught numerous police and security management courses and seminars in Africa and Latin America. He is a veteran professor at teaching security, management, leadership, and contingency planning courses at Johns Hopkins University and also serves as the Dean of Homeland Security Studies at Canyon College. Mr. Piper currently is the Director of Security and Emergency Planning at Georgetown University School of Law.

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Contributors to the Previous Edition (on Whose Chapters This Book Is Based)

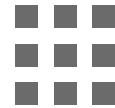
Captain Frederick (Fred) Allen holds an Unlimited Master and First Class Pilot license issued by the U.S. Coast Guard and during the past 30 years he commanded seven containerships and held senior officer positions on several dozen other cargo ships operating in worldwide services. A graduate of West Virginia University, Fred was awarded a direct commission in the U.S. Navy Reserve and during the 1988 Seoul Olympics commanded the U.S. Navy task force in charge of ensuring the security of Korean waters. Today he continues to serve and holds the rank of Captain in the U.S. Navy Reserve. Since 2004, Captain Allen has worked as a consultant for Phoenix Vessel Services, an RSO for the Panamanian government, evaluating and approving/denying Ship Security Plans of vessels in the Panamanian Registry.

Donna Friscia has over 30 years of experience in the maritime industry working for several Shipping Lines trading in Europe, the Far East, the Americas, and the Caribbean, holding a variety of management positions in the Pricing and Documentation Department, Customer Service, and Auditing. Donna started her career working for an NVOCC and then later at Tropical Shipping and Barber Steamship Company, where she learned cargo booking, import-export documentation preparation and filing, vessel chartering, and contract negotiations from the ground-floor up. Ms. Friscia also worked as a Senior Auditor for Tariff Compliance International (TCI), an industry watchdog which audits the rates, agreements, and all documentation of the Latin American operations of Maersk Lines, Crowley Liner Services, Seaboard Marine Line, King Ocean, Tropical Shipping, and the former Sea-Land Service.

James Stapleton is a graduate of the U.S. Merchant Marine Academy in Kings Point, New York. Following graduation, James sailed for 3 years as an officer onboard several U.S. Flag cargo, container, and bulk vessels. In 1999, Mr. Stapleton accepted a position with Del Monte Fresh Produce in Miami, as the Shipping Operations Coordinator. In this position, James was charged with coordinating and scheduling vessel operations (sailing routes and travel times, maintenance, and port activities and cargo stowage issues). Shortly after, in 2000, James was promoted to Port Manager of Del Monte Fresh Produce's operation in the Port of Galveston, Texas. As Port Manager, Mr. Stapleton was responsible for directing

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all aspects of the port operations, including terminal planning; stevedoring and trucking issues; cargo discharging and loading activities; cold storage warehousing; dispatch and drayage to clients; and interface with the port authority, government agencies, Del Monte foreign sites, and U.S. clients. In 2006, James resigned to start up two service companies: Dolphin Chemical & Supply, LLC, and the American Energy Network in Texas.



Preface

This book provides a thorough introduction to the topic of *maritime security*, as seen through the eyes of practitioners who have decades of on-the-ground, experience-based knowledge in seaport security, vessel security, commercial maritime transport, port operations, cyber security, and maritime law. This book is directed to the academic student, government Homeland Security official or policymaker, and private sector maritime security professional. Specifically for these readers, the book details the fundamentals of commercial shipping and how the business functions; the threats and vulnerabilities to the links in the cargo supply chain; strategies, policies, procedures, and practical measures which have proven to be effective in mitigating terrorist incidents, narcotics smuggling, pilferage, stowaways, and piracy; the laws and international Conventions which codify maritime crime and the legal authority for response; and a window into how the U.S. government provides a coordinated, whole-of-government response to international maritime incidents.

It wasn't until after I left my position as a CIA Counternarcotics Analyst, which included stints as the CIA Liaison to U.S. Coast Guard Intelligence and as a member of the Vice President's Narcotics Interdiction Task Force, and working in the field for several shipping lines, did I realize the critical value of learning the "business" of commercial maritime transport and how seaports and ships actually function. During my first few years in the private sector, I rode many cargo ships through the Atlantic and Pacific Oceans and worked side by side with seaport and shipping line employees in most countries of Latin America and the islands in the Caribbean. Gaining insight from these experiences, learning the native language, and understanding the culture provided me with a somewhat unique perspective on maritime security, one which was key to the development and directing of highly successful maritime security programs for the top 20 shipping lines in the world and several of the largest seaports in Latin America. Working on the "front lines"—or, more appropriately, "behind the lines"—of the War on Drugs, I learned that successes could be achieved when effective and comprehensive security policies, plans, and procedures were implemented at key initial links in the cargo supply chain and focus was placed at the first primary "choke point"—the load seaports and their ships. In these post 9-11 times, with the commercial maritime sector as a highly vulnerable target for terrorist attack, it is important that private sector maritime security professionals and government officials and policymakers have access to the knowledge, experience, and "lessons learned" of practitioners who have successfully operated in the highest risk ports in this hemisphere. This is the reason I wrote this book.

This book provides the reader with a solid familiarization with, and appreciation of, the key tenets of seaport and vessel security and commercial maritime transport, cyber security, and maritime law, and will serve as a practical guide for those private and public sector persons involved in maritime security.

Michael A. McNicholas