

### The Keystone

Once NBSAC's propeller guard subcommittee report was issued, it immediately became the keystone of the boating industry's defense against propeller guard lawsuits.

Shortly after NBSAC's 1989 final report was presented, Mercury and OMC began using Jim Getz, chairman of the NBSAC propeller guard subcommittee as an expert witness. His testimony focused on the subcommittee's first recommendation:

***"The U.S. Coast Guard should take no regulatory action to require propeller guards."***

Getz backed up the resolution with the history of the subcommittee and defended the subcommittee's resolutions, occasionally by using "Snyderisms".

By Getz's January 1991 deposition in Dacus vs. Harris-Kayot, Getz had already testified at least five times for the industry in propeller cases.

In court Getz was quickly challenged about the bias created by Mercury and OMC being represented on the subcommittee. Getz and Snyder both later testified they thought Roy Montgomery, Mercury Marine's in house lawyer, should have been removed from the subcommittee to prevent the appearance of bias. Montgomery was removed at the last subcommittee meeting and did not contribute to the final report.

### Brochtrup vs. Cross Sectional Area

In the Jacob Brochtrup vs. Mercury Marine and Sea Ray case, Robbie Alden was the attorney for Brochtrup. Alden pointed out only half of the forward facing donut shaped area between propeller blade tips and the guard adds to the cross sectional area the industry says is of greater risk to those in the water than an open propeller. (see image on 1989 part 4).

If a person's body was to somehow contact the donut shaped area on both sides of the propeller, their body would also have to have contacted the leading edge of the drive and the open propeller. They would have been struck by the propeller even if there was no guard.

The subcommittee says we should not use guards in part because the additional donut shaped area creates a greater risk than the open propeller due to the potential for blunt trauma injuries. Alden showed only half the area of the donut could possibly be of risk to any person in the water at one time.

### Remember When?

Remember when the subcommittee rejected the use of propeller guards in part because, ***"Up to 80% of underwater impacts occur at normal operating speeds."***

That quote, a Snyderism, worked its way into the final report. In Pree vs. Brunswick, Dick Snyder later said he had calculated the percentage from BARD data but had no record of his calculations.

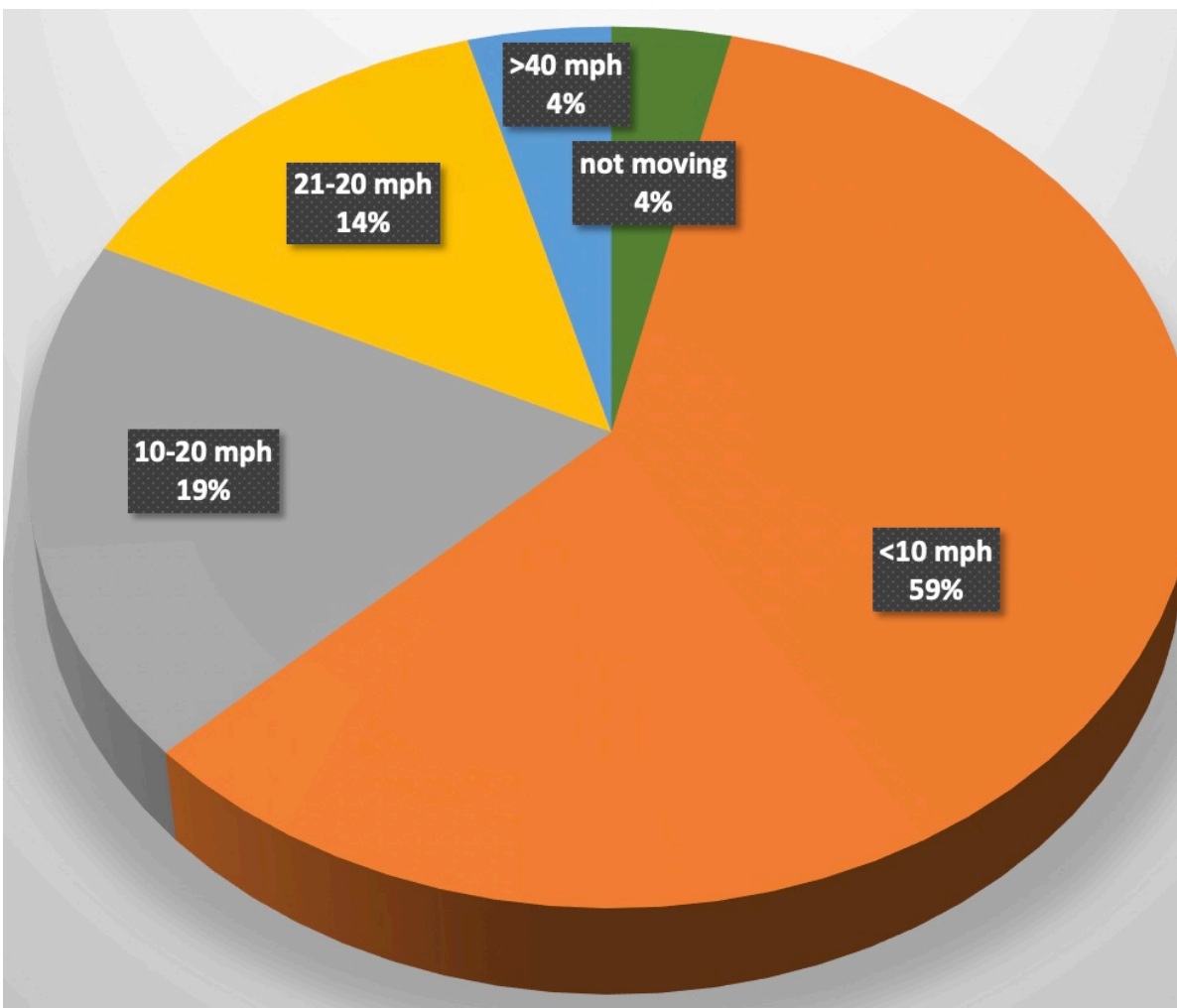
We used the 2009 Public BARD database to check the speed of each boat propeller accident. See the pie chart below.

The NBSAC report, Snyder, and more studies continue to report, ***"Up to 80% of underwater impacts occur at normal operating speeds."***

The chart below shows **over 70 percent of prop strikes occur below 15 mph**, vastly different from the Snyderism above.

The chart indicates **only about 20 percent of propeller accidents occur at speeds above 20 mph**.

### 2009 Propeller Strike boat speeds for the 140 Public BARD reported propeller strike accidents that reported their speeds



### Blunt Trauma

The subcommittee said, **blunt trauma injuries are often more severe than propeller cutting wounds and penetrations of the body.**

They also said, ***"blunt trauma injury which becomes increasingly significant at speeds over ten mph"***

No scientific studies or data were cited supporting these two statements.

Shortly later, Mercury and OMC hired Biodynamic Research Corporation to study underwater propeller guard impacts to support the two blunt trauma statements above in court.

The introduction to BRC's preliminary paper on propeller head strikes opened with the two statements above from the NBSAC 1989 report. Then the BRC paper stated, ***"The concern that the use of propeller guards may produce a different injury mechanism (blunt trauma) was based on theoretical analysis with no direct experimental evidence available to support it."***

One version of BRC's head impact paper admitted the industry had no evidence to support NBSAC's blunt trauma statements used to reject the use of propeller guards.

### U.S. Marine Corps Propeller Guard

At the same time the NBSAC propeller guard subcommittee was underway, the U.S. Marine Corps was looking for a propeller guard. The Marines wanted to protect soldiers loading, and unloading their outboard powered Rigid Raiding Craft in shallow water.

Dick Snyder of Mercury designed and patented a propeller guard for the Marines' application. Mercury teamed with OMC who supplied the outboard motors, and began competing for the Marine Corps order.

Dick Snyder presented his work with the Marine Corps to the NBSAC propeller guard subcommittee at their last meeting, May 12, 1989. Snyder followed up his presentation with a letter to Jim Getz, subcommittee chair.

NBSAC's final report reads like Mercury's Marine Corps propeller guard project was a failure.

However, Mercury attended a pre-bid conference the day before NBSAC's final report was issued in early November 1989. Mercury was preparing to bid on an order for 300 propeller guards, likely the largest single order for boat propeller guards in the history of the world. The day after the NBSAC report was released, Mercury received a U.S. Government order for providing technical assistance with testing propeller guards for the Marine Corps.