

U. S. Department of
Homeland Security

United States
Coast Guard



Commandant
United States Coast Guard

2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: G-ICA
Phone: (202) 366-4280
FAX: (202) 366-7124

DEPARTMENT OF HOMELAND SECURITY

U. S. COAST GUARD

STATEMENT OF

**REAR ADMIRAL WAYNE JUSTICE
ASSISTANT COMMANDANT FOR RESPONSE**

ON

CRUISE SHIP CRIME: PRACTICES AND PROCEDURES

BEFORE THE

COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE

SUBCOMMITTEE ON COAST GUARD & MARITIME TRANSPORTATION

U. S. HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2007

Good morning Mr. Chairman and distinguished members of the Subcommittee. I am honored to appear before you to provide an update on the Coast Guard's role and actions taken to assess and address concerns about crime on cruise ships. I will focus my brief remarks on our progress since March to both clarify and highlight the scope of mandatory cruise ship crime reporting requirements, and to implement more expansive voluntary reporting of crimes on cruise ships.

The Coast Guard is committed to improving the overall safety and security of the maritime transportation system. The cruise ship industry is a very important sector within this system. Each year, cruise ships around the world carry over eight million U.S. citizens as passengers. As I reported in March, nearly all cruise ships are foreign-flagged and subject to the exclusive jurisdiction of their flag State when operating seaward of any other State's territorial sea. Much of the alleged crime involving cruise ships is clearly under the jurisdiction of either a foreign coastal State or the cruise ship's Flag State, and therefore may not be within the jurisdiction of the United States. Determining whether the United States may have authority, jurisdiction, and resources to intervene in cases involving United States citizens aboard foreign-flagged vessels beyond the U.S. territorial sea is situationally-dependent, varying with timing and content of initial reporting.

The primary role of the Coast Guard with respect to cruise ship crimes is establishing and facilitating Federal reporting requirements and procedures in a manner consistent with domestic and international law. These procedures enable notification to and decision-making by appropriate investigative agencies. By establishing maritime crime reporting requirements and facilitating delivery of incident reports through the Coast Guard's network of maritime command and operations centers, the Coast Guard supports the Federal Bureau of Investigation (FBI) in its lead investigative and statistical analysis roles. To further develop the interagency role, the Coast Guard led a successful effort this year to ensure national-level agency and industry alignment regarding the application of current Federal regulations.

Current Federal regulations (33 CFR 120.100 and 120.220) establish reporting requirements for all passenger vessels over 100 gross tons, carrying more than 12 passengers for hire, making voyages lasting more than 24 hours, any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories. The owner, operator, charterer, or vessel security officer of a covered vessel must report each breach of security, unlawful act, or threat of an unlawful act against any covered vessel, or against any person aboard it, that occurs in a place subject to the jurisdiction of the United States Government.

The Coast Guard and the FBI, in consultation and coordination with the Departments of State and Justice, interpret the current regulations as applying to acts committed in U.S. inland waters and the U.S. territorial sea. To the extent permitted by international law, regulations also apply aboard any foreign vessel seaward of U.S. territorial waters during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States. For example, an offense committed against a U.S. national on the high seas or in foreign territorial waters aboard a foreign-flagged cruise ship that embarked from or intended to call on a U.S. port would be subject to the reporting requirement as a de facto condition of port entry.

Covered incidents must be reported to both the Coast Guard and to the local office of the FBI. The Coast Guard's National Command Center in Washington, DC immediately distributes all reports received to the FBI and the appropriate Coast Guard Captain of the Port. Where a foreign state has concurrent jurisdiction with the United States, that is, a crime takes place in the foreign state's territorial waters or on board a vessel in international waters flagged in a foreign State, the cruise line or cruise vessel should notify the appropriate authorities of the foreign state, at least simultaneously with notification to U.S. authorities. We have communicated our interpretation of the scope of the current mandatory reporting requirements to the Cruise Line International Association (CLIA) and reiterate them here today as part of my public statement for the record.

Our current regulatory approach with respect to mandatory incident reporting is consistent with well-settled principles of international law regarding the extraterritorial application of a coastal State's domestic laws. However, the mandatory requirements to report incidents under the current regulations do not effect and may not always be co-extensive with the extraterritorial criminal investigative and arrest authorities of U.S. law enforcement agencies. This is because the basis of our legal authority, under both international and domestic law, to compel foreign flag vessels not calling on the United States to report crimes committed by or against U.S. citizens seaward of our territorial jurisdiction is different from the authority employed by the United States to investigate and potentially prosecute such crimes.

In order to facilitate increased reporting, the Coast Guard worked closely with the FBI and the Cruise Line International Association (CLIA) throughout 2006 and early 2007 to reinforce the scope of the mandatory reporting requirements, and to develop voluntary reporting procedures for serious offenses committed by or against U.S. citizens aboard cruise ships that are beyond the scope of the mandatory reporting requirements. This effort represented the first disciplined effort to gather serious crime statistics with respect to cruise ships frequented by U.S. citizens regardless of whether such vessels call in the United States. Given the legal and operational environment that I described when I testified in March, we viewed this voluntary reporting system as the most promising and viable option in the near term for improving and expanding cruise ship crime reporting and investigative response.

As expected, many in the cruise industry reinforced compliance with existing mandatory reporting requirements and embraced the opportunity to report and improve responses to serious crimes affecting U.S. citizens. Collectively, the Coast Guard and the FBI received and processed 207 incident reports in the first six months of the program. The vessels making those 207 reports carried over 4,379,000 passengers during the period. As I mentioned earlier, it is the Coast Guard's role to establish reporting requirements and the FBI's role to determine the appropriate Federal investigative response in specific cases and compile crime statistics for policy analysis. Accordingly, I will defer to the FBI to provide more detailed investigative and analytical context for the reporting. From the Coast Guard's overall maritime security perspective, we have no evidence or data to suggest there is significantly more crime or change to the nature of crime affecting U.S. citizens aboard cruise ships.

Based on consultations with FBI, the Coast Guard believes clarifying the scope of the mandatory cruise ship reporting requirements and implementing additional voluntary reporting procedures are working well, contributing to improved situational awareness through transparency, and helping to better inform both the discussion and response with respect to allegations regarding crime on cruise ships. We see no emerging requirement for legislative change regarding incident reporting requirements. We continue to recommend prospective cruise ship passengers assess the level of security and safety on foreign-flagged cruise ships on which they may embark just like they would evaluate their safety and security risks when visiting a foreign country. Congressional hearings like these help highlight that responsibility, and encourage the cruise ship industry to embrace transparency in reporting and crime prevention strategies to remain successful.

It is clear that some serious acts affecting U.S. citizens aboard foreign-flagged cruise ships have brought great sadness to the families of victims. The Coast Guard mourns the losses these families have suffered and we are committed to improving the overall safety and security environment within the maritime domain. The Coast Guard will continue to work with the FBI and the Departments of State and Justice to ensure effective implementation of both mandatory and voluntary reporting procedures, and to intervene at sea when appropriate. Together, the mandatory reporting regulations and the voluntary reporting requirements contribute to improving the safety and security of U.S. citizens aboard cruise ships by leveraging partnerships with industry and improving transparency for consumers.

Thank you for the opportunity to testify today. I look forward to your questions.