
The Parliament of the Commonwealth of Australia

Troubled Waters

**Inquiry into the arrangements surrounding
crimes committed at sea**

House of Representatives
Standing Committee on Social Policy and Legal Affairs

June 2013
Canberra

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Contents

| | |
|-----------------------------------|------|
| Foreword | vii |
| Membership of the Committee | ix |
| Terms of reference | xi |
| List of abbreviations | xiii |
| List of recommendations | xv |

THE REPORT

| | |
|--|-----------|
| 1 Introduction | 1 |
| Referral of the inquiry | 2 |
| Scope of inquiry | 2 |
| Conduct of the inquiry | 3 |
| Purpose of inquiry | 4 |
| Structure of the report | 5 |
| 2 Cruise tourism | 7 |
| Cruising industry – an overview | 8 |
| The Australian cruising market | 10 |
| Cruising demographics | 12 |
| Foreign involvement in the Australian market | 13 |
| Crimes on cruises | 14 |
| Australian crime statistics | 15 |
| US crime statistics | 17 |
| Committee Comment | 19 |

| | | |
|----------|--|-----------|
| 3 | Jurisdiction at sea: international law and domestic law | 21 |
| | Understanding Jurisdiction | 22 |
| | Enforcement jurisdiction under international law | 23 |
| | United Nations Convention on the Law of the Sea 1982 (UNCLOS)..... | 24 |
| | Territorial jurisdiction | 25 |
| | Extra-territorial jurisdiction..... | 27 |
| | Flag state jurisdiction | 29 |
| | Legal Advice | 30 |
| | Jurisdiction under domestic Australian maritime law | 32 |
| | Crimes at Sea Act | 33 |
| | Criminal Code Act | 35 |
| | Improvements through international bodies | 36 |
| | Committee Comment | 38 |
| 4 | Promoting safety and crime prevention | 41 |
| | On-board crime prevention and safety measures | 41 |
| | Alcohol service | 42 |
| | On-board security..... | 47 |
| | Video monitoring | 51 |
| | Operators' liability for negligence | 53 |
| | Pre-departure preparation and awareness of passengers | 55 |
| | Committee Comment | 58 |
| 5 | Responding to crimes at sea | 63 |
| | Protecting victims' welfare | 65 |
| | IMO Guidelines | 70 |
| | Crime scene preservation | 72 |
| | IMO Guidelines | 74 |
| | Reporting crimes | 75 |
| | Existing Australian reporting requirements..... | 76 |
| | Current reporting | 77 |
| | Making improvements to reporting requirements | 79 |
| | Committee Comment | 82 |

| | | |
|---|--|----|
| 6 | Investigating crimes at sea..... | 85 |
| | Establishing domestic jurisdiction..... | 85 |
| | Investigating and prosecuting crimes committed at sea..... | 86 |
| | Police investigations..... | 86 |
| | Prosecuting crimes..... | 88 |
| | Coronial jurisdictions and investigations..... | 89 |
| | Committee Comment..... | 91 |
| | Concluding Comments | 94 |

APPENDICES

| | | |
|--|--|-----|
| | Appendix A – List of Submissions..... | 99 |
| | Appendix B – List of Exhibits | 101 |
| | Appendix C – List of Public Hearings | 103 |
| | Appendix D – Legal Advice..... | 105 |
| | Appendix E – Milledge Recommendations..... | 123 |
| | Appendix F – Government Response | 131 |
| | Appendix G – National Protocols for Reporting Crimes At Sea..... | 151 |
| | Appendix H – Intergovernmental Agreement – Crimes at Sea..... | 159 |
| | Appendix I – Vessel Flag States..... | 167 |

LIST OF BOXES & FIGURES

| | | |
|--|---|----|
| | Box 1 – the death of Dianne Brimble..... | 8 |
| | Box 2 – the disappearance of Paul Rossington and Kristen Schroder | 11 |
| | Figure 1 Maritime zones..... | 25 |
| | Figure 2 Indicative Map of Intergovernmental Agreement jurisdictions..... | 34 |



Foreword

Australians love to travel, to see new places and experience other cultures. More and more of us are doing this by cruise ship, and cruising is becoming more popular in Australia year after year. Like any other international travel, cruising has its risks, and this inquiry has focussed on preventing crime and accidents from occurring on cruise ships, as well as making sure that justice is served when crimes are committed.


When crimes occur at sea, the results can be profoundly tragic. Most Australians know the name Dianne Brimble because of her horrendous death in 2002, because of the poor response of P&O, operators of the ship on which she died, and because of the subsequent coronial inquiries into persons of interest. Although the industry has cleaned up its act since 2002, there is still more for the Australian Government and industry to do to keep Australians safe on cruise ships.

International law puts limits on what Australia can do as a nation. As a Committee, we are disappointed that the Australian Government cannot do more because of those limits. However, the complexity of international law is no comfort to victims of crime on cruise ships, and neither should it be an excuse for government inaction. We have identified the other ways that the Australian Government can make cruising safer and improve justice for victims of crime on cruises.

I would like to make a special note of thanks to Mark Brimble, the former husband of Dianne Brimble. Mark fought for years to ensure that justice was served for Dianne's death, and he has made an enormous contribution to the safety of all cruise passengers, around the world. He gave valuable assistance to the inquiry, and his evidence has been crucial to the Committee's deliberations and to this report. Mark's tireless and unwavering commitment to justice, and to the safety of all cruise passengers, has been inspirational to many people, and on behalf of all Australians, I thank him for his steadfastness.

This inquiry has highlighted the risks of cruising, and the Committee is convinced that more can be done to keep Australians safe on cruise ships. With increasing numbers taking cruises, the Australian Government must act in every direction to the limits of its capacity, and the industry must commit itself to investing in an even safer cruising environment. Past tragedies have shown us what needs to be done, and I look forward to seeing action to ensure that tragedies and mistakes do not occur again.

Graham Perrett MP
Chair



Membership of the Committee

| | |
|--------------|--|
| Chair | Mr Graham Perrett MP |
| Deputy Chair | The Hon. Judi Moylan MP |
| Members | The Hon. Laurie Ferguson MP (From 22 April 2013) The Hon. Shayne Neumann MP (To 22 April 2013) Ms Michelle Rowland MP Ms Laura Smyth MP The Hon. Dr Sharman Stone MP Mr Ross Vasta MP |

Committee Secretariat

| | |
|--------------------|---|
| Secretary | Dr Anna Dacre |
| Inquiry Secretary | Mr Thomas Gregory (from 18 March 2013) Ms Natalya Wells (until 8 March 2013) |
| Senior Researchers | Dr John White Ms Lauren Wilson |



Terms of reference

The Committee will inquire into the arrangements surrounding crimes committed at sea, with a focus on crimes against the person.

The Committee will, having regard to the principles of international law:

- (a) examine the effectiveness of current arrangements for the investigation and prosecution of alleged offences under the *Crimes at Sea Act 2000* and the Intergovernmental Agreement–Crimes at Sea 16 November 2000;
- (b) examine the cross jurisdictional issues that face the States, Territories and the Commonwealth, including the overlap of various coronial jurisdictions;
- (c) consider whether improvements could be made in relation to the reporting, investigation and prosecution of alleged crimes committed at sea; and
- (d) examine support available to victims of crime committed at sea.



List of abbreviations

| | |
|-----------------------------|--|
| ASA | Australian Shipowners Association |
| CCTV | Closed-circuit television |
| CLIA | Cruise Lines International Association |
| CDPP | Commonwealth Director of Public Prosecutions |
| DFAT | Department of Foreign Affairs and Trade |
| FBI | Federal Bureau of Investigation (USA) |
| Government Response | The Government Response to the recommendations of the NSW Coroner's inquiry into the death of Ms Dianne Brimble |
| ICVA | International Cruise Victims Association |
| IMO | International Maritime Organisation |
| Intergovernmental Agreement | The Intergovernmental Agreement – Crimes at Sea 2000 |
| Kerry Act | The Cruise Vessel Safety and Security Act 2010 (USA) |
| Legal Advice | Legal Advice obtained by the Committee from the Australian Government Solicitor relating to 'Imposition of conditions on port access for cruise ships: requirements regarding crimes at sea' |

| | |
|-----------------------------|--|
| Milledge Recommendations | The NSW Coroner's inquiry into the death of Ms Dianne Brimble |
| MOB detection | Man-overboard detection systems |
| NPRCS | National Protocols for Reporting Crimes at Sea |
| NSWPF | New South Wales Police Force |
| RSA | Responsible service of alcohol |
| SA Commissioner | South Australian Commissioner for Victims' Rights |
| TSB | Territorial sea baseline |
| UNCLOS | United Nations Convention on the Law of the Sea |



List of recommendations

Recommendation 1 20

The Committee recommends that the Australian Institute of Criminology should compile, maintain and publish statistics on crimes committed at sea by or against Australians.

Recommendation 2 39

The Committee recommends that the Australian Government dramatically increase its efforts to achieve greater cruise passenger safety and crime prevention strategies within the International Maritime Organisation and other organisations as appropriate, including pursuing cooperative agreement for the following urgent priorities:

- The installation and real-time monitoring of CCTV;
- The installation of 'man-overboard' alarm systems to alert on-board security to passengers going overboard;
- The adoption of reporting protocols analogous to those in the Kerry Act; and
- A Responsible Service of Alcohol code.

Recommendation 3 39

The Committee recommends that the Australian Government vote in favour of the *Guidelines on the preservation and collection of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of persons affected*, at the upcoming International Maritime Organisation Assembly in November 2013.

Recommendation 4 61

The Committee recommends that the Australian Government conduct a comprehensive review and report on cruise vessel operators' liability for cruise tickets purchased in Australia, including Australia's capacity to provide legislative safeguards for Australian consumers.

Recommendation 5 61

The Committee recommends the Australian Government legislate such that all cruise operators must distribute to all cruise passengers, when boarding a cruising vessel at an Australian port, a brochure that provides information on the following:

- What to do in case of an accident or a potential crime being committed on board;
- The rights of passengers in the case of injury or death;
- The numerous jurisdictions that may apply to a vessel that is travelling through numerous national waters and international waters;
- Contact details for cruising operator support services, as well as other support services, such as rape crisis services;
- Contact details for Australian consular assistance throughout the world; and
- Contact details for Australian Police agencies.

Recommendation 6 62

The Committee recommends the Department of Foreign Affairs and Trade provide general safety advice on the *Smartraveller* website about cruising and how passengers may ensure their own safety, as well as providing individual advice on each major cruising operator visiting Australian ports.

Recommendation 7 83

The Committee recommends the Australian Government make vessel operators' use and enforcement of the *IMO Guidelines on the preservation and collection of evidence following an allegation of a serious crime having taken place on board a ship or following a report of a missing person from a ship, and pastoral and medical care of persons affected a condition of entry to Australian ports*, should the Guidelines be adopted by the IMO Assembly.

Recommendation 8 83

The Committee recommends the Australian Government develop crime scene management protocols (in collaboration with all Australian police forces), with which vessel operators would need to comply in order to access Australian ports.

Recommendation 9 84

The Committee recommends the Australian Government develop and legislate for a mandatory crime at sea reporting scheme, with which vessels would have to comply in order to enter Australian ports. Under such a scheme, reports must be made:

- Of allegations about criminal acts that are crimes under the *Crimes At Sea* Act regime;
- Where the accuser or accused is Australian.

Such reports must be made to an Australian police force *as soon as possible* after a member of the vessel's staff becomes aware of the act or allegation.

Recommendation 10 92

The Committee recommends that the Australian Government, in cooperation with the States, establish a regular timeframe and formal process for reviewing the National Protocols for Reporting Crimes at Sea.

Recommendation 11 92

The Committee recommends that the Australian Government, in cooperation with the States, establish a formal protocol ensuring clarity in the arrangements between the Australian Federal Police and State Coroners.

