

Protecting the Travel Consumer

Australian House of  
Representatives

Standing Committee on Social  
Policy & Legal Affairs

Inquiry into the arrangements  
surrounding crimes committed at  
sea

The Consumer Perspective 2012

16 November 2012

**Contents:**

ITEM:	PAGE NUMBER
<b>ACKNOWLEDGEMENT</b>	3
<b>INTRODUCTION TO HOLIDAYTRAVELWATCH</b>	4
<b>The UK Department for Transport Consultation on 'Crimes at Sea' – An Introduction</b>	5 to 6
<b>Preliminary Discussion Document: Investigating Serious Crime &amp; Instances of Missing Persons on Cruise Ships</b>	7 to 22
Executive Summary	7
Suggested Serious Offences which may be applicable in the Cruise Environment	8
Introduction	8 to 9
<b>Responsibility for Crime Investigation on Cruise Ships</b>	10 to 15
Cruise Ships Statistics & Flags of Convenience	10 to 11
Assumptions on Global Cruise Passenger Numbers	11 to 12
Cruise Crime Statistics	12 to 13
General Sexual Offences/Alcohol Data	13
Cruise Ship Crime Data	14 to 15
<b>Solutions to a better Crime Investigation on-board Cruise Ships</b>	16 to 21
CRB Checks	16
Criminal Investigations vs On-board Safety	16
<b>Solutions:</b>	16
Criminal Investigations:	16 to 17
Training:	18
<b>Solutions:</b>	18
Forensic Evidence Preservation:	19
<b>Solutions:</b>	19
Caring for Victims & Witnesses of Serious Crime:	20
<b>Solutions:</b>	20 to 21
<b>Conclusion:</b>	21
<b>Solutions:</b>	21 to 22
<b>HTW CONCLUSION</b>	23
© HolidayTravelWatch 2012 – Publication of part or the whole of this report only with the express permission of HolidayTravelWatch. Permission is however extended to the EU Commission, EU Parliament, UK Parliament and UK Government Departments and the IMO.	

**ACKNOWLEDGEMENT**

It is nearly 8 years since the death of our Founder, Brenda Wall. Her outstanding determination and courage, led to a new dialogue between the Consumer and The Travel Industry. Such dialogue has created a greater awareness of corporate behaviour and the need for Consumer Protections that benefit both the Consumer and The Travel Industry.

The Commissioning of this study and the completion of this report sets a new standard for HolidayTravelWatch and recognises Brenda's ultimate goal, that of safe travel for all!

**INTRODUCTION TO HOLIDAYTRAVELWATCH**

**The Australian House of Representatives, Standing Committee on Social Policy & Legal Affairs has called for information following the death of a Ms Dianne Brimble. They advise that the focus is on jurisdictional and crime investigation issues. Mindful of that issue, we re-produce our report to the UK Department for Transport, commenting on the proposed IMO guidelines on the issue of the investigation of crimes committed at sea. We consider that the submission of this information will greatly assist the House of Representative's Committee when considering the extent of crime and how it is investigated. Our report offers solutions. Our report reflects many issues we have also raised with the European Commission.**

HolidayTravelWatch is British based consumers organisation founded in 1995. Through 17 years of operation, it has provided information, advice and assistance to over 220,000 holidaymakers, through its dedicated helpline and website. This should however be put into context with the 65,000,000 individual trips taken by British Citizens in 2005<sup>1</sup>. It suggests that HTW only receives a small proportion of all complaints, however, these holiday complaints tend to reflect the more serious element of contractual, illness and injury difficulties faced by the consumer. HolidayTravelWatch is entered onto the EU 'Transparency' Register – ID Number – 63992152960-12<sup>2</sup>. The Organisation currently provides information and advice, assisting some 90% of all travel consumers who contact HTW, to find a resolution to their travel complaint. The remaining complainants are then given the opportunity to progress toward litigation, through travel law specialists. It is estimated that more than 90,000 holidaymakers have received such legal assistance, and have achieved in excess of £20,000,000 in compensation for their holiday complaints, holiday illness and injuries.

---

<sup>1</sup> Lord Treisman – FCO Reception March 2006

<sup>2</sup> <https://webgate.ec.europa.eu/transparency/regrin/consultation/displaylobbyist.do?id=63992152960-12>

**THE UK DEPARTMENT FOR TRANSPORT CONSULTATION ON  
'CRIMES AT SEA'.**

**An Introduction:**

HTW has indicated within the introduction to this Organisation, that it has provided information and contact to the EU Commission and MP's at Westminster, on the issue of 'crimes at sea'. HTW receives a wide variety of complaints concerning the cruise product, much of which sits outside the criminal arena.

However, HTW receives a regular and continual contact from holidaymakers who have been affected by criminal activity whilst on their cruise holiday.

The Organisation has long advocated that the issue of crime and crime investigation on-board cruise ships should be dealt with without delay and offer the maximum protection to Consumers.

We have campaigned strongly for the inclusion of this subject matter within the discussions that surround the EU Maritime Day and have attended the 2012 Stakeholder Conference in Brussels on Ships Safety.

From an Organisation's perspective, the response to lobbying efforts have been disappointing in the extreme; there is a need for Authorities to move away from the 'comfort zone' that suggests a self-regulatory route is acceptable and recognise that crime conditions at sea may offer a green light to perpetrators who see an easy route to physical or personal gain (the DfT should recognise the wider issue of crime as reported via this article<sup>3</sup>).

Mindful of the document referred to within this Consultation, we have decided to Commission commentary based on a professional expertise not immediately available to HTW.

---

<sup>3</sup> [http://en.wikipedia.org/wiki/Flag\\_of\\_convenience](http://en.wikipedia.org/wiki/Flag_of_convenience)

We have therefore requested that a retired Police Officer, Gail Brehany, examine the proposals and to provide a commentary and recommendations for consideration.

Gail is a retired Police Officer who spent 30 years in the West Midlands Police. In the latter years of her service, she was charged with the investigation of sexual crime and in particular Child Abuse. Gail continued her keen interest in this area, particularly on the issue of training. She worked with Social Services and other professional bodies to create training packages on investigation techniques and evidence preservation. Gail also worked with the then G8 and Interpol in the development of data in this area. Upon retirement, she has continued to provide her skills in child abuse investigation, working for a period with the West Midlands Police and in Jersey. The commentary that follows is a preliminary study of the issues and is entirely her own work.

**Preliminary Discussion Document.**

**Investigating Serious Crime and Instances of Missing Persons on Cruise Ships**

**Executive Summary:**

1. This document has been produced using document LEG 99/INF.2 as its underpinning.
2. This document recognises the comprehensive reportage produced by LEG 99/INF.2 but disagrees or expands in specific areas.
3. It is the writer's view that current investigations into serious criminal activity on board cruise liners is woefully inadequate; that access to justice is not being met and there appears to be a failing in articles under human rights.
4. The basic issues around investigation appear to be the difficulties presented by multi jurisdictions approach which is neither coherent nor unified;
5. That statistics tend to show that the majority of serious sexual offences are committed by crew members and due to the possibly large number of ever changing domestic staff criminal checking may not take place.
6. There appears to be no appreciation of the complex nature of a criminal investigation and the need for trained personnel to conduct such investigations, and it is this element that this document focuses specifically on

### Suggested Serious Offences which may be applicable in the Cruise environment:

- a) Murder (Homicide)
- b) Manslaughter
- c) Grievous bodily harm
- d) Any offence committed against a child (what age is determining child?)
- e) Rape
- f) Indecent Assault
- g) Robbery
- h) Arson
- i) Piracy

### Introduction:

This document relies on information within the public arena for facts and figures and apologises unreservedly for any errors that may be made as a result of reliance on that data.

This document aims to identify issues concerning criminal offences and missing persons whilst on board cruise ships; further it will aim to identify possible solutions and best practise procedures for on-board investigations.

The document is intended to form the basis of both National and International discussion to:

1. Enable the formation of agreed mandatory working practises within a criminal investigation (& investigation of missing persons);
2. Ensure that a qualitative investigation can be applied to serious offences as standard procedures;



3. **Safeguard through agreed mandatory protocols, that persons on board vessels, have access to justice in compliance with humans rights – (EU Convention on Human Rights – Article 6 (Right to a Fair Trial) & (UN Universal Declaration on Human Rights – Article 7 (Equal Protection of the Law) and Article 10 (Full Equality to a Fair & Public Hearing));**
4. Identify current poor working practises;
5. Identify training needs for those conducting investigation and offer solutions to those needs.

The document encompasses concerns around the ability to establish qualitative international investigative standards and difficulties that ensue as a result of the unique complications created by the introduction of multiple jurisdictions. It determines to identify solutions to those difficulties.

**RESPONSIBILITY FOR CRIMINAL INVESTIGATION ON CRUISE SHIPS**

The safety of personnel on board a liner is clearly the responsibility of the company who owns the liner, and therefore it is right to expect that the initial investigation of a criminal offence will also be the responsibility of that liner.

Criminal investigations are by their nature complex and time consuming and whilst land locked officers have a team of professionals to assist where needed, an investigation team on-board a cruise ship would be significantly smaller; therefore it is paramount that the training is no less stringent.

**It is with some concern that currently there appears to be an ad-hoc approach investigation of serious offences committed on board ships, and instances where the evidence within an investigation fails to be appropriately protected.**

*Cruise Ship Statistics & Flags of Convenience:*

Currently it is believed that there are 50 large cruise liners with a capacity of 3000+ passengers & crew in operation around the world at this time. There are a further 14 large cruise liners under construction each with an estimated 3000+ capacity.<sup>4</sup>

There are 34 countries which operate 'Flags of Convenience'.<sup>5</sup>

From a 2006 table some 6 States have been identified as 'Flags of Convenience' countries with cruise ships possibly registered under those 'Flags' (it is noted that there are other such countries but data is difficult to extract on this issue). The Countries within the 2006 table are the Bahamas, Malta, Cyprus, Bermuda, Antigua & Barbuda and St Vincent.<sup>6</sup>

---

<sup>4</sup> [http://en.wikipedia.org/wiki/List\\_of\\_the\\_world's\\_largest\\_cruise\\_ships](http://en.wikipedia.org/wiki/List_of_the_world's_largest_cruise_ships)

<sup>5</sup> <http://www.itfglobal.org/flags-convenience/flags-convenien-183.cfm>

<sup>6</sup> [http://www.itfseafarers.org/ITF\\_statistics.cfm#top35/06](http://www.itfseafarers.org/ITF_statistics.cfm#top35/06)

Again, with difficulties in extracting data, it has been established that there are currently 316 operational cruise ships throughout the world.<sup>7</sup>

If we assume conservatively that there is an average of 1500 passengers on each ship (making an allowance for smaller cruise ships), this suggests that there are currently 474,000 passengers engaged in a cruise holiday, globally, at any one time.

Through other data, we can establish that there are (as of 14/3/11) 136 cruise ships registered under a 'Flag of Convenience' – the 'Flags' identified under this data includes the Bahamas, Panama, Bermuda, Malta & the Marshall Islands (this does not preclude the possibility that this number is greater, subject to further data being made available).<sup>8</sup>

In developing this data further, using our estimated 1,500 passengers per ship, it suggests that some 204,000 passengers are sailing globally on-board ships operating a 'Flag of Convenience at any one time.

### Assumptions on Global Cruise Passenger Numbers:

It should be noted that from a UK perspective, it is reported that 1.7 million Britons took a cruise holiday in 2011.<sup>9</sup>

If we take our suggested analysis that 474,000 passengers are taking a cruise at any one time, this suggests that in one year, 24,648,000 passengers are carried by cruise ships around the world.

Using the same analogy, if we take 204,000 passengers, it suggests that in one year, 10,608,000 passengers are carried on-board ships operating under a 'Flag of Convenience'.

---

<sup>7</sup> [http://en.wikipedia.org/wiki/List\\_of\\_cruise\\_ships](http://en.wikipedia.org/wiki/List_of_cruise_ships)

<sup>8</sup> [http://www.cybercruises.com/CM\\_Mar14-A-Look-At-Cruise-Ship-Registry.htm](http://www.cybercruises.com/CM_Mar14-A-Look-At-Cruise-Ship-Registry.htm)

<sup>9</sup> <http://www.the-psa.co.uk/downloads/PSA%20Cruise%20Review%20published%202012.pdf>

To cross check the above calculations, a further analysis of the cruise market is also offered which suggests that 20,135,000 passenger's will be carried on cruise ships globally in 2012, rising to 22,391,700 in 2015.<sup>10</sup>

### Cruise Crime Statistics:

There is a general acknowledgement that vulnerability will arise and that the propensity for sexual attacks will increase when the victim has been drinking (or taken drugs).

There is also a general assumption that persons relaxing on board a ship are more likely to "let their guard down" and to perhaps drink more than if not on holiday.

It is therefore a possibility that this combination makes persons easy targets for offences to be committed against them and the opportunity for offenders to commit offences for which they are currently unlikely to be detected.

The following statistics have been obtained from the report created by Klein & Poulston – 'Sex at Sea: Sexual Crimes Aboard Cruise Ships'.

Statistics for offences on cruise ships collated by the FBI 1998 -2004 (no other stats located) draws a concerning picture:

1. RCI (RCI & Celebrity Cruises) 1998 - 2004 (litigation disclosure) 56 vs 16 reports & cases reported to FBI.
2. Sex related - crew to passenger 62 to 77%.
3. Perpetrator - Cabin steward, waiter, bar staff - 14 to 34% - other staff so itemised less than 10%.
4. Location of incident - Cabin - 36 to 40%.

---

<sup>10</sup> <http://www.cruisemarketwatch.com/growth/>

5. Crimes committed on Minors: Sexual contact - 18%; Sexual assault - 13%; Sexual Harassment - 57%.
6. Of all crimes committed, 69% involve sexual contact thereby falling into serious crime category.
7. Crimes committed with Alcohol - high % within assault and sexual contact cases.
8. More concerning is the difficulty to establish actual data i.e. actual numbers of offences committed on board cruise ships.

**It is acknowledged that many women sexually assaulted will not report the incident; therefore the statistics given may well be but a snap-shot of what is actually occurring.**

General Sexual Offences/Alcohol Data:

In America, conservative estimations are that 25% of the female population have been sexually assaulted and that in 50% of these cases either one or both of the parties involved had been drinking.<sup>11</sup>

In England the numbers of sexual related offences attributed to alcohol in the period 2011/12 = 6,548. In examining the average across the UK this reveals that 12% of all sexual crimes are attributable to alcohol (data extracted from the Local Alcohol Profiles for England).<sup>12</sup>

It is suggested that both the data from the Klein & Poulston report and the data from the FBI are supported by these observations, which serve as an indicator of a minimal level of criminal activity.

---

<sup>11</sup> <http://pubs.niaaa.nih.gov/publications/arh25-1/43-51.htm>

<sup>12</sup> <http://www.lape.org.uk/>

### Cruise Ship Crime Data:

Assuming that the numbers of passengers carried on cruise ships globally are at a level of 20,000,000 as suggested above and that 50% of their passengers are women, this provides a potential cohort study of 10,000,000 women passengers per annum.

If we examine the data extracted by Klein of criminal reports made on cruises, we can see that a total of 424 crimes (Table 2) were reported in 2007/8 from 74 ships (this data was based upon FBI reports/FOIA applications etc)<sup>13</sup>:

1. Of the crimes committed, sexual contact, sexual assault and sexual harassment accounted for 154 of those reports.
2. Based on the number of crimes reported this suggests that 37% of the crimes recorded in the Klein report involved sexual offences.
3. It must be repeated that it is highly likely that not all victims will report the crimes against them!
4. Taking the number of ships in the Klein study (74 ships), it is suggested that this is equal to 23.4% of the recognised cruise shipping fleet (316).
5. Based on the Klein survey, this suggests that each of the ships in question were subject to 5.73 crimes per annum.
6. If we extend that level of criminal activity across the entire cruise ship fleet (316), this suggests that in any one year, an estimated minimum of 1,810.68 serious crimes are committed each year.

---

<sup>13</sup>

<http://media.nbcbayarea.com/documents/Ross+Klein+October+1+2007+September+30+2008+Crime+Stats.pdf>

7. In order to determine the estimated number of sexual crimes committed across the fleet, it reveals that there are some 669.95 sexual contact, sexual assault and sexual harassment cases (37%) in a given year.
8. If we endeavour to apply the level of crime suffered by passengers on-board cruise ships, we should modestly assume that 10% of those on-board cruise ships will be affected by a varying degree of crime (this also accounts for those crimes not reported).
9. Based on the 20,000,000 cruise holidays taken each year, 10% would produce a global crime victim cohort of 2,000,000 passengers.
10. If we assume that 37% of all crime committed is of a sexual nature, this reveals that 740,000 cruise ship passengers will suffer from a crime of sexual contact, sexual assault and sexual harassment each year.

**SOLUTIONS TO A BETTER CRIME INVESTIGATION ON-BOARD  
CRUISE SHIPS:**

A. All personnel employed on cruise liners should be CRB checked (or similar);

B. Criminal Investigation vs On Board Safety:

I understand that the overriding responsibility of the Master is to ensure the safety of all passengers on board, and that any criminal investigation / preservation of evidence is secondary.

**However, there will be many instances where the two lie parallel and dependant one upon the other; where there is a murderer, a rapist, of sexual deviant at large; in these instances the gathering of evidence in a professional and expedient manner may well be the best form of protection for all souls on board and would comply with human rights legislation.**

**SOLUTIONS:**

**Expediency would suggest that all cruise liners agree to map a code of conduct /procedures/objectives that would satisfy the most rigorous of international law and adopt this as the base standard of investigation to crimes committed on board ships.**

C. Criminal Investigations:

It is noted that the Master of the ship will take control of the on-board investigation.

Further the master is expected to manage:

- a) crime scenes,
- b) victims witnesses and suspects;



- c) to retrieve and appropriately store all evidence;
- d) to ensure that shore contact is made and to have meaningful discussion around the progress of the investigation;
- e) to conduct all interviews and ensure the victims have appropriate pastoral care.

It was mentioned that an on-board team would be significantly smaller than that of land investigations, however to envisage that one person can be effective is beyond intellectual capacity.

**Cross contamination is the greatest adversary of criminal prosecutions, to dedicate but one untrained person to conduct a preliminary investigation is to court disaster and usurp human rights (EU Convention on Human Rights – UN Declaration on Human Rights)**

**The idea that a proforma statement can underpin justice for either a victim or an offender is somewhat misplaced.**

**This type of recording of information has no place within a preliminary criminal investigation; it is purely information gathering which will all too often be seriously incomplete.**

**It directs victims/witnesses to what is considered important by the standardised questions rather than accurately recording specific events.**

**SOLUTIONS:**

**Training:**

- 1. Scene preservation is paramount, and within investigative terms would form part of the “Golden Hour” (the first hour after the offence has been committed);**
- 2. It is imperative therefore that the person who undertakes the role will have received training, understands issues of contamination and preservation.**
- 3. Areas identified as potential crimes scenes should be preserved, locked, or cordoned off, filmed where possible.**
- 4. Witnesses should be identified as soon as possible and separated (to avoid verbal contamination).**
- 5. Personnel who are involved in the investigation of such crimes should be appropriately trained in evidence gathering techniques and preservation including that of interviewing victims and witnesses to ABE (Achieving Best Evidence (UK)) standard.**
- 6. Significant witnesses should be identified as a matter of urgency (those who saw or heard the offence and in the case of a missing person, the last persons to see or speak with them) consideration to these persons being interviewed first and that interview being audio or video recorded (UK standard).**
- 7. It is preferable that one person does not undertake all the interviews as this presents its own contamination issues.**

### Forensic Evidence Preservation:

(I accept that in the main the Comprehensive advice as given section I Securing the crime scene etc is basically sound, but could be subject of separate analysis).

Collation continuity, packaging and storage of forensic material is of paramount importance and an area that is easily attacked by defence in relation to cross contamination issues.

This is an instance where proforma statements may-be useful and it is paramount that such evidence, specifically forensic evidence is tracked to demonstrate no tampering or cross contamination has arisen; this includes:

- a) Reference to intimate medical examination;
- b) The cleanliness of the examination room;
- c) The protective clothing of the medical examiner, and
- d) Movement and storage of forensic material.

### SOLUTIONS:

**It is suggested that Crime scene packages as used by the UK Police Service (or similar/ agreed international packs) should be routinely used for on board investigations.**

**Ships medical doctor should have criminal forensic training to ensure the best opportunity to identify offenders and bring about successful prosecutions.**

**The ship should have forensic packages for use in investigations that conform to agreed standards, have identified dedicated dry areas for storing evidence and dedicated fridge freezers for evidence that requires such conditions**

Caring for Victims and Witnesses of Serious Crime:

I note that one of the considerations early in the process concerns “removing ALL persons involved from the vessel”, contradicting the view that victims should be handled “carefully”.

To off load a victim may compound any feelings they may have (particularly with a sexual offence) of:

1. Low self-esteem;
2. Blaming themselves, and
3. May seriously hinder their recovery from the event.

What is the thought process behind this consideration?

Care of victims and witnesses can be time consuming demanding work; there is a fine balance between genuine concern and patronising a person.

It is important to hear what they (victim’s witnesses) want to say; to be encouraged to make their own decisions and to be honest when their needs cannot be met.

With victims the first contact with authority after a crime may determine their own recovery and ability to move forwards.

**SOLUTIONS:**

- 1. Identified personnel on board should be trained as VLO (Victim liaison Officers).**
- 2. They should be trained to:**
  - a. Understand victims concerns;**
  - b. Have to hand a list of people who can be contacted on their behalf in their home-land;**

- c. Identify people in their home-land who can offer appropriate support;
- d. Understand the nature of a criminal investigation, so that they hear evidence when spoken in a non-interview situation;
- e. Have skills in interviewing and recording evidence to ensure that a nothing is lost (Important Note from above: - “It is preferable that one person does not undertake all the interviews as this presents its own contamination issues”).

**CONCLUSION:**

Cruise liners each year carry significant numbers of passenger and crew communities.

*It is right to expect that a small number of those will have criminal intent, whether they are holiday makers or staff on board.*

*It is also right therefore to expect the cruise liners to provide a standard of investigation that meets the highest of standards.*

*There is only one way to reach high standards and that is to have a highly skilled team of professionals to conduct allegations of serious crime.*

*Holiday makers deserve no less a standard in criminal investigation than those going about their daily lives who find themselves victims or witnesses to a crime.*

**SOLUTIONS:**

- I. All staff employed by Cruise Lines should be CRB or similarly checked;

- 2. An International data base holding names of persons who have attempted to find employment on a cruise liner should be created, detailing those who have been refused work on the basis of a CRB (or similar) check;**
- 3. To negotiate a common procedure and standard for investigation of identified crimes on board cruise liners to map across international standards as set out above;**
- 4. Consideration to have on board all ships a small highly trained multi skilled investigative team as set out above;**
- 5. To have on call a highly trained skilled team for deployment to ships where serious crimes have been identified as set out above.**

**HTW CONCLUSION**

The analysis commissioned by HTW reveals an interesting set of required standards required for criminal investigations on-board cruise ships.

It also reveals an interesting set of statistics which seeks to reveal the underbelly of crime on-board cruise ships; (these are capable of rebuttal in the face of any future disclosed statistics!).

It is no longer the case that the Cruise Industry can rely upon on self-regulatory methods when dealing with crime. One death, one rape, one sexual assault are one crime(s) too many.

Within the commentary we have obtained, we note the important reference to the various Conventions on Human Rights; we think that it is time that Consumers received those rights whilst at sea!

We live in civilised societies and should expect that commercial entities will proactively work with the Authorities to promote laws (we are concerned with the apparent log-jam in the USA for example). The creation of an International or Regional Law to protect Consumers from Crimes at Sea is long overdue. The spotlight is now shining brightly on the Industry; the question is, will they step up to the mark – will Nation States bring about the conditions to enable justice for the victims of crime at sea?

Frank Brehany  
Consumer Director  
MD – HolidayTravelWatch  
16 November 2012