

Testimony

Of

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Transportation

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I would first like to thank Chairman Hunter, Ranking Chairman Garamendi, and members for giving me the opportunity to address this committee. I am here today both as a victim and as Chairman of International Cruise Victims (ICV), an organization formed by people who have experienced tragedies such as deaths, sexual assaults and accidents on cruises and who have been treated poorly by cruise lines. My prior working experience was to serve as President and CEO for 18 years of an insurance company in New York City.

As a victim, I have personally felt the pain, not only of losing my daughter, Merrian Carver, but also having to struggle with the cover-up by a major cruise line regarding the facts concerning her disappearance and death. She had been a passenger on a Celebrity Cruise Ship, which is owned by Royal Caribbean.

Each victim member that has joined ICV since it was founded in January of 2006 has had similar painful experiences. ICV began as a group of cruise victims and has evolved to include maritime and security experts as members that serve on our Executive Committee. ICV now has corporations in the UK and Australia and membership in 35 countries around the world. The Executive Committee is now made up of six members, including victims and maritime experts. This brings a balance and adds an expertise not available when we first started.

In this paper, I will discuss three main areas of concern for ICV members as well as victims still unknown to our organization. First, it includes a background on the history leading up to the passage of the Cruise Vessel Security Act in 2010 (CVSSA). Secondly, I will discuss the effectiveness of the CVSSA. The third issue is the need to make sure regulations are enforced to the full intent of Congress of the CVSSA and the further need for legislation to protect the U.S. citizens on cruise ships.

It was just 10 years ago that I sat in this chair for the first time to testify. This followed a hearing called by Chris Shays, the Republican Representative from Connecticut, in December of 2005 who raised the question of safety on cruise ships for the first time. The hearing discussed the case of George Smith who disappeared and my daughter, Merrian Carver.

At the conclusion of the December 2005 hearing, it was determined that there was a safety issue with the cruise industry. Four families came together to form International Cruise Victims (ICV). At this hearing in March 2006, six victims testified including me. Even though we had only been formed for a few months, instead of just revealing our sad stories which included rapes and missing family members, we submitted a simple [10 point program](#) to improve safety.

This simple 10 point program was later enlarged to 13 points but ultimately served as the basis of legislation call the Cruise Safety Security and Safety Act. How did the Cruise Industry react to these simple suggestions to improve safety?

In March of 2007, another hearing was called to further review this issue. Because of the change in leadership in the House, Rep Matsui, a Democrat, took this on because a victim in her district, Laura Dishman, went to her after receiving no cooperation after being raped on a cruise ship. Rep Poe, Chairman of the Victims Caucus, joined Rep Matsui in the effort.

Again the 10 point program was brought up to see what progress had been made on the suggestions earlier made by ICV. Clearly no progress had been made so Chairman Cummins ordered that the cruise lines representatives meet with ICV members to discuss these suggestions. This was done in July of 2007. Again, the answer was that these are great ideas but the industry would not commit to anything to improve safety.

Chairman Cummins again called another hearing in September of 2007 to determine what had been agreed to and the answer was again that there were no agreements to any of the suggestions. At the end of that hearing, he ordered the cruise lines to produce within 90 days a response to what they would agree to as far as safety issues.

In December, they produced their report again with no acceptance of suggested safety issues that were proposed. Not only did they not agree to anything, they produced a covering letter that misquoted the FBI three times on crime rates.

Because my daughter lived in Cambridge, Massachusetts, Sen. John Kerry introduced with co-sponsorship in the House of Rep. Matsui and Poe, the Cruise Vessel Security and Safety Act.

This legislation was passed after five congressional hearings between 2005 and 2008. The final passage had only four total votes against it in spite of major efforts by the cruise industry to defeat it. In addition, three additional Senate hearings in 2012, 2013, and 2014 were held on the issue of crimes on cruise ships lead by Sen. Rockefeller. Because of his frustration with the cruise industry, and his determination that Congress should hear the harrowing stories the victims of crimes at sea had to tell, the cruise lines were **not even** invited to the last hearing in July of 2014, only victims, most of whom were members of ICV that testified.

With the support of Chairman Hunter, Ranking Chairman Garamendi and this committee, in December of 2014 Congress Passed the Coast Guard Reauthorization bill. The passage of this legislation included a requirement that a numerical accounting of missing persons as well as requiring that all applicable alleged crimes committee on the cruise ship be *reported publicly regardless of the investigative status of the incident*.

Now for the first time, laws were passed which mandated basic safety and security measures -- some of which were as fundamental as those that had been implemented decades ago by the hotel industry. For instance, all passenger and crew cabin doors should be equipped with peep holes or other means of visual identification, security latches and time-sensitive key technology must be implemented. Security guides must be displayed for passengers to reference; electronic video surveillance to assist in documenting crimes must be maintained and provided as evidence for prosecution. Video records should be made available to law enforcement, upon request and during an investigation.

Also, Man over Board systems (MOB) designed to immediately detect anyone going overboard was required whenever the technology became available. In addition, Acoustic Hailing and Warning Devices were required to protect cruise ships from high risk attack such as Terriosts attacks. Also, in December of 2014 additional legislation was introduced to strengthen the CVSSA with regards to the reporting of crimes.

One of the most important items in the legislation was the rights given to passengers who were victims of crimes. One of the main provisions of the CVSSA legislation was to give the victims certain rights and the keeping of information confidential from the cruise lines without first obtaining the permission of the victim. The following is the actual wording from the CVSSA. .

Under the CVSSA, the language requirement is as follows:

**'(5) provide the patient free and immediate access to—
“(A) contact information for local law enforcement, the
Federal Bureau of Investigation, the United States Coast
Guard, the nearest United States consulate or embassy,**

**and the National Sexual Assault Hotline program or other third party victim advocacy hotline service; and
“(B) a private telephone line and Internet-accessible computer terminal by which the individual may confidentially access law enforcement officials, an attorney, and the information and support services available through the National Sexual Assault Hotline program or other third party victim advocacy hotline service**

In addition, according to the United States Attorney's Office, the rights provided by the **Crime Victims' Rights Act** are guaranteed from the time that criminal proceedings are initiated (by complaint, information, or indictment) and cease to be available if all charges are dismissed either voluntarily or on the merits (or if the Government declines to bring formal charges after the filing of a complaint).¹ As a result, a Federal crime victim has the following rights.

- The right to be reasonably protected from the accused.
- The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
- The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- The reasonable right to confer with the attorney for the Government in the case.
- The right to full and timely restitution as provided in law.
- The right to proceedings free from unreasonable delay.
- The right to be treated with fairness and with respect for the victim's dignity and privacy.

While I would like to say that this has taken a major step to improve safety, has it really worked? Generally it is not being enforced as expected. We are hopeful, however, that the final regulations will correct the deficiencies we are concerned with.

Attachment I shows, from an Article in the Loyola Consumers Law Review, the total number of crimes, for the period of 2011 to 2012, the discrepancy to Cruise Line Data and data made public. It shows that of 959 reported crimes; only 31 were required to be reported to the public. Under the Uniform Crime Reporting Act, all of these would be required to be made public.

Attachment I also shows that the number of convictions, instead of increasing since 2006 was reduced from 19 to just 3 in 2013. In addition, 216 individuals were reported overboard in records kept by Dr. Ross Klein.

What is supposed to happen when a reportable crimes occurs? The following is from a memo written by Kathryn Turman of the FBI dated January 3, 2013 as to what is required.

If the FBI determines that a crime has been committed that meets the criteria for one of the major offenses listed in the CVSSA as something the FBI may have jurisdiction for, then we are required by the Victims' Rights and Restitution Act to provide notice, information, and assistance to the victim. If the case is charged by a US Attorneys' Office then that office becomes responsible for providing notice and information to the victim during the prosecution and adjudication as dictated by the Crime Victims' Rights Act. If someone is charged for the crime by a US Attorneys' Office then the FBI VS will provide the victim with a point of contact in that office and will transmit the victim's information to the US Attorney's office."

In summary, the following provisions of the CVSSA Act **are not being enforced**:

1. Victims are not given their legal right to be given automatic access to a hot line to report their crimes directly to the FBI and outside support.
2. Victims are not given notice that they have the right to go directly to the FBI. The result is that the victim is subject to the cruise lines employees taking the information which allows them to prepare the report in such a way that the cruise line is protected. An example, a rape victim is usually classified as a she said/he said and no action is taken.
3. MOB systems have not yet been installed on cruise ships even though they are available and have resulted in loss of lives. When someone goes overboard, the Coast Guard is called to search for this person. As can be seen in Exhibit I, these searches cost hundreds of thousands of dollars paid for by U. S. Taxpayers. If the cruise ships had MOB systems, obviously they would know where to search and save lives plus reduce the costs of the search.

At least two companies have submitted proposals for MOB systems which they **indicate meet the requirement** of the legislation. They include [MARSS SAM, A MARSS](#) Group Company and RADIO ZEELAND DMP AMERICAS LLC. CLIA has submitted reasons to the Coast Guard for not installing these MOB reasons. In a letter to me dated 6/3/2014, David Leone addresses each of their concerns. (Attachment I)

4. Acoustic Hailing and Warning Devices have not been required to be installed since the Coast Guard does not count terrorism as High Risk.
5. Victim's confidentiality is not provided since crimes are reported directly to the employees of the cruise ship.
6. Inadequate standards of medical care are not being provided resulting in unnecessary death of passengers.

7. Minor children that are raped by another minor find that no action is taken against the person committing the crime. One of the reasons is that they do not want to ruin the life of the person committing crime. What about the Victim of the Crime??

Final regulations were issued in January of 2005 and were clearly deficient as to the intent of this legislation.

What are these issues? Exhibit II provides an executive summary of the many concerns. This was submitted on April 13, 2015 to the Coast Guard and so far, we have received no response to these many concerns. The full report can be viewed at the following:

http://www.internationalcruisevictims.org/ICV_Rulemaking_Committee_with_Letter_2_.pdf

To really start to protect passenger's two steps need to be taken. First of all, it is essential that the final regulations for the Cruise Vessel Security and Safety Act be enforced to make sure the original intent of this legislation is being implemented. Secondly, additional legislation as proposed in **HR 3142 needs to be passed** to make further corrections and additions to the Cruise Vessel Security and Safety Act.

Exhibit III outlines the main provisions of this legislation. This important legislation outlines the necessary steps and the reasons for the various provisions.

1. Require provisions to include prompt reporting of crimes to the FBI.
2. Improve video surveillance equipment.
3. Allow individuals access to the video surveillance records
4. Website breakout of crimes reported against minors. With one third of all sexual crimes taking place against minors, parents need to have access to this information.
5. Study the feasibility of someone onboard to provide victim support.
6. Improved MOB systems to capture images **and** detection when a person goes overboard.
7. Improved medical standards for qualified physicians and requirements for crews to offer emergency medical and safety information.

In the last 10 Years, cruise lines have enlarged their hotel ships to hold up to 8000 passengers and crew members to generate more revenue, added alcohol packages to provide unlimited drinks, failed to follow the requirements of the CVSSA Act regarding disclosing of victims rights, etc. **In addition, they have spent over \$36,000,000 to lobby to avoid these measures to improve safety.**

They have also so structured themselves to avoid taxes by placing their corporations in Liberia and Panama and yet they use the service of 21 government's agencies according the Senate testimony.

Ten years ago, ICV turned to our Republican representative, Rep. Chris Shays, for help and he took action by calling the first two hearings. When the Democrats gained control, Rep. Matsui led this effort in the House and John Kerry in the Senate along with Rep. Poe.

Chairman Hunter recently had several mothers visit his office in Temecula with their sad stories. One victim, who lives in Temecula, CA, was a minor that was raped by a crew member. This was later shown on 60 Minutes in Australia and reported by Anderson Cooper. Another mother was from Fallbrook, CA, that lost her son on a family vacation at sea. This boy has a twin brother who also came to Hunter's office and told of what effect this has had on him. This mother was also on TV on telling her tragic story.

Two other mothers, Jamie Barnett who is President of ICV also joined in who had the tragic event of losing a daughter and the other mother, Georgia Ananias, was with her family on the Costa Concordia. These mothers are here today. Jamie's tragic story was on 48 hours. Georgia and her family were on CNN and multiple media and TV shows giving a voice to the 32 people that died and the other victims of the Costa Concordia.

My point is that this was all started by a Republican and the Democrats continued the effort to increase safety at sea for passengers. **The many victims in the United States and around the world are hoping that with the current leadership, this effort to protect passengers will be seen as a bi-partison issue and will move forward like the original legislation passed in 2010 with only 4 votes against it in the entire congress. The public deserves nothing less.**

How will the cruise industry respond? They will say they are highly regulated by the International Maritime Organization. What does the IMO say?? At the National Transportation Board meeting in March of 2014, the following is a direct quote from the IMO presentation and indicated the following.

Role and functions of IMO

IMO is not

A policeman

IMO does not

Implement anything

Develop standards for strength or determine design requirements

Approve equipment and systems • Have (m)any sanctions

Therefore, it is up to the United States to move forward to protect our citizens, since the FLAGG states has taken no action to protect our citizens when they become victims.

Please feel free to contact ICV should you need any additional clarification and we can assist you in helping pass HR 3142 a bi-partisan bill that will increase the safety for people that travel on cruise ships.

Kendall Carver, Chairman

Attachment I

**Statistics on Cruise Crimes, MOB
Victims, Search and Rescue Costs,
and MOB Systems Review**

Crimes on the High Sea 2003-2013

Based on FOIA requests made to the FBI

Year	Cases open	Convictions/Sentencing
2013	41	4/3
2012	18	5/4
2009	72	5/7
2008	75	7/5
2007	77	10/6
2006	46	15/19
2005	41	4/3
2004	51	4/4
2003	52	13/14

Source: [Cruise Junkie dot com](http://www.cruisejunkie.com)

Cruise and Ferry Passengers and Crew Overboard 1995 - 2016

Summary (# of persons) -- 2006 - 2016													
	2000 - 05	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Carnival Corp													
Carnival Cruise Lines	15	5	7	2	8	3	3	4	2	2	4		55
Costa		1	1	1	3	1	2	2		3	1		15
Cunard	3	1									1		5
Holland America	3	1			1	1	2	2		2	1		13
Ocean Village				1	1								2
P&O	2		1		1		1	1			1		7
P&O Australia					1			1					2
Princess	2		2		2	1	2		3	3	1		16
Seabourn		1									1		2
Crystal	3												3
Disney							1						1
Fred Olsen						1	1			1			3
MSC Cruises		1				1			2	1	2		7
NCL	5	2		2	1	2	2				3	1	18
RCCL													
Celebrity	1	1		1	1	2	4			1	1		12
RCI	12	4	1		2	3	2	5	3	4	3	1	40
Silversea	1				1								2
Star					2	1					2		5
Other:													
Casino Cruise Ship	2		1			1		1		1			6
European Ferry	0	1	4		1		2	3	2	2	1		16
P&O Ferries	1	1		1		1	1	1	2				8
Other Ferry		1	2					1	3	3	1		11
Other Cruise	4	2	1	2		3	1	3	1		4		21
Total	54	22	20	10	25	21	24	24	18	23	27	2	270

C. Other Crimes On Board Cruise Ships

There are two crimes that do not require reporting under the CVSSA; however the FBI collected data for these crimes during 2007 to 2008.¹²⁹ The two crimes are: theft under \$10,000 and simple assault.¹³⁰ Dr. Klein indicates there were eighty-nine incidents of theft under \$10,000 and 115 incidents of simple assault during 2007 to 2008.¹³¹ Since the CVSSA does not require these crimes to be recorded, victims are left without recourse or rights.¹³² In theory, if I were a crewmember and wanted to rob a passenger's cabin, I would certainly steal less than \$10,000.¹³³ More importantly, by not collecting data on these crimes, there is no way to analyze the data so as to discern patterns or trends that could be utilized to help prevent future crimes.¹³⁴

Under the CVSSA, the cruise line owners are required to report specific named crimes to the FBI and make statistics involving crimes on board ships available to the public.¹³⁵ For the CVSSA to apply, these crimes had to either occur on a vessel owned by a United States person; be a crime that involved a United States national that occurred in United States waters; or occur on a ship that departed

United States investigation into the incident. See, e.g., Jim Walker, *Cruise Nightmare: Disney Crew Member Arrested on Charges of Molesting Child on Disney Dream*, CRUISELAWNEWS.COM (Apr. 10, 2014), <http://www.cruiselawnews.com/2014/04/articles/sexual-assault-of-minors/cruise-nightmare-disney-crew-member-arrested-on-charges-of-molesting-child-on-disney-dream/>.

¹²⁹ Testimony of Klein, *supra* note 5, at 30.

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

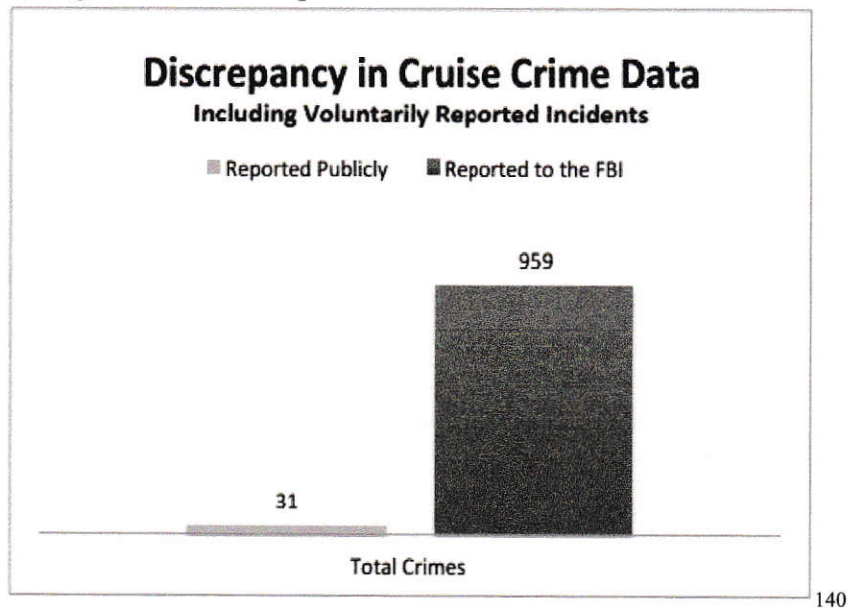
¹³³ Assuming that someone is foolish enough to carry that much cash around on a cruise ship.

¹³⁴ Testimony of Klein, *supra* note 5, at 30.

¹³⁵ *Cruise Ship Crime*, *supra* note 7, at i. It is mandatory for a cruise ship owner to keep record of all crimes reported, but they are only required to disclose specific types of crimes to the FBI. *Id.* at i n.6. The cruise ship owner is encouraged to voluntarily report crimes that are not required under CVSSA. *Id.* Thus, only crimes that are required to be reported to the FBI must be available to the public. *Id.* In addition, the FBI keeps a log of all crimes reported, but the FBI is not required to list those crimes on the Coast Guard website. *Id.*

from or arrived at a United States port.¹³⁶ However, the problem then became the lack of transparency. This is because the FBI decided to interpret the CVSSA to require public reporting of only those incidents that were no longer under investigation by the FBI.¹³⁷ In addition, the CVSSA only requires a subset of types of crimes reported to the FBI to be disclosed to the public.¹³⁸

Senator J. Rockefeller of West Virginia and his staff found that since the passing of the CVSSA, the total number of incidents voluntarily and required to be reported to the FBI by cruise lines are thirty times higher than the number of alleged crimes reported publicly—for example, since 2011, 959 alleged crimes were reported to the FBI by cruise lines owners, but the Coast Guard only reported 31 alleged crimes to the public.¹³⁹



¹³⁶ *Crimes on Cruise Ships*, RAINN.ORG, <https://www.rainn.org/public-policy/sexual-assault-issues/cruise-ship-safety> (last visited June 1, 2014) [hereinafter RAINN].

¹³⁷ *Cruise Ship Crime*, *supra* note 7, at 7 n.52–53. Some examples of crimes required to be reported to the FBI include: all homicides, a missing United State National, assault with serious bodily injury, firing or tampering with the vessel, and theft over ten thousand dollars.

¹³⁸ *Id.* at i.

¹³⁹ *Id.* at i–ii.

¹⁴⁰ *Id.* at 9.

FOIA information for Rappe Search and Rescue

Activity ID	Asset Type	Time Spent Searching	Billable Rate	Total Cost
4492732	MH65C 6566	2 hrs 27 minutes	\$11,216 per hour	\$27,479.20
4492783	HC-130H 1503	7 hrs 01 minute	\$18,116 per hour	\$127,113.93
4493002	MH65C 6579	2 hrs 24 minutes	\$11,216 per hour	\$26,918.40
4493017	MH65C 6579	5hrs 35 minutes	\$11,216 per hour	\$62,622.66
4493233	Ocean Century 2302	5hrs 29 minutes	\$15,569 per hour	\$85,370.07
4493671	HC-130H 1718	3 hrs 00 minutes	\$18,116 per hour	\$54,348.00
443719	MH65C 6582	7 hrs 00 minutes	\$11,216 per hour	\$78,512.00
4493938	Ocean Century 2302	5hrs 01 minute	\$15,569 per hour	\$78,104.48
4492467	USCGC DECISIVE	36 hrs 57mins	\$6718 per hour	\$248,230.10
	USCGC NANTUCKET	36 hrs 48 mins	\$4106 per hour	\$151,100.64
			Grand Total	\$939,799.48

FOIA information for Ariel Brianna Marion Search and Rescue

Activity ID	Asset Type	Time Spent Searching	Billable Rate	Total Cost
4442936	MH65C 6570	6hrs 9 minutes	\$11,216 per hour	\$68,978.40
4443259	HC-130H 1503	5hrs 14 mins	\$18,116 per hour	\$94,807.07
4443371	HC-144A 2309	5 hrs	\$15,569 per hour	\$77,845.00
4443854	HC-144A 2309	4hrs 54 mins	\$15,569 per hour	\$76,288.10
4444177	HC-144A 2306	5 hrs	\$15,569 per hour	\$77,845.00
	USCGC DIAMONDBACK	16 hrs 40 mins	\$4106 per hour	\$68,433.33
	USCGC BERNARD WEBBER	17 hrs 42 mins	\$2848 per hour	\$50,409.60
			Grand Total	\$514,606.50

Appendix (C) DMP's answers to the CLIA's list of "Technical Problems"



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6/3/2014

Ken Carver

I would like to address the Cruise Industry Response to the USCG Questions in reference to Man Overboard Detection Systems. It appears that all their concerns are focused around CCTV applications and in fact there has been no documentation reflecting any other technology. Our system is a combination of Laser Sensors and camera analytics which can be provided by us or utilizing what the vessel has already.

Their document states the following (our responses are in red): Factors that constrain system effectiveness and reliability at sea include:

- Continuous changing horizon.

Laser sensor and cameras are set to not sense outside of 82 meter distance therefore the focus is concentrated in the area where a MOB could be possible so there is no issue with the horizon changing.

- Salinity/corrosion

Laser Sensors and Cameras are maintained the same as present camera systems on board ship are maintained with a fresh water wash down. Sensors and cameras are IP67 completely sealed and are powder coated aluminum and therefore there is not corrosion.

- Vessel Vibration.

Present cameras on board ship are not affected by vibration. Laser sensors that we use are not affected by vibration or vessel motion the laser unlike cameras does not require a focal point for analytics rather uses a beam that is transmitted and therefore movement and vibration does not affect its operation.

- Extreme weather conditions

Extreme weather conditions are rare and have no bearing on the laser sensor. As for cameras the ships already have cameras that operate in extreme weather. The beam of the laser sensor is not affected by weather, including fog and rain.

- Vessel movement such as pitching, rolling, yawing

This is addressed above and the sensor and cameras are not affected by vessel movement.

- Vessel design

Vessel design has no bearing on the operation of the MOB sensors or cameras. Sensors are designed to be installed on existing vessels or during new construction.

- Interoperability with other shipboard systems

Our sensors are designed to interface with all present shipboard security systems including camera analytics.

- Salt encrustation of lenses

As documented above the sensors and cameras are IP67 and do not allow for intrusion of salt water and the sensors and cameras are to be maintained the same as the rest of the vessel with fresh water wash downs. The present camera systems are maintained this way presently.

- Glare/Reflection off the water

Due to the sensor being laser the reflection or glare off the water does not affect its operation. Also sensors are not directed downward but in fact upwards at 6 – 8 degrees to catch person falling overboard.

Regards,



Dave Leone
President

www.rzdmipa.com

Attachment II

Executive Summary of concerns with
Proposed Regulations issued by the
Coast Guard in January 2015

Executive Summary of concerns with Proposed Regulations issued by the Coast Guard in January 2015

This document expands on those concerns and recommendations. Specifically we discuss: Systems for Detecting Falls Overboard, Hailing or Warning Devices, Security Guides, Sexual Assault Response (Victim Confidentiality), Crime Scene Preservation Course and Victim Assistance. These issues and demurs are summarized as follows:

Man-Overboard Detection Systems

The Coast Guard should require a Man Overboard (MOB) Detection system with both an alarm and video feature Capture and Detection. Proposals for this type of technology were submitted at the request of the USCG in 2011. However, no contacts were ever made with those companies that submitted proposals. It was determined through a FOIA request that CLIA had been contacted by the Coast Guard for their opinion and technical input on the MOB systems. As a result, it was reported in a recent Travel Weekly article that the Coast Guard would only be requiring cruise vessels to use capture technology to satisfy the CVSSA MOB technology requirement. The reasons given for capture over detection systems were that the "cruise industry" deems this technology unfeasible and unreliable. ICV considers this position to be both untrue and unacceptable in regards to protecting lives at sea.

Reliance on CCTV cameras that only cover (observe) decks which are not required to be monitored by ship's personnel while underway only provides half the protection and does nothing to save lives which was the CVSSAs main intent. In sum, the overboard victim has NO chance of survival if NOT DETECTED.

The intent by Congress was to be able to immediately have the capability to capture AND detect the man-overboard event:

The fall-overboard detection system, by itself, is intended to sound an immediate alarm, and may (but need not) capture an image of the falling person. It is apparent that from the above language that the technology does not need to capture an image but must (detect) the event and sound an alarm. The key word is "immediate" and not "capture." Ideally, the fall detection system should have both a detection capability to sound an immediate alarm, and a capture system to record the event for document and evidence purposes for criminal investigations.

For these reasons,

...cruise vessels must immediately install man overboard systems that have both capture AND, detection capability. Contrary to the cruise industry positions, this technology is available today and is reliable but has yet to be tested and vetted by the USCG.

Acoustic Hailing and Warning Devices

The ICV finds the USCG position that domestic maritime terrorism should not be included in the definition of "high risk" areas of the United States waterways as incongruous. The Coast Guard's mission is to defend the nation's water boarders against all maritime threats including terrorism, not just piracy. The ICV is seriously in disagreement with the position of the Rule Making Committee's that "high risk" as defined by the Coast Guard only applies to areas where pirates operate AND, is strongly opposed to

letting cruise vessels satisfy the acoustic hailing and warning devices requirement by allowing the use of the ship's PA (public address) systems, bullhorn or megaphones. The ICV is convinced that acoustic hailing devices (already carried by many cruise lines) was the technology on the CVSSA legislator's mind when they included this element in the CVSSA and not "PAs" as the Rule Making Committee suggests. Defining US waters as high risk for only pirates is an attempt to circumvent this requirement at the benefit of the cruise lines.

The purposed intent of this provision (in the CVSSA) was to help enforce the cruise ship security zone requirement. Homeland Security indicates that no ship (or small craft) should come within 500 feet of a cruise ship; this technology was not to necessarily protect cruise ships from pirates in domestic waters. The USCG and Department of Homeland Security are very concerned about terrorism in US waterways and ports and is the key factor in DHS's 2008 - *Small Vessel Security Strategy*. The plan states that: "*This strategy's purpose is to address the risk that small vessels might be used to smuggle terrorists or WMD into the United States or might be used as either a stand-off weapon platform or as a means of a direct attack with a WBIED.*" To not consider terrorism as a possibility in US waterways, ports and harbors is to deny the events of September 11, 2001.

Acoustic Hailing Devices are an important part of the ship's resources to confront small vessel threats at safe distances before they become threats close to the ship. This applies both domestically and in overseas ports and waters. The USCG believes that the ship's public address (PA) system (or bullhorn or megaphone) satisfies the requirement of acoustic warning devices. The ship's PA does not have the technical capability, nor was it designed to be audible at great distances from the ship. Conversely, acoustic hailing devices are a proven and effective resource in enforcing the cruise ship's security zone in domestic waters and allows for recognition and warning of surface threats both domestically and internationally. Finally, the technology has the proven capability to ward off pirate invaders as was demonstrated by the cruise ship *Seaborne Spirit* using the LRAD to fend off a pirate attack off the coast of Yemen in November, 2005.

For these reasons,

...Acoustic Hailing and Warning Devices must be carried on all cruise vessels without regard to whether they are in domestic or overseas waters. Ship Public Address Systems do not satisfy this requirement.

Security Guides

The ICV is in agreement with the Rule Making Committee's provisions for implementing security guides and its contents on all cruise vessels. However, the ICV is concerned that the proposed information contained in the Security Guides is lacking, and that steps should be taken to inform, advise and alert cruise passengers that the security guide in fact, exists and that it contains critical information on what the passenger should do in the event he/she becomes the victim of a crime (especially a sexual crime) while aboard the ship or while ashore in a foreign or domestic port.

Because one of the provisions of the CVSSA is to guarantee the rights of a victim of sexual assault or other crimes, the security guide itself must ensure the passenger knows how to contact the FBI, the USCG and local law enforcement using the ship's technical communication equipment set-up for this purposes, e.g.,

Email, hotline, mobile or satellite telephone communication systems. This requirement is tied to, and linked congruently with the [sexual] victim's right to confidentiality discussed in the next section.

For these reasons,

...passengers must be informed of the importance and location of the Security Guides upon their registration /onboarding in the cruise terminal AND, be reminded while on the ship on how to access the ship's communication resources if they are a victim of a crime to contact the FBI, the USCG or US Embassy or consulate.

Victim Confidentiality

One of the main provisions of the CVSSA legislation gives victims certain rights and ensures that their information is kept confidential from the cruise line unless and until permission is granted by the victim. The proposed regulations state that the Coast Guard will train someone on the cruise line to take care of victims of a sexual assault crime. This would now have the effect of releasing the details and circumstances of the alleged crime directly to the cruise lines FIRST which is clearly not the intention of the CVSSA without the victim first knowing his/her legal rights.

Victims should be advised, according to the CVSSA, at the time of the crime that they have the right to go directly via a private hotline to the FBI or other governmental law enforcement agencies to report the alleged crime, as well as an outside national sexual assault hotline program or other third party victim advocacy hotline service; legal advice AND, a lawyer without going through the security of the cruise ships which will write the report in a way favorable to the cruise line rather than the victim. In addition, if an alleged crime has been committed which meets the criteria for one of the major offenses listed in the CVSSA as something that the FBI may have jurisdiction for, then the FBI is also required by the Victims' Rights and Restitution Act to provide immediate notice, information, and assistance to the victim.

For these reasons,

...in lieu of the Coast Guard training cruise line employees on how to counsel a sexual assault victim, because of the requirements of the CVSSA and the Victims' Rights and Restitution Act, the proposed regulations should have the Coast Guard certify someone as a victim advocate on cruise ships to ensure the alleged victim has been given their rights and understands them while making certain the cruise ship complies with the actual CVSSA requirements. Victims requiring an advocate need to be advised of their rights under the CVSSA and the Victims' Rights and Restitution Act before they discuss the [sexual] incident with the cruise line employee. They are then given the opportunity to sign a waiver which would relieve them of these rights. The FBI must act (respond) to every report it receives concerning alleged sexual crimes on cruise ships. This is a mandatory and not a discretionary response.

Model Training Course

A training course was prepared and issued by the USCG, FBI and the U.S. Merchant Marine Academy (MARAD) in crime prevention, detection, evidence preservation and reporting. It is the opinion of the ICV that it is deficient in its content, time, delivery, and will not serve to properly train ship personnel to fulfill

the standard requirements as intended. While the Rule Making committee is considering making this requirement mandatory, in its current voluntary status, it is ineffective in providing qualified first responders with the capability to address shipboard crime, especially sexual crime. Many outside experts including private maritime training academies have concurred that this course is seriously inadequate.

This training should indeed be mandatory and certified by an independent 3rd party entity not to include "in-house" training by the cruise line themselves. Self-certifying and self-inspection should not be considered sufficient in this application.

While this course is currently voluntary, even if determined to be mandatory, such crew members receiving the training in accordance with its provisions, add little value in [criminal] investigations conducted on the ship because they are proprietary security guards in the employment of the very entity which owes them their livelihoods. Even today, while the cruise lines are making efforts to "train" their security staffs in [criminal] investigations, unless they are recognized as "*agents of the state*" or there is an independent ship- rider deputized to conduct criminal investigations on behalf of the US government, evidence thus collected by the ship's crew members will be suspect (challenged/impeached) in any criminal proceeding and likely prevent successful prosecution of the crime.

For these reasons,

...the model security training course should be a mandatory requirement and not a voluntary feature of the CVSSA conducted by certified individuals not associated with the cruise lines, and should be intended for a deputized security presence on the ship with direct reporting to the FBI, the USCG and other state and local law enforcement AND, the victim of any crime onboard a cruise ship, investigated by any security personnel, has the right to a copy of any incident, or report of investigation (ROI) written by cruise ship security personnel.

Temporary Port Calls

The ICV is in agreement with the Rule-Making Committee in applying the provisions of the CVSSA to all foreign flagged cruise ships (as most if not all cruise ships are foreign flagged), however, the ICV is strongly against the Rule-Making Committee adding verbiage to exclude applicability of the CVSSA to cruise ships which only stopover in US ports and do not embark or disembark passengers.

For these reasons,

...the ICV is strongly against the Rule Making Committee adding verbiage to subpart 70.40 "*except that embarking and disembarking does not include temporary port calls by passengers.*" Because "*we do not think the U.S. interest in the safety and security of a vessel engaged in such a voyage is sufficient to subject it to the proposed regulations...*" In the ICV's opinion the Rule making Committee is selectively interpreting the language of the CVSSA which may purposefully or unintentionally add a loophole to a vast majority of ships which visit United States ports and create a two-tiered level of safety and security provisions required by the CVSSA.

Attachment III

Summary of the Cruise Passenger Protection Act (CPPA) H.R. 3142

Summary of the Cruise Passenger Protection Act (CPPA)
H.R. 3142

1. Ensures a cruise vessel owner notifies the FBI within four hours of an alleged incident. ***There have been cases where the crime actually happens in U.S. waters or even while still in port and the crime is not reported for hours until the ship is actually on the "High Seas." If crew members are responsible, they are taken off the ship in a foreign port so that no action can be taken against them or the cruise line.***

2. Ensures that if an alleged incident occurs while the vessel is still in a U.S. port, the FBI must be notified before that vessel leaves the port. ***One example of this happen when an 11 year old girl was molested on a Disney Cruise ship by a crew member while the ship was still in port. The crew member was caught on camera, but not reported until the next day even though it was reported immediately and clearly known by cruise line. In this case the crew member was allowed to leave the ship at a foreign port and return to his home country with no action taken.***

3. Requires vessel owners to also report an alleged offense to the U.S. Consulate in the next port of call, if the alleged offense is *by or against* a U.S. national. ***A victim could go for days without any support so this is the reason for this provision.***

4. Clarifies that vessels must have video surveillance equipment in all passenger common areas, and other areas, where there is no expectation of privacy. ***This will offer protection to victims just like they receive in public areas in hotels, and other public buildings throughout the US.***

5. Allows individuals access to video surveillance records for civil action purposes. ***There should be no question that the victims and their attorneys have access to any video surveillance of a crime as soon as requested.***

6. Mandates that all video records are kept for 30 days after completion of the voyage. ***In many cases such as rape of a minor, the victim does not even proceed to report the crime until after the completion of the cruise. Victims are usually in a state of trauma, and many need some time to execute their rights.***

7. Directs the Coast Guard to promulgate final standards within one year detailing requirements for the retention of video surveillance records.

8. Transfers authority for maintaining the internet website of alleged crimes on cruise ships from the Coast Guard to the Department of Transportation. ***This is required because of the Rockefeller amendment to the Coast Guard funding bill in December of 2014.***

9. Requires that the website breakout the crimes that are reported against minors and alleged "man overboard" incidents. ***It was determined by the Senate in 2013 that minors accounted for 1/3 of all sexual crimes. The public needs to be aware of this when they take their minor children on a cruise vacation and records should be made available to the public.***

10. Directs the Department of Transportation to conduct a study to determine the feasibility of having an individual on board each passenger vessel to provide victim support services. ***Since the "Security" of the cruise ship and their crew members work for the cruise line with no legal ability to act as an independent police force, there needs to be a review of the feasibility of having a U.S. Government person on a ship with thousands of passengers to assure that all laws regarding crimes, etc. are complied with. Without this, it would be like a city having no independent police department.***

11. Requires integration of technology that can both capture images and detect when a passenger has fallen overboard. The CVSSA passed in 2010 required MOB systems if they are available. ***Even though required by the law, cruise lines have not install such systems even though there are several companies that have indicated that they have workable systems that meets these requirements. This wording strengthens the current wording of the CVSSA that these systems must be installed which capture images and detect when someone goes overboard.***

12. Ensures medical standards that would require a qualified physician and sufficient medical staff to be present and available for passengers, crew member basic life support training, accessible automated defibrillators, and that the safety briefing includes important emergency medical and safety information. ***There have been too many cases of failure to treat ill passengers properly and requirements need to be put in place. With thousands of passengers and crew members, there is clearly a need to make sure medical care is given to those in need of prompt and proper care.***

13. Ensures that should a U.S. passenger die aboard a vessel, his or her next of kin could request the vessel to return the deceased back to the United States. ***In the tragic cases where an individual passes away while on a cruise ship, clearly the body should be returned to the United States and not left in some foreign port of call.***