April 7, 2014

U. S. Department of Transportation
West Building Ground Floor
Room W12-140
1200 New Jersey Avenue SE
Washington, DC 20590-0001

Comments: Cruise Vessel Security and Safety Act

Please find attached the Public Comments in response to the proposed regulations of the Cruise Vessel Security and Safety Act of 2010 prepared by the International Cruise Victims. Certainly the goal should be to put in place regulations which follow the original intent of Congress at the time this legislation was passed in 2010.

For the esteemed members of the Rulemaking Committee, we are attaching a summary of the history of this historic legislation. We trust that this will be helpful to you in developing the final regulations so that they might mirror the intentions of those whose efforts made the legislation possible.

Additionally, we would like to take this opportunity to officially request that there be a public hearing before any final regulations are issued.

Very sincerely yours,

Kendall Carver, Chairman
Jamie Barnett, President

CC: Sen Blumenthal
   Rep Matsui

Associate Member of

[Logo: Victim Support Europe]
In 2010, under the leadership of Senator John Kerry and Representative Doris Matsui, the United States Congress passed the historic 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. Also, in December of 2014 Senator Rockefeller passed additional legislation to strengthen the CVSSA with regards to the reporting of crimes.

The IMO can only issue guidelines, rules and recommendations which are then left to be administered by Flag States. But unfortunately, those ill-equipped and underdeveloped flag states take no action to protect victims. Considering the tremendous growth in popularity the cruise industry was experiencing, this became a serious problem. Lack of oversight and exponential industry growth regulated only by antiquated laws which were no longer applicable in a 21st century world meant the cruise ship owners were better protected than the passengers. Hence, legislation such as the CVSSA became vitally necessary to protect vulnerable passengers. Now for the first time laws were passed which mandated basic safety and security measures -- some of which were so fundamental as to have 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, during an investigation.

Man over Board systems designed to immediately detect anyone going overboard were required whenever the technology became available. Also, all major crimes occurring or allegedly occurring on cruise ships must be reported publically now on a government website, with a link to that website on each cruise lines’ website. In addition, crime victims were given the legal right to report crimes directly to a government agency which would assist them rather than going through the security of the cruise lines who have no legal authority to arrest, or skill to provide care, or training to properly investigate or collect evidence. What the cruise lines do have is a major conflict of interest given that the only law enforcement available when out at sea is that provided by the cruise lines themselves... employees who have every incentive to keep the cruise lines best interest at heart rather than the passengers, regardless of the liability.

Even though the cruise lines were rather dismissive of the CVSSA, back in 2010 saying that they were already implementing the enacted standards on a voluntary basis, it is interesting to see that while many of these required systems have been put in place,
quite a few have not.

This fact rightfully disturbed many members of congress who then sought a remedy. This resulted in three additional Senate hearings in 2012, 2013, and 2014 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 crime 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 testified. His anger with this industry was clearly shown in his closing statement which raised the question, “Why don’t the cruises lines just do the right thing instead of doing everything possible to avoid any type of consumer protection?” His entire statement can be viewed on the ICV website.

Equally as disenchanted with the cruise industry now, is Senator Blumenthal who is taking the lead on this issue since Sen. Rockefeller’s retirement. In a press release on March 12, 2015 after another cruise ship passenger was reported to have gone overboard, he stated the following:

“Today, as our thoughts and prayers are with the family and friends of Cameron Smook, the stark tragic fact is that readily available life-saving technology could have spared him. Reprehensibly, five years after the Cruise Vessel Security and Safety Act of 2010 was enacted, cruise lines still refuse to upgrade outdated video surveillance technology for the latest in automatic man overboard detection. The cruise industry should be ashamed and embarrassed by this failure to embrace this lifesaving technology. Such technology could have immediately detected Cameron’s fall and made sure valuable time was not wasted reviewing camera footage. In the last two months four individuals have fallen overboard from cruise ships. I will continue to fight for more effective commonsense safety and security measures, such as those included in the Cruise Passenger Protection Act, (additional legislation introduced by Sen. Rockefeller in 2014) which I was proud to lead last Congress and intend to see strengthened and reintroduced this Congress.”

The CVSSA was a major historic step forward. Only through these U.S. efforts and those of other nations around the world will this industry ever be made accountable for the safety and security of their passengers.
The US Coast Guard proposes amending its passenger vessel regulations to implement the Cruise Vessel Security and Safety Act of 2010 with respect to deck rails, systems for detecting or recording falls overboard and for recording evidence of possible crimes, hailing devices, security guides, sexual assault response, and crime scene preservation training. The proposed regulations promote the Coast Guard's maritime safety and security missions.

The International Cruise Victims Association (ICV) attaches to this document its comments, agreements, disagreements and recommendations as part of that process.
Executive Summary

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 CVSSA’s 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 WBIE.” 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 the recognition and warning of 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 3\textsuperscript{rd} 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.

\textit{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.

\textbf{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.

\textit{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.

The International Cruise Victim’s Association

April, 2015
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Introduction

Esteemed Rulemaking Committee Members,

On behalf of the International Cruise Victims Association, (ICV) I take pleasure in this opportunity to comment on the proposed rulemaking effort (USCG-2011-0357), in connection with the Cruise Vessel Safety and Security Act of 2010.

My name is Mark Gaouette. I have volunteered to write the ICV’s positions in connection with the USCG’s call for public comments in connection with the rule making process of the CVSSA. I am a former cruise industry security executive, a retired U.S. Naval Officer, and retired Foreign Service Officer with the U.S. Department of State. I provide my background in the accompanying endnote to suggest to the committee my background in addressing the issues before the rulemaking committee. Although I have the privilege to write these comments, they are in fact, the result of the hard and dedicated work of the International Cruise Victims Association, its members, its associates, and supporters.

For the past ten years, my colleagues and I have been engaged in the ongoing efforts to pass needed legislation to reform serious deficiencies inherent in the North American cruise industry. Similar efforts are also ongoing throughout the world including Europe, the United Kingdom, and Australia.

In the past decade, the occurrence of crime on cruise ships (and the industry’s response to it) has been called into question in front of the U.S. Congress, the media and governments around the world. Powerful lobbyists and special interest groups in the meantime have banded together to preserve, or attempted to change the model of cruise ship tourism. Both the cruise industry and victims advocacy groups have cooperated with efforts of the U.S. government to make ocean travel safer however, even in the wake of legislation signed into law, the ICV, members of Congress, private security companies, and victims or cruise ship crime and accidents believes that efforts are still underway by powerful lobbyist to circumvent the proposed referendums on cruise ship safety and security.
At the core of the effort by the U.S. Congress was how crime is investigated on and off the cruise ship, unveiling the true extent and nature of criminal activity on these ships, providing for rapid and accurate ways for crimes to be reported to law enforcement agencies, how that information is made available for the sea-going public, and providing for counsel and treatment for victims. Additionally, efforts have included ways to account for the hundreds of cruise vessels passengers and crew who go missing, presumably as the result of a man-over-board incident. These efforts have centered on ways to prevent such events from happening in the future with the overall goal of making sea travel on cruise ships safer. Finally, in the wake of pirate attempts to attack and board sea-going cruise ships, and the ever-present threat of terrorism overseas as well as in U.S. ports, harbors, and coastal waterways, legislation was sought to render densely populated cruise ships filled with American passengers safer while cruising in these overseas environments.

In July, 2010, President Barrack Obama signed into law, The Cruise Vessel Security and Safety Act (CVSSA) of 2010. This legislation, (also known as the Kerry Act named after one its congressional sponsors, Senator John Kerry) is now U.S. law.

We speak on this occasion to the proposed provisions listed in table 1, (below) and more specifically to the non-self-executing provisions: Systems for Detecting Falls Overboard, Hailing or Warning Devices, Security Guides, Sexual Assault Response (Victim Confidentiality), Crime Scene Preservation Course and Victim Assistance, and Temporary Port Calls by cruise ships. As permitted by the Rule Making Process, we respectfully submit the following comments and input.

> **ICV 0.0:1** Paragraphs marked as such are opinions, viewpoints, recommendations and concerns of the International Cruise Victims Association. As part of the Rule-Making Process, ICV dutifully requests the Rule Making Committee to address each of these issues to clarify, substantiate, refute or alleviate the ICV’s issues.

At times, these opinions, research and conclusions as well as the opinions of the ICV are in direct conflict with the views, remedies and objectives of the Rule Making Committee. They are meant in the spirit and purpose of the Rule Making process to move forward with the implementation of the important aspects of the CVSSA.

Sincerely,

The International Cruise Victims Association

April, 2015
PART ONE: MAN OVERBOARD TECHNOLOGY

I. SYSTEMS FOR DETECTING FALLS OVERBOARD

“Section 3507(a)(1)(D) requires each vessel to “integrate technology that can be used for capturing images of passengers or detecting passengers who have fallen overboard, to the
extent that such technology is available.” Therefore, in proposed 46 CFR 70.40-6 we would require a vessel either to maintain a fall-overboard image capture system, or a fall-overboard detection system, or some combination of both. 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. However, to the extent the vessel relies on an image-capture system, or combination image-capture/detection system, the system should record the incident’s date and time to provide proper assistance to search and rescue or law enforcement personnel. System video, data, and images (“records”) need to be made available for search and rescue or law enforcement purposes. To ensure that availability, we propose requiring records to be kept for the duration of the voyage, and for at least 14 days after all passengers are accounted for as having disembarked. The 14-day proviso allows extra time to report the disappearance of a stowaway or other person, whose presence on the vessel may not be reflected in the vessel operator’s records, thereby making it less likely that the person's disappearance could be discovered or reported quickly. If, during the voyage or the subsequent 14 days, the vessel receives a report of a fall overboard, these records would have to be kept for an additional 120 days after receipt of the report. Our proposed rule provides flexible performance-based standards that may be met using a variety of technological equipment and systems.’

2. OVERBOARD DETECTION OR CAPTURE

“The CVSSA requires integration of technology that can be used for capturing images of passengers or detecting passengers who have fallen overboard, to the extent that such technology is available, and does not require one approach over the other. This provision is performance based and allows for use of either image-capture or detection systems, or a combination thereof. Based on the comments submitted by CLIA in response to the 2011 notice, we anticipate industry will comply predominantly through capture. According to CLIA, image capture technology systems (closed circuit TV, thermal, etc.) have been proven to be reliable and have been successfully used in the maritime environment for many years. However, the technology to reliably detect persons or objects as they are in the process of going overboard is not yet readily available for use at sea. Because the statute does not require one method over the other, we anticipate that the cruise industry will focus on using capture systems rather than detection systems. While some cruise ships already have cameras that can capture images of objects going overboard, the industry does not universally meet the requirements of the CVSSA at this time.

PUBLIC COMMENT –

Begin comment – International Cruise Victims Association (ICV) – Man Overboard Technology
SECTION ONE: THE RULEMAKING PROCESS AND MOB TECHNOLOGY

1.1 The Rule-Making Process Has Been Unduly Influenced by CLIA’S Input to the USCG

The ICV has had an opportunity to study the rule making process as set forth in the Rule-Making document, USCG-2011-0357-0014 published on January 16, 2015. The ICV appreciates and is impressed with the amount of work and preparation in this proposal. However, certain aspects applying to man overboard technology which have the appearance as forgone conclusions are troubling to the ICV and the general public.

ICV 1.1:1 Regarding technology for detecting falls from a cruise vessels, the ICV is in disagreement with the Rule Making Committee’s position that:

“Given that the industry view is that fall detection technology is not yet reliable under marine conditions, we expect that owners and operators will select the image capture option provided by Congress until such time that fall detection technology is believed to be sufficiently reliable.”

ICV 1.1:2 The ICV does not believe that the US Coast Guard, as the Rule Making authority can affirmatively claim that the fall detection technology is not reliable because it has not reliably tested any fall detection technology.

ICV 1.1:3 Secondly, ICV disagrees with the Committee’s position and conclusion (from the previous RFI) that:

“The five security equipment providers provided information about the capabilities of various fall detection or surveillance systems. The information provided for fall detection systems did not directly address the cruise vessel trade association’s assertion that existing systems are unreliable under marine conditions. It was not clear from the equipment providers' comments that industry prefers any one system for specific applications under specific conditions. The approach taken in our proposed rule is to let each vessel owner or operator determine the suitability and reliability of available systems, and choose the system or systems best adapted to its needs and the conditions under which the vessel operates. With respect to falls overboard, our proposed rule incorporates the CVSSA’s flexible approach under which vessel owners could choose between detection systems, image capture systems, or some combination of image capture and detection systems.”

In the Rule Making Committee’s opinion, (as stated in the assessment—above), MOB technology is not reliable. (“However, the technology to reliably detect persons or objects as they are in the process of going overboard is not yet readily available for use at sea.”)

ICV 1.1:4 Neither the ICV, nor any other group concerned with man overboard technology has seen the Coast Guard’s supporting data from their independent testing that would
show in fact, these systems are unreliable as CLIA claims. What elements did these companies not directly address as the Coast Guards has stated? The ICV asks, how was that determination made and who made it? Was it based on extensive testing of the so-called detection systems offered to the USCG or was it just the opinion of CLIA taken at face value?

ICV 1.1:5 The ICV asks is the Rule Making Committee really prepared to let the cruise industry decide if the fall detection technology is not reliable without independent testing (conducted by the USCG) as the implementing authority for the CVSSA.

ICV 1.1:6 The ICV disagrees that the Rule Making Process has already established the position that the cruise lines should focus on capture systems to meet the requirements of the CVSSSA. ("we anticipate that the cruise industry will focus on using capture systems rather than detection systems") without a full and independent analysis of the fall detection technology.

ICV 1.1:7 The ICV feels that the USCG has been unduly swayed and influenced by CLIA, a powerful lobbying arm of the cruise industry to rewrite, or block the implementation of this key provision (among others) of the CVSSA.

Because the USCG has already allowed “interested” parties decide the scope, size, cost and nature of the requirement, it has invalidated the rule-making process, especially in regards to the required MOB technology.

ICV 1.1:8 In the opinion of the ICV, the Rule Making Committee has already established the foundation on the way forward on the MOB technology issue. By professing that …”Based on the comments [already] submitted by CLIA…” the USCG has thus determined that the MOB fall detection technology requirement will follow CLIA’s (and the cruise industry’s) vision of implementation. This excludes additional comments, arguments, and data which contradict this view and support the requirement for “detection” systems as the way forward over the antiquated CCTV “capture systems” in place today on all cruise ships.

ICV 1.1:9 For reasons discussed below, the ICV are firm in their belief that the CVSSA requires both technologies i.e., capture and detection and should be the way forward.

1.2 Public Misconceptions about the MOB Requirement

In the public’s mind, thanks to aggressive media campaigns, and alarming statements linked to the Coast Guard, MOB fall detection technology appears to be outside the grasp of the innovative minds and spirit of American companies and the American people.

In a recent article published in Travel Weekly entitled “Overboard sensors not required on cruise ships,” the article’s author makes the contention that the U.S. Coast Guard has already deemed that systems to detect persons falling off cruise ships as not being required.

The article says “the Coast Guard said it expects cruise lines to rely on video monitors rather than automatic detection and alarm systems to meet a safety requirement regarding passengers
falling or jumping off ships” and that “so-called man overboard (MOB) technology has been tested by various cruise lines, and its backers say it could save lives and reduce search-and-rescue costs. But the Coast Guard noted that CLIA believes the detection systems “are not yet reliable under marine conditions.”

To accept as true the sentiments of CLIA above, one would be led to believe that either their ships are not as robust as they claim or, they are unwilling (and perhaps defiant) to invest in the reality of MOB technology as required by the law to save lives and make cruising safer.

ICV 1.2:1 The ICV and other groups and concerned on how the U.S Coast Guard, as stated in the Travel Weekly article can make the determination that man-overboard technology is not ready for use today. This approach arbitrarily evades this fundamental requirement of the CVSSA.

ICV 1.2:2 ICV believes that this was an obvious attempt by CLIA to rewrite the law and render it useless from its original intent. This was done for reasons of liability and not feasibility.

ICV 1.2:3 Furthermore, the ICV opines that CLIA should not be allowed, or capable of influencing or changing US law because it is not convenient, or because they believe the detection systems are not yet reliable under marine conditions. Such positions are not justifiable given today’s technological capabilities.

The rulemaking should be aware that the author (of the Travel Weekly article) or his sources, has quoted the Coast Guard who says it expects cruise lines to rely on video monitors rather than automatic detection and alarm systems to meet a safety requirement regarding passengers falling or jumping off ships.

ICV 1.2:4 The ICV contends that taking this approach essentially maintains the status quo, on saving lives and misleads the U.S. public on the intent of [CVSSA] law.

Four and half years after the signing of the final legislation requiring this important lifesaving technology on all cruise ships subject to the CVSSA, the industry as a whole is still no closer, in defining what the precise technology is, other than what has been written into law.

Obviously, there can be no denying that many different MOB technologies exist and have existed for years both before and after the effective date of the CVSSA. Even if the industry can claim the systems are imperfect in some way, there is no denying that they are available [today] and could be used now and until something better is developed. This is in no reason NOT to incorporate the most reliable technology today.

The failure of any cruise line to implement these technologies 4 1/2 years after the effective date of the statute seems to prove that there is no enforcement effort by the USCG or any other agency to impose this requirement and thus, have essentially allowed the cruise industry to maintain the status quo. Not much incentive exists for the cruise lines to comply and it is very unlikely they will until there is a private right of action, with a statutory provision which says
that the loss overboard of a person on a vessel without a monitoring system is presumed to be negligence by the cruise line, unless they can prove otherwise.  

ICV 1.2:5 It is ICV’s opinion that the Rule Making Committee must first define what the MOB technology should do and what technology should consist of (see section three below).

ICV 1.2:6 It is ICV’s opinion that as required by 46 CFR 70.40-6: MOB technology as written into the Cruise Vessel Security and Safety Act should have both a capability to capture the incident and well as detect man overboard not one over the other and vice versa.

1.3 What does the USCG know about MOB technology and systems?

In May 2011, the ICV and the general public responded to a USCG RFI (Request for Information) to obtain the public’s input on the CVSSA requirements on man overboard technology and video recording because they involved complex technology and because the CVSSA language was not specific enough, according to Coast Guard officials, for them to use it to verify compliance on cruise vessels.

In response to its RFI, as published in a prominent GAO (Government Accounting Office) report in 2013, the Coast Guard received comments from nine entities: CLIA, two cruise victim advocacy groups, five companies stating that they had effective technology in these areas, and one private citizen.

It is certainly evident from this public report that the US Coast Guard is aware of companies who have stated they have a technology ready for evaluation to meet the MOB requirements of the CVSSA.

ICV 1.3:1 The ICV asks what is, or was the status of testing for those companies who have expressed their intention to make their technology available to satisfy the requirements of Section 3507(a) (1)(D)? What data, criteria, and performance standards did the Coast Guard use to evaluate these systems/technologies?

1.4 Has Any Progress Been Made On Defining the MOB Technology Requirements?

In 2013, Miami Herald reporter Hannah B. Sampson was preparing an article for her paper on the CVSSA and specifically the man-overboard technology.

The reporter was seemingly unable to obtain a straight answer from the cruise lines or the cruise trade organization (CLIA) regarding exactly which cruise ships have implemented automatic man overboard systems with an alarm to the bridge which comply with the 2010 Cruise Safety and Security Act Vessel Safety & Security Act (CVSSA), and which cruise ships have
no systems or "passive" system which do not notify the bridge and thus technically in violation of the law.

The closest the reporter could come to this basic issue was obtaining a quote from a company which installs both systems stating that “a significant number” of cruise ship just use passive technology. 6

What stands out in this article however is not the lack of man-overboard technology which could be confirmed by the industry, but that according to CLIA, the cruise industry is diligently working on the issue in conjunction with the USCG. According to the article, while some North American cruise lines declined to discuss whether they use detection systems, including Norwegian Cruise Line and Disney Cruise Line, CLIA spokesman David Peikin said the industry has been working on the issue since 2006.

"While the regulations to implement CVSSA requirements for man overboard systems have not yet been published, the cruise industry continues to work collaboratively with the U.S. Coast Guard to provide input and information as needed," Peikin said. 7

In the Public’s eye, thanks in part by carefully crafted public comments in prominent trade and commercial media by CLIA’s spokespersons, the USCG is apparently working together with the cruise industry to develop technology to detect man overboard incidents but, has thus far been overcome by their unreliableness because of the “marine environment.”

In a response to the Miami Herald’s article of November 17, 2013, Ms. Christine Duffy, the head of CLIA, bolstered in the public’s eye that CLIA and the cruise industry is diligently working together on the MOB technology. She writes:

"Although regulations to implement the legal requirements for systems "capturing images of passengers or detecting passengers who have fallen overboard" have yet to be published, the cruise industry continues to work collaboratively with the U.S. Coast Guard to provide input and information on such technologies. CLIA members also continue to evaluate, test and conduct trials to identify systems that will work best in a marine environment." 8

ICV 1.4:1 The ICV asks: Is the Coast working collaboratively with the cruise industry and CLIA on the MOB technology issue?

If this is true, then this would ultimately be unethical because both CLIA and the cruise industry are interested parties in the outcome of the technology and have a vital stake in the outcome of the proposed rulemaking.

Those outcomes would include such important components such as cost, size and scope, and more importantly, pushing out the implementation deadline (especially if CLIA can establish in the USCG’s and in the public’s mind that the technology is years off – or even attainable).

Any input from the cruise industry and CLIA would obviously work in their favor especially if they can persuade / convince the USCG that while the so-called technology is years off, they are devotedly doing everything they can to satisfy the [MOB] requirement. Instead CLIA and the
cruise industry are using a misleading public awareness campaign hiding behind a so-called “technology gap” and pretexts that the “environmental” issues for this technology are overwhelming.

ICV 1.4: ICV would like to communicate that these influences (CLIA and the cruise industry) are in direct conflict with the very purpose and spirit of the law and ultimately works against the U.S. citizens the law was designed to protect.

1.5 FOIA: ICV, USCG AND CLIA

Surrounding this debate on which MOB fall detection technology is feasible, some facts are indisputable. Since September, 2011, there have been over 77 (reported) man-overboard incidents on cruise ships. In a three-week period alone starting on December 10th, 2014, five persons had gone overboard from cruise ships. Far greater amounts (over 200) have perished in the last decade.

Because of this ongoing and omnipresent risk, the cruise industry leans heavily on the resources of the U.S. Coast Guard (and in many instances the U.S. Navy) for recovery, search and rescue operations. There is no ignoring that these rescue efforts have cost the U.S. taxpayers millions of dollars annually, a fact that the honorable Senator Rockefeller has repeatedly echoed. All from an industry that pays little or no corporate tax to the federal government.

ICV 1.5: ICV believes that saving lives and money were clearly on the minds of Congress when the CVSSA was drafted however, implementation has been a long and arduous task and has not been transparent yet, and the USCG has been persuaded in actively fulfilling the CVSSA provision.

On December 2nd, Rear Admiral [Joe] Servidio politely responded to Mr. Ken Carver’s letter (Email) on the issue of CLIA and the industry’s collusion with the USCG on the MOB issue by indicating the following:

“Ken,

CLIA is not actively working with the CG on the regulations for MOB systems. I can not speculate on what she (Ms. Duffy) was referring to. I recognize CLIA is not a disinterested party. I believe I clearly have stated on record and in hearings that I am not promoting the Cruise Ship industry (and think the blog you highlighted reflected the same). When the time for comment on the proposed regulation is at hand I expect you will provide your thoughts and I will both welcome and look to solicit your comments then. Until then I can neither work with you on crafting the regulation nor work with CLIA on it.

Joe (Servidio)”

(See Appendix A)
Contrary to the Admiral’s assurances, it does appear that indeed CLIA (and the cruise industry) have been consulted by the USCG on the MOB issue, perhaps as early as 2006 according to David Peikin of CLIA.

From correspondence and a FOIA request in possession of the ICV, there can be little doubt that the USCG has actively been seeking technical advice from CLIA and the cruise industry on the MOB subject.

Unfortunately, it seems that because no MOB technology has yet to be tested and evaluated by the USCG, these interested parties have thus far been successful in dissuading/persuading the USCG from decisive action on the MOB issue.

The ICV is concerned with this influence, even though it has been given assurances from a USCG’s admiral that when the Rulemaking Process is open for public comments, the ICV and the U.S. public may add remarks on this and other CVSSA topics, the USCG has already made its mind up on the subject of fall detection technology. As further evidence of this, consider the following:

Since late autumn 2013, Captain John Maguer, USCG, has been in open contact with the interested parties to the CVSSA regarding the MOB (and crime reporting aspects) and has solicited their input.

**Appendix (B)** details the process in which Mr. Ken Carver filed for a Freedom of Information Request, to ascertain if Capt. Maguer that he had been in contact with CLIA for their input on MOB technology.

It appears to that Christine Duffy’s statement (in the Miami Herald) was accurate. Evidently, the USCG is requesting information from the [interested] party subject to the law; a party which is only too happy to answer the USCG with all the reasons (according to their “experts”) why these systems do not work. In fact, it seems that they again are interpreting the CVSSA to mean something different from the intent of Congress.

Mr. Carver writes with concern that in particular, where the bill states that, “The vessel shall integrate technology that can be used for capturing images of passengers or detecting passengers who have fallen overboard, to the extent that such technology is available”, in addition to claiming that the technology does not exist, CLIA is claiming the bills wording to be an either/or requirement rather than a both/and measure.

⇒ ICV 1.5:2 The ICV firmly believes that MOB technology (for the immediate detection of overboard crew and passengers does exist) and is deeply concerned that the USCG has only solicited the cruise industry lobbying group (before the proposed rule making process as Admiral Servidio claims allowed) and, that this lobbying group (CLIA) is resolute against installing this technology on North American cruise vessels now or anytime in the future.
SECTION TWO: THE MAN-OVERBOARD INCIDENT

2.1 Both Capture and Detection Systems Are Needed

Man overboard situations must be treated as life and death emergencies AND possible criminal events, requiring evidence collection resources to fully document when, where, how and why a passenger (or crewmember on many occasions) went overboard.

Systems known to the ICV that meet both requirements have been offered to the ICV and Coast Guard for several years. Detection technology immediately notifies the bridge and rescue personnel to immediately retrieve a cruise member who has, for whatever reason gone overboard. Capture technology collects the evidence of exactly when where and how that person may have gone over the side of the ship.

Cruise ships are required to take emergency action when they are aware that they have a man overboard regardless if that person has fallen off the ship either on purpose, or accidentally. Modern ships are reportedly designed to be very safe, the question(s) must be asked, how do people fall off cruise ships if they are reportedly so robustly designed with safety in mind?

The causes are many and it may happen that all of a sudden, someone may fall into the sea because they slipped in rough weather, a wave could rush over the side and sweep a person into the sea or they could have precariously leaned over a rail to take a photo, or were engaged in horseplay when standing near the edge of the deck or possibly someone was just pushed while they were enjoying the view.

Other documented reasons for falling off the ship however have included people falling off the ship while leaning over the ship’s railing to urinate or perhaps when the person leaned over the railing to be sick and lost their balance or footing. The case of Daniel Dipiero who was captured falling off Royal Caribbean Mariner of the Seas’ CCTV as he leaned over the rail to be sick is a perfect example.

Man overboard cases are sometimes labeled as “missing persons.” Missing persons can be both passengers and crewmembers as evidenced during the first half of 2010 which saw four crew members disappear from the largest Royal Caribbean cruise ships. Some were reported to have jumped to escape horrible working conditions; others killed themselves to escape from an abusive relationship.

All of these scenarios have been documented as the causes for cruise ship passenger going overboard. It is not the purpose here to debate statistics of how many victims of man-overboard cases are reported each year. Suffice to say that the problem is evident (as established by Congress through its passing of the CVSSA in 2010), and has remained consistent over the past decade, especially as these cruise vessels have become ever larger with even larger passenger loads. Some of the largest cruise vessels can accommodate over 6000 passengers excluding crew which can account for another 2000 souls.
2.2 **When Is There a Man Overboard Incident?**

The moment a passenger is determined to not be on the ship, and he or she was recorded as boarding the ship when it left port, they must be considered overboard. In practicality, because no one knows for certain when the person may have disappeared, it is wise to consider that the man-overboard could have just occurred minutes earlier. Time is of the essence when there is a passenger or crewmember struggling in the sea.

The importance for cruise ships to quickly account for a body that falls off a ship should be apparent for all the above reasons. Cruise ships reportedly have established procedures when passengers, or crew are reported “missing.” If the cruise ship can detect the person falling off the cruise ship at the moment of the event, usually through an eyewitness, then the chances of survival and recovery of the victim is greatly increased. The temperature of the water, the condition of the passenger at the time of they fell overboard, and the height from which they fell all have bearing on how long the victim may survive in the water.

These influences however, are quickly diminished the longer the passenger remains in the water thus, it is paramount that the DETECTION time is as instantaneously to the event for the recovery efforts to begin immediately. The recovery efforts usually depend on how soon the ship becomes aware that they have somebody over the side of the ship.

2.3 **Ship Responses to Man-Overboard**

Risk management in the cruise industry deals with the avoidance of accidents in general. The most significant operational risks in maritime transportation are groundings and collisions. The third frequent risk in shipping with regard to casualty frequencies is fire and explosions. Far more seldom is man overboard (MOB) accidents.

However, in safety sciences from an engineer’s point of view, risk is clearly defined as a combination of the frequency of a hazardous event and its consequences, preferably expressed in monetary units. Consequently, because in almost three out of four cases of a man overboard accident, the person fallen overboard finally dies, the risk of this category of accidents is on a very high level.

It is worth seeking and researching potential solutions which contribute to the minimization of the frequency of rescue operations failing and reducing the consequences.

In cases of a person falling overboard, it is essential to recognize the situation as soon as possible and to alert the navigators on the bridge immediately in order to bring the ship as quickly as possible back, or at least as close as possible to the position of the accident, or on an opposite course to search for the missing person.
The detection in-time of a MOB accident strongly depends on careful observations by each crew member but cannot be carried out completely and comprehensively at all times. That is why suitable methods and equipment supporting the automatic and timely detection of such an event can help to reduce the probability of fatality.

If the accident is registered quickly and the alarm and the life ring with position indicator are released, then it is crucial to keep a sharp lookout and keep in contact with the person in water and to maneuver the ship back as quickly as possible and rescue the person before he/she is affected by hypothermia.

When someone goes over the side of a ship, there are several basic lifesaving procedures that must be followed to identify when and where the emergency took place. First and foremost is to sound an alarm. In its most basic form, a loud “MAN-OVERBOARD!” will suffice. A relative position report is also useful, for example “PORT SIDE!”

All U.S. Navy ships and Coast Guard vessels are required to have port and starboard lookouts. The lookouts are connected by sound-powered phones or other communication devices which are used to instantaneously contact the ship’s bridge in the event of a man overboard or other emergency. Incredibly, despite the large numbers of passengers and crew they carry, cruise ships on the other hand are under no requirement to have permanent, 24 hour watches port and starboard while underway. This places the reliance on technology for the detection of overboard passengers and crew that much more important in saving lives on these heavily populated vessels.

If possible, someone must throw the victim a life preserver or flotation device to give them a chance to stay afloat until rescue arrives. A floatation device is rendered as an immediate lifesaving remedy until the ship’s motorboat can be launched. This is impossible on the cruise ship environment if there is no one watching the sides of the ship while underway and, no one is monitoring the reportedly robust CCTV systems.

ICV 2.3:1 The ICV states that on cruise ships, reliance on CCTV cameras that only cover (observe) top-side decks are not required to be monitored by ship’s personnel while underway, thus the overboard victim has NO chance of survival if NOT DETECTED.

Finally, the ship needs to immediately enact man-overboard maneuvers to both protect the victim in the water from the ship’s (screws) and to enact a quick recovery route. This is also impossible if no DETECTION system has identified the victim going over the side.

Falling into the sea is a life threatening situation because of the following factors:

The person does not know how to swim and there are chances of drowning; there could be dangerous predators such as sharks, but it depends on the area where the person has fallen; if the water is sufficiently cold, hypothermia could set in very fast, causing unconsciousness or death. Even if none of the above criteria apply, the psychological shock of falling in the sea could be sufficient to create a panic in the mind of the person, which is the worst of all and could easily lead to drowning.
The length of time a person can stay alive in cold water is especially important and depends on the temperature of the water, the physical condition of the victim, and the actions taken by the victim to survive the trauma. Surviving a fall into the water from the heights of a cruise ship is no small achievement in and of itself. If the victim does not get churned into the ship’s wake and sucked underneath the water, or the instantaneous cold temperature of the water does not put the victim into shock, it is possible to survive a fall from a cruise ship, even under adverse conditions.\(^{13}\)

### 2.4 Investigative Requirements of 46 CFR 70.40-6

Both capture and detection technology is needed on cruise ships for another important reason, which is to provide investigative evidence of man overboard incidents. The following recent man overboard event should highlight this necessity.

At around 8 p.m. on December 25, 2008, Jennifer Ellis Seitz, a 36 year-old newlywed went missing from the Norwegian cruise ship, *Norwegian Pearl*. Whether she had accidentally fallen overboard, was pushed or leaped to her own death was a matter that the FBI could not definitely conclude two years later when they released their report of the investigation of her mysterious disappearance off the coast of Cancun, Mexico on Christmas day in 2008.\(^{14}\)

Allegedly, no suicide note was found so suicide must have been ruled out early on in the investigation. Still, because no note was found, the FBI was investigating the missing passenger as a possible crime, specifically an unattended death at sea.

The FBI recovered surveillance video from the ship showing Jennifer Ellis-Seitz falling off the ship, the equivalent of 15 stories into waters east of Cancun on that Christmas night. At the end of the FBI’s two-year investigative efforts, they concluded, with “insufficient evidence to prove any crime was committed.”\(^{15}\)

The statement released by the FBI that there was “insufficient evidence to prove that a crime was committed” is very interesting and is similar in many respects to the “bizarre circumstances” of the George Allen Smith disappearance from the Royal Caribbean cruise ship *Brilliance of the Seas* in in 2005. It really said nothing of how the victims in these cases could literally fall off a cruise ship. The facts of the case suggested something disturbing might have occurred.

Jennifer Seitz had been known to walk around the ship (but not necessarily interpreted as the open decks) when she could not sleep. According to statements her husband and mother-in-law, they both realized that Jennifer Seitz was missing at about 2 a.m. on Friday night. After searching for her for another hour and half, Raymond Seitz and his mother contacted the ship’s security department at around 3:30 a.m. The crew spent the next several hours searching the ship but also could not find her. The U.S. Coast Guard said Norwegian Cruise Lines reported the woman missing at 7 a.m. Friday. At the time when the cruise ship later notified the Coast Guard,
at least five hours had elapsed since she was discovered “missing” by the husband and the victim’s mother-in-law.

The time from her disappearance to notification increased however with a subsequent review of the CCTV system which was able pinpoint her exact time of going overboard.

By reviewing the CCTV footage, the crew discovered that one of the ship’s many surveillance cameras had captured someone going overboard about 8 pm the night before. By the time Mexican naval vessels and Coast Guard planes began their search; it had been more than 11 hours since she had gone overboard in the 70 degree water. Coast Guard and Mexican naval vessels conducted an exhaustive search through the weekend covering more 4,200 square miles off the popular resort town of Cancun, where the Norwegian Pearl had just visited.

Making the disappearances of Jennifer Ellis Seitz even more curious however, were the actions of the cruise ship when the passenger was reported missing. For example, in this instance, no announcement over the public address system was made of the missing passenger by the ship’s officers. Common sense would suggest that if they were really trying to locate a missing passenger, they would have made it public, or posted a photo of the woman on the ship’s TV, or asked guests for any information they may have had regarding the passenger on the evening and early morning of her disappearance. None of these actions were undertaken by the ship. Some passengers on the same cruise did not even know that a fellow passenger was missing until they found out about the event later on CNN.

Some passengers however, were certainly aware of some disturbance taking place on the ship. According to a family of passengers who were directly one floor under the victim’s room, they heard loud screaming around 8:00 pm (the time of the disappearance) on Christmas Night. The family told another guest that they had called security because they distinctly heard the words “stop hitting me,” but that security did nothing in response to their inquiry.

Certainly the FBI, during the course of their investigation, became aware of husband who had a history of domestic violence towards the victim. Court records revealed that Raymond Seitz completed a domestic violence course and that the charges against him were dismissed, by request of the victim, Jennifer Seitz. Taken together with the report of another passenger in adjacent cabin hearing a woman cry out “stop hitting me,” would lead security personnel to be suspicious.

Conversely, the actions of the husband after Jennifer Seitz disappeared seemed very suspicious as well. Her husband was seen going in to play the slot machines after it had been determined that his wife had gone overboard. “He had a plastic bag filled with quarters,” said fellow passenger, Jim Nestor on recalling his meeting with Raymond Seitz on Saturday, the day after his wife was confirmed as going overboard. “He said to me that he was going to the casino to see if he could change his luck.”

Jim Nestor is a retired state trooper from Connecticut. He said as a former law enforcement professional, what he saw of the crew’s investigation showed “definitely poor protocol.
I thought we should at least have been notified that something like this had taken place on the ship.”

In their official report of Jennifer Ellis Seitz falling off the ship, the FBI was unable to conclude from its investigation that her death was the result of a crime because of “insufficient evidence.” The collection of evidence is a function of the investigating agency. In relation to cruise ships, because there are no law enforcement personnel on board, security guards normally undertake that role until the FBI or other law enforcement can board the ship. Even though “circumstantial evidence” may have pointed a finger at the husband, (or someone else), no arrests were ever made.

While the death of Jennifer Ellis Seitz might have been the result of a criminal act, even though the CCTV surveillance cameras recorded a body going over the side of the ship, the capture technology was not enough to determine the cause of the event. If she was alive at the time of the incident detection technology might have help save her life.

Whether a crime was committed, or an accident or something else, when it comes to locating missing family members and investigating crime on cruise ships, a passenger from Texas who was on the *Norwegian Pearl* with the victim and her husband summed it up best, the feelings of many cruise ship passengers:

> “I agree...that no amount of regulation is going to stop suicide, murder, or drunken accidents. But if I had a loved one that went missing on a cruise I would at least want to know that someone cared enough to make every effort to locate that person, and that includes informing everyone on board of what happened, not to do so is criminally negligent in my book... Passports and scans is the regulation we can do without. Simple basic common courtesy of a thorough investigation when someone goes missing does not require legislation.”

The need to successfully DETECT and CAPTURE an image of the event is crucial to cruise ship environments where presently, there are no law-enforcement personnel.

The above case is unique in that a video record of a passenger was apparently CAPTURED by the ships CCTV deck cameras, however, what exactly those images showed were not revealed in the FBI’s report but were obviously not sufficient to determine how the body went over the side, only a time that the body went over the side. Relying on CAPTURE technology alone did not alert the ship’s bridge that a passenger had gone over the side.

It is pure speculation that as the circumstantial evidence suggested, if a crime had been committed, (by the husband or anyone else for that matter), in relation to a criminal investigation, time is certainly on the side of the perpetrator and not the victim in cases of man overboard.

While it is understandable that the USCG, as the implementing agency for the CVSAA embarked on a rulemaking path in seeing this segment of the CVSAA into implementation, it is difficult to fathom that four years (and counting) since its inception that not one single cruise ship in the
world has USCG approved technology capable of saving the life of person who has either accidentally or purposely fallen overboard let alone determine the cause. When someone falls off a ride at Disneyland, they do not continue the attraction (ride) but stop to render assistance and determine the cause of the accident. Having the ship sail off with unconfirmed or unknown man overboard alarms or reports is unacceptable given today’s level and sophistication of technology.

Perhaps most people would agree with the sentiments of Merri Laursen, whose son, Blake Kepley, 20, went missing from a Holland America cruise ship during a voyage from Seattle to Alaska. She lamented that in regards to cruise ships, that “crimes do get committed, people do disappear, like (her son) Blake…it’s not acceptable. It is [2012], with the technology we have, it’s not acceptable.”

Three months after Blake Kepley’s disappearance, Merri Laursen finally received a copy of the U.S. Coast Guard investigative report. It included just one blurry surveillance image of a person walking on deck in the early morning hours when Blake went missing. The face of the person in the image was blacked out, as were the names of witnesses who claimed to have seen Blake. Ms. Laursen said the USCG officials told her there was no surveillance video available.

Again, any reasonable person has to speculate that in today’s technologically oriented society, that while on a cruise ship, your image is almost one hundred times less likely to be captured on CCTV than if you walk past the local neighborhood grocery store or city park. This despite the industry’s claims that cruise ships reportedly now have in excess of 600 CCTV surveillance cameras situated throughout the cruise ship. Maritime lawyer James Walker has asked on numerous occasions just where these cameras are located on the ship. The response from the cruise industry is that it a greatly guarded secret for security reasons. This should not be used in an excuse for safety, such as in the case of man-overboard.

⇒ ICV 2.4:1 It is the substantiated opinion of the International Cruise Victims Association that reliable MOB fall detection technology does exist today and that the Rule Making Process should require both capture and detection systems and not be left to the [cruise line] industry to decide which interpretation of the CVSAA language they feel satisfies the requirement.

⇒ ICV 2.4:2 The ICV would like the Rule Making Committee to clarify its position that ...“in proposed 46 CFR 70.40-6 we would require a vessel either to maintain a fall-overboard image capture system, or a fall-overboard detection system, or some combination of both.”

⇒ ICV 2.4:3 The Rule Making Committee should remedy this situation by language that requires both technologies.

⇒ ICV 2.4:4 Revised language should read for Section 3507(a) (1) (D) would requires each vessel to “integrate technology that can be used for capturing images of passengers AND immediately detecting passengers (includes sounding an alarm requiring a ship response) who have fallen overboard. Man-overboard technology, as defined by the Coast Guard, shall be immediately incorporated/installed on all cruise vessels subject to the CVSSA.”
Apparent choices within the legislative requirement essentially let the cruise industry off the hook to ever fully satisfy this obligation by allowing them to continue relying on decades old CCTV technology they have used to capture images of persons who go overboard.

Capture technology is in use today and has not added ANY value to detecting or immediately recovering passengers and crew who go overboard. This has complicated the USCG’s burden on search and rescue efforts by increasing the search areas and has not saved lives in any meaningful way. This history of man-overboard incidents is written with little success based on CCTV capture only technology. Survivors of man-overboard incidents are likely the result of extremely good luck than anything else.

It was clear by the way the requirement was written by Congress that the intent 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. However, to the extent the vessel relies on an image-capture system, or combination image-capture/detection system, the system should record the incident’s date and time to provide proper assistance to search and rescue or law enforcement personnel. System video, data, and images (“records”) need to be made available for search and rescue or law enforcement purposes.*

- **ICV 2.4:5** The ICV is adamant that from the above language is that the technology does not need to capture an image but must (detect) the event and sounds an alarm. The key is that the technology is intended to sound an immediate alarm, and not just capture an image. *(See discussion of technology below regarding the MOB alarm requirement).*

- **ICV 2.4:6** ICV would agree that to the extent that the vessel relies on a combination image-capture/detection system, the system should record the incident’s date and time to provide proper assistance to search and rescue or law enforcement personnel. System video, data, and images (“records”) need to be made available for search and rescue or law enforcement purposes.

- **ICV 2.4:7** ICV agrees with the image (record) retention proposals of 14 days after the end of the cruise voyage and 120 days if an incident is reported.

- **ICV 2.4:8** These records would have to be kept for an additional 120 days after receipt of the report.

**SECTION THREE:  DISCUSSION OF MOB TECHNOLOGY**

**3.1 Innovation in Cruise Vessel Security Technology**

Making the marine environment safer and more secure has always created the need for innovation. Take for example common life jackets (also known as personal floatation devices)
which are certified by the Coast Guard for use in the commercial and recreational boating world. Life jackets come in variety of models, styles, and materials. Although we take them for granted today, life jackets have developed over the years and are likely to continue to be improved upon.

Although reportedly first invented in Britain in 1854, the first crude life jackets were filled with cork but satisfied the fundamental requirement of buoyancy. In 1928, the first US patent for an inflatable life jacket which used air for buoyancy was issued and has since been used primarily in aviation/marine industry. During World War II, “kapok” life jackets replaced cork filled preservers and were used extensively in the U.S. Navy. Today, there are buoyant life jackets with foam cores used on most cruise ships and boats.

The point in this discussion is that life jackets have experienced several modifications and improvements over the years. They were not perfect in the sense of today’s technology, but they were innovative, and although we consider them simple today, they were “state of the art” when they were first developed. This is somewhat similar to the type of change experienced with mobile phones going from big, bulky, limited and expensive to slim, powerful and universally available.

It is quite unfair to assess the question if MOB technology is effective, in any form, without factoring in the differences in the type of technology used or even defining what the technology is supposed to do other than “sound an alarm” or “detect,” capture and image.

\textbf{ICV 3.1:1} The ICV asks the Rule Making Committee not be mired or swayed by claims of the cruise industry that available MOB technology, is “not ready” for the marine environments.

Indeed, when the need suits them, the cruise industry is very familiar with innovation from the private sector to solve some of its most critical safety and security issues. Necessity has always been at the heart of advances in new technology. Take for example Princess Cruises where the efforts of that particular cruise line consistently led the way in developing such innovations as the A-PASS system.

The A-PASS (Automated Personnel Assisted Security Screening) has been a standard security feature on cruise ships since the late 1990s. It was designed both out of necessity and ingenuity by Anthony Zagami, a retired aerospace engineer who came out of retirement to fill a needed security requirement in the cruise ship boarding procedure.

The A-PASS was the first ever high-tech photo security system designed for cruise ships. The system takes the passenger’s photo instantaneously upon boarding the ship. The photo and pertinent information is put into an onboard data base which allows cruise personnel to keep track of passengers. This accountability system is integral for the identification and tracking of crew members. It also impedes the boarding of stowaways and terrorists. Today, the USCG as well as the Department of Homeland Security, Customs and Border Protection (CBP) relies heavily on the documentation and accounting of passenger function that the A-PASS, (and similar, follow-on systems) have provided in cruise vessel security.
In 2004, SISCO founder and President Anthony Zagami further worked on modifying the A-PASS to include a fingerprint scan for the boarding passengers. In 2010, Mr. Zagami and his company were reportedly also engaged in pursuing the MOB detection technology solution.

According to the aforementioned Travel Weekly article, companies have been testing MOB detection systems for cruise ships as far back as 2006 to include Seafaring Security Services of Virginia Beach, Va., and PureTech Systems of Phoenix. Larry Bowe, president of PureTech, said he believes his company’s system can meet the reliability requirements of the cruise lines.

“Given our extensive testing to date, we do feel the technology is readily available and can be deployed.” Bowe also said the problem of an unstable horizon can be addressed with the proper computer analytics and that maintenance in a marine environment likewise is manageable.

It is inconceivable [unbelievable] that the cruise industry, who may boast of their mega-cruise vessels which dwarf modern day aircraft carriers, and which are equipped with every imaginable luxury amenity from swimming pools, rock climbing walls, water slides, outdoor movie promenades, to pizza and ice cream bars not to mention the latest sea-going technology such as navigation systems, satellite communication systems, sea going marine propulsion systems, bow thrusters, maneuvering propulsion pods and freshwater distillers to transform seawater into fresh water for ship populations of over 8000 persons, does not have the capability to design crucial lifesaving equipment such as man-overboard technology?

All of these systems and innovations make modern day cruise ships more enjoyable and safer for the cruise passenger and work superbly and reliably in the marine environments. Can we still believe today, the problem of weather, video analytics and motion detection cannot be engineered with nothing more than the will and desire to do it?

Nevertheless, and despite the influence of CLIA, that is exactly what the American technology sector is proceeding to do. Take for example the FLIR Corporation who reportedly has a man-overboard system in use on one cruise line.

While the ICV takes no endorsement (position) on any company working on MOB technology, according to Johannes Pinl (General Manager) and Bob Balloch (Director) of FLIR, the FLIR system is very sophisticated and accurate, using camera and radar technology, with extremely low false-positive signals, and not “outrageously” expensive as the cruise industry is understandably concerned about.

Both Johannes Pinl and Bob Balloch of FLIR also expressed concerns over the referenced Travel Weekly article over claims from CLIA that they believe that there are not effective systems out there and the cruise industry has the option of using a fall overboard image capture system or a detection system. According to them, their system does both.

While not wanting to affect their close relationship with the one cruise line that has invested the capital to put this effective and reliable lifesaving equipment on their ships, they are looking for ways to inform the Coast Guard of their systems but thus far have been unsuccessful.
Understandably, in the absence of guidance from the USCG, they are still wrestling with not affecting their current relationship with their existing client.

The ICV believes that the USCG has added confusion and anxiety to the American innovative efforts to develop MOB technology, and that rightly or wrongly, the cruise industry is justified in dodging the implementation of “untested or uncertified” technology in fears that they may be “backing” the wrong technology.

Many American companies, with both proven [and unproven] technologies have been at a loss to bring their innovations to the proper [official] U.S. Government entity to test, evaluate and certify MOB technology.

Frustrated, many of those companies like the ones mentioned above have sought advice from the International Cruise Victims Association on ways to proceed in vetting their product with the USCG. The ultimate goal obviously for these companies is to have the responsible government certifying agency approve or disapprove the product (equipment, technology, etc.,) and make it available for the cruise industry to satisfy section 3507(a) (1)(D) of the CVSSA.

ICV has brought to the attention of Congresswoman Doris Matsui (D) California, House Sponsor of the CVSSAA the names of these companies and their frustrations. With tens of millions, if not hundreds of millions of dollars at stake, not to mention the passengers and crew who would benefit from this technology, thus far, the US Coast Guard has been silent on defining the technology adding to the confusion and allowed a misinformation campaign to be initiated by CLIA, to discredit MOB technology.

The ICV recommends an immediate open submittal period for immediate testing and evaluation of MOB systems and rank order the companies and their technology, based on a test of their technology and associated systems and have the top-ranking company be chosen as the industry standard. The top ranked system must have the capability to both DETECT and CAPTURE man overboard incidents.

If the USCG cannot immediately test and evaluate this technology, the ICV would require that it explain its reasoning as to why it cannot fulfill this rudimentary requirement before deciding what type of technology will / or will not satisfy section 3507(a)(1)(D) of the CVSSA.

Finally, if this technology either certified or uncertified cannot be immediately installed on the cruise vessels then immediate remedies as stipulated in Section Four should be implemented to bridge the “technology Gap.”

3.2 The Technology Problem According To CLIA and the Cruise Lines

Regarding the MOB technology, in its report to Congress, the GAO summed up CLIA’s view of the MOB technology problem in the GAO report.
CLIA noted that there are two different parts to the man overboard technology: image capturing and detection. CLIA stated that the technology exists to reliably capture images of people falling overboard through closed circuit television (CCTV), thermal imaging, and so forth. However, (in their opinion,) the technology to reliably detect persons as they are in the process of going overboard does not presently exist.

CLIA believes the technology is not yet reliable in a maritime environment because of the movement of a vessel, weather and sun glare, and lens encrustation caused by saltwater, among other things. 27

Various cruise line representatives derived their own self-interested reasons (generally focused on liability and cost) for not wanting at this moment in time to place this technology on their ships.

Specifically, one cruise line official commented that if cruise lines are going to be required to invest significant amounts of money in man overboard technology they want to be sure it does not produce inaccurate results that could result in increased operational costs such as conducting unnecessary searches or disrupting an itinerary, among other costs. Similarly, if the technology failed to detect a passenger who had gone overboard, and as a result the vessel failed to conduct a search for that person, this type of error could expose the cruise line to costly litigation.

All five of the cruise lines the GAO met with agreed with CLIA’s perspective that the technology to detect persons as they are in the process of going overboard is not yet reliable. However, officials from four of the five cruise lines the GAO met with have or are currently testing different technologies onboard their cruise vessels. Officials from four of the five cruise lines also said one problem with the technology relates to the potential impact of false readings, both positive and negative.

**The “False Positive”**

Under scrutiny, all these reasons all are invalid. Take for example claiming that technology may issue a “false positive,” which according to their thinking, would disrupt the ship’s itinerary and leave them open to lawsuits. This view is validation of protecting their bottom-line, not for the protection of their customers. The same false positives are also true, if not more using the current technology based on video analytics, and under those circumstances, review of the CCTV captured video takes hours to confirm a report of a man overboard.

Viewing MOB events from their perspective, they appear to be an inconvenience rather than a risk management issue. It is a poor argument to sell to their customers that instead of doing everything within their resources to save someone’s life, the sea-going public may possibly be delayed to their next port of call by minutes or hours to look for someone lost at sea.

⇒ ICV 3.2:1 The ICV asks: Is it reasonable to believe that if the lost soul were your family member or loved one, you would want the ship to IMMEDIATELY stop and conduct a search and do everything possible to locate them?
ICV 3.2:2 **Sarcastically, the ICV asks** should the ship be required to provide notice to their passenger: “in the event of your fall overboard from the ship while it is underway at sea, unless reported by a reliable witness or unless the cruise ship is in possession of your suicide note, the ship will proceed without stopping to arrive at its next port of call on schedule.”

ICV 3.2:3 The ICV does not believe any reason to search for a lost passenger (or crewmember) as “unnecessary” as the cruise lines seem to view it.

ICV 3.2:4 In the opinion of the ICV, *any* search at sea is necessary if there is an indication that there may be someone in the water.

ICV 3.2:5 Additionally, it is the opinion of the ICV that costly litigation resulting from someone who was not located due to this technology as the cruise lines see it, would seem to work in their favor, not the other way around.

### 3.3 **Radio Beacon MOB Systems**

On merchant ships, mariners’ life jackets are increasingly equipped with sophisticated small location systems actively transmitting the position. In the instance of a man overboard incident, the person can be localized more easily.

On passenger ships, as on ferries or cruise liners, the problem is more complicated because passengers do not wear life jackets while on weather decks. At the same time, so-called detection systems have been professed by those in the cruise industry to be unreliable overall number of MOB accidents is increasing, i.e. because of the increasing number of cruise ship passengers.

Current MOB technology relying on the crewmember and/or passenger to wear a radio beacon attached to a vest, bracelet or belt, etc., assists in successful rescue by providing rapid, accurate notification and location information to a remote receiving station on the ship. The transmitter using GPS technology notifies the receiver at the time of entry into the water. The RF receiver will record the time of activation and the elapsed time since activation. The rapid notification allows for rapid rescue of the individual avoiding the need for long term search and the dangers of prolonged exposure.

This technology is ideal in that it allows for rescue by any vessel because of reference to an absolute location and not a location relative to the original vessel.

Although tested and viable systems, commercial “man overboard” technologies used on fishing vessels, oil platforms and other types of maritime ships and boats as well as the U.S Navy are not considered as technology that could satisfy the requirement for detecting those who go overboard. These systems utilize a form of GPS tracking devices that must be worn by their personnel at all times when working topside exposed to the elements. Because these environments and professions are considered hazardous, there is a high risk for employees (of the maritime platform) going overboard. If a person falls into the water, the GPS tracking
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devices is activated immediately sends out alert and tracking signals to a monitoring station on the vessel whereupon a rescue effort can quickly begin.

The problem surrounding these types of technologies on cruise ships are that they become intrusive to the privacy of passengers, are cumbersome to wear and usually very expensive. They are also prone to tampering, false alarms and open the possibility for increased liabilities for the cruise lines.²⁸

3.4 CCTV Capture Technology and Video Analytics

Much of the current technology in use in the so-called “capture video systems” on board cruise ships as well as those companies that advocate MOB technology rely on video analytics to capture an image or “event.”

In its simplest form, video analytics examines video feeds to identify changes in motion.

Video feeds can come from a variety of sensors including CCTV cameras. Cameras can be designed as PTZ (cameras can pan -move left and right, tilt -move up and down, and zoom in or out); Box Cameras comprised of the camera body, lens and power supply; Mini-Dome Cameras usually used when discreet applications are needed. They can be vandal resistant, and indoor and outdoor models are available, or they can be “Bullet” cameras with infrared lighting, and they can be used indoors or out. Most important to the function of camera recording is the element of light. The amount of light available (night, day, haze, fog, etc.,) will determine the amount of light required by the particular camera in order for it to produce usable video.

Unless the cruise ship can robustly illuminate the entire ships or portions where the MOB incidents are likely, (railings, balconies, etc.,) then the lighting must supported by the use of IR (Infrared), Thermal, Digital Noise Reduction (DNR), Digital Slow Shutter (DSS), Wide Dynamic Range (WDR) cameras.

Based on the presence, or absence of motion, the video management system can decide not to store video or store video at a lower frame rate or resolution. Because surveillance video captures long periods of inactivity (like passageways and staircases, decks when they are closed, etc.), using motion analytics can reduce storage consumption by 60% - 80% relative to continuously recording.

Most video surveillance deployments use basic motion analytics to control recording. Because most commercial and residential facilities have significant periods of low activity (e.g., nights, weekends) and areas of low activity (e.g., hallways, stairwells), motion analytics can reduce storage consumption by 50% to 80%. Most systems set their basic motion analytics to be fairly conservative so that they rarely miss “real” incidents.

Using video analytics to identify threatening events like MOBs is the more “exciting” form of video analytics. Generally when camera industry people talk of video analytics, this is their
intended reference. Common examples of this are perimeter intrusion, abandoned (unattended) objects, people counting and license plate recognition etc. **The goal of these types of video analytics is to pro-actively identify security incidents and if monitored by a security personnel, or hooked up to an alarm, to stop these events while in progress.**

Although there have been improvements to this technology over the past 5 – 10 years, video analytics have been generally viewed as a disappointment. While many observers believe that video analytics will improve, the video analytics market is currently weakening. The same problems that critiques of detection systems claim make these systems unreliable also apply to video analytics including false alarms.

Cameras and sensors used in these systems likewise are also subject to the same environmental conditions such as sunlight, glare, salt encrustation, etc. that seem to be plaguing the so-called detection systems.

Adding to the cruise ship problem is the enormous number of analog CCTV cameras still in use on many cruise ships – none of them support analytics. Relying on this antiquated CCTV technology will require that these cameras will have to be replaced or the addition of an encoder with built-in analytics. Furthermore, most of the IP cameras do not have the capability to be upgraded to video analytics.

Relying on this aged CCTV technology is not the logical way forward in providing a technological solution for the MOB requirements.

Since the goal of video analytics is to eliminate human involvement, eliminating false alerts is necessary to accomplish this. Each false alert not only requires a human assessment, it increases emotional and organizational frustration with the system.

### 3.5 Fall Detection Technology and Requirements

On modern cruise ships, the decks and ship sides are covered by using surveillance cameras. **Because they are not monitored in any meaningful way**, MOB incidents are often not recognized because the permanent and uninterrupted observation of the monitors is not possible (nor required under any maritime safety regulation) making an absolute necessity for a technical solution for the automatic detection of MOB incidents.

While this public comment (input) has addressed the fact that the ICV is of the position that detection systems exist today, **the following is offered to the Rule Making Committee as the ICV’s recommendations for the design of these systems.**

The fundamentals for the concept must be derived from the following principal analysis of:

1) What are the characteristic elements of a typical MOB emergency?
2) Which requirements have to be fulfilled by an automatic detection system?
To answer these principal questions, a thorough investigation of 144 data sets of MOB accidents on cruise ships conducted by the Canadian Maritime University in 2011 was performed. The main results from this analysis were summarized as follows:

- Within the 144 cases, 149 persons were affected, whereof 29 have been crew members.

- Only 31 persons of these 149 could be rescued.

- In only 81 cases, the concrete time or at least a time range was given for the time the accident happened.

- In ONLY 30% of these cases, the time was determined after that accident, e.g. by analysis of recorded video data. This means that in most cases, the accident was not recognized in time or even not recognized at all.

- With respect to the ship-related position of the MOB accidents, it was analyzed that they occurred along the whole outer ship range. However, there seems to be an accumulation of cases, where the victims fell from the balconies of cruise liners.

- The major portion of the analyzed MOB accidents happened during the night between 2200 and 0200 hours the next day (see Fig. 2 below).

![Fig. 2 Results of analysis of man overboard accidents](image)

- **3.6 Published Research for Automatic Detection of a Person Falling Overboard**
According to these results and considering the external conditions onboard ships at sea, the following basic requirements for an automatic detection system were derived as a result of the aforementioned study:

- **Immediate and automatic detection** of a falling person
- **Avoidance of false alarm, by reliable distinction** between a falling person and other falling objects.
- **Continuous operation during daytime and especially at night** (when most of the reported MOB incidents occurred)
- **Robust resistance against disturbances** caused by weather and vibration (ICV Comment – *this requirements would be the same for ship’s CCTV, IR and thermal cameras which are subject to the same environmental elements which the critiques of detection advocate, e.g., salt crust, corrosion, sun glare, etc.*)
- When using any kind of electromagnetic waves: **no disturbance by the ships, navigation systems and vice versa**
- **Operational considerations** (e.g. power consumption) and maintenance
- **Easily handled** by the crew
- **Data privacy** protection

### 3.7 Additional ICV Recommendations for MOB Fall Detection Requirements

**ICV 3.7:1** The ICV would in addition to the aforementioned requirements, add the following fundamentals for detection system technology:

- **Detection coverage** – using a combination or radar, visual (IR/Thermal and CCTV cameras), and laser, coverage from 112.5° degrees aft of the port and starboard bows and 135° degrees of the stern, for 360° degree coverage around the ship

- **System Redundancy and Discrimination Capability** - This can be achieved with reliance on various signal inputs from IR/Thermal, CCTV cameras, radar, and laser technology

- **Display location of MOB incident** (port, starboard, stern) and “confidence” factor of 1 – 10 computed from redundant sensors

- **Storage capacity** IAW the CVSSA recommendations

- **Upon detection of MOB event, sound an MOB fall detection “alarm” to include the following requirements:**
Immediate alarm hooked up to ship’s emergency signals (bell, horn, and whistle) and comply with international man overboard signals to include signal flags and day shapes.

General Man Overboard alarm sounds when a person falls overboard; the ship internal alarm bell sounds 3 long rings and ship whistle will blow 3 long blasts to notify the crew on board and the other ships in nearby vicinity.

Alarm hooked up to the ship’s general public address system with automated MOB instructions e.g., “Attention, there is a reported man-overboard, lookouts or eyewitnesses continually observe the MOB victim and point towards them, etc.”

Alarm connected to ship’s electronics navigational plot, communication system, pagers and phones for ship’s officers (Captain, Staff Captain etc.) and especially MOB rescue personnel, (i.e., boat crew, navigational and maneuvering personnel) etc.

Alarm triggers capability to notify local SAR resources

Alarm connected to ship’s engineering plant and engineering watch officer

- Optional launching of flares, dye markers, and beacons to track MOB location (although not part of CVSSA requirements, highly recommended)

- Optional capability to launching of life preserver, flotation device, life raft (although not part of CVSSA requirements, highly recommended)

- Optional Illumination of all ship’s lights (although not part of CVSSA requirements, highly recommended)

3.8 Procedures Which Need to be Associated with the MOB Technology

Currently, if technology to detect passengers falling off the ship is not readily available for use on cruise ships, then the cruise ship must depend on its “procedures” to:

1) Determine if they have a legitimate claim of a person who has fallen overboard,

2) Determine the time and exact location of the event, and

3) Determine the cause of the incident, be it an accident, a suicide, or a crime.

When the cruise ship fails to accomplish these essential tasks, any subsequent investigation by law enforcement personnel becomes increasingly difficult in discovering the root cause of the man-overboard incident and possibly even prosecuting an alleged suspect if foul play was involved.
ICV 3.8:1 It is ICV’s opinion that the so-called “technical issues” which CLIA and the cruise lines are so worried about can easily be addressed with standard operating procedures (SOPs), which supplement the technology and help define the MOB incident. For example, if technology does indicate a man-overboard alarm, has the rule making committee considered what the ship’s next steps are? Who has the final decision on what is a MOB alarm report is a false positive? The Master, the Staff Captain, the ship’s security officer? Or should a piece of technology mounted in the bridge house be relied upon? Finally, what are the steps to validate the alarm? Is there a requirement for redundancy to validate the alarm?

ICV 3.8:2 The Rule Making Committee, in addition to defining the technical MOB requirements, must also address the procedural steps which logically will accompany this technology and clarify some associated language which can alleviate many of the concerns when terms like “reliable,” “false positives,” “marine/environmental issues,” and the like are used. What is the definition of these terms?

ICV 3.8:3 In ICV’s opinion that the cruise lines must rely on the MOB technology to alert the crew of the emergency. The information must be validated / corroborated with defined procedural steps, just as any burglar alarm in a corporate or government facility would be vetted for the nature and cause of the alarm. For example by immediately analyzing the CCTV and/or access control equipment, gathering eyewitness reports, mustering the crew and passengers for a head count, etc. the ship can quickly establish if there a passenger missing. If the man-overboard incident is validated through these supplementary procedures, search and recovery (SAR) can commence. If the incident is not validated, the ship can continue on its way, albeit interrupted for a short time. The time it would take to get the ship underway again depends on the training of the crew and their execution of the SOPs.

Under the current model, the cruise ship is already responding to MOB’s with 90 % of these procedures if and only when they receive a report or evidence of a MOB. What will adding detection technology detract from this? Detection technology will immediately close that 10 % gap.

ICV 3.8:4 The problem as the ICV sees it is not that there are systems to detect persons falling off cruise ships, rather by using existing technology on most cruise ships, the cruise ship may already be hours away when they receive a report from a fellow passenger that their friend or loved one is “missing.” The procedural steps minus a detection capability will only validate a claim of man-overboard which may be hours, if not days old.

ICV 3.8:5 Once again, the ICV reiterates that by not mandating the detection technology as a requirement and not a choice, the Rule Making Committee is only rubberstamping the status quo, i.e., allowing the ship to depend on capture technology alone. This mandate changes nothing in terms of saving lives was intent of the CVSSA.
From the aforementioned [GAO] report prepared for the U.S. Congress, the USCG was officially aware as early as 2011, one year after the enactment of the CVSSA, that at least five companies claimed man-overboard technology, however; the CLIA and the cruise industry in their aggressive public awareness campaign seemed intent on persuading the American public and the USCG that these systems are not reliable or “ready for prime time.”

These groups have been quick to get out in front of the issue to implant in the public’s and USCG’s minds that a ‘Manhattan Project’ would be required to solve and overcome a host of technical, analytical and environmental problems associated with the marine environment.

**ICV 3.8.6** Are we left with only one alternative to allow the very industry subject to the provisions of the CVSSA and CLIA, dictate to the USCG and American public, when where, how much and just what type of MOB system will satisfy the requirements of the law?

### 3.9 Reliable MOB System Testing and Evaluation – When?

Even though that the ICV is aware of at least one reputable company willing at their own expense to test their technology on any USCG vessel so that the USCG could evaluate, thus far this request, if it has even reached the front office of the USCG at all, has remained unanswered.

Regardless of the fault or reason for such [MOB] events, numbers of unfortunate victims continue to lose their life while the USCG, CLIA and the cruise industry, remain complicit in blocking this requirement from immediate and forthcoming implementation hiding behind cost, dilution of the technical requirements, and their bottom lines.

The ICV asks the following questions in regard to MOB Detection technology:

**ICV 3.9:1** When is the USCG ready to move (vet) existing MOB fall detection technology for testing leading to subsequent deployment as required by the CVSSA?

**ICV 3.9:2** Has the USCG independently tested and evaluated any MOB fall detection technology?

**ICV 3.9:3** Is it possible “yes” or “no,” and for what reasons can an independent technology company place their system on USCG vessels (or other platform) to evaluate under sea conditions?

**ICV 3.9:4** What are the technical standards to be met for that testing and who developed them? (ICV is of the strong position that the standards should be free from CLIA or cruise industry but should be developed by engineers and experts familiar with the technology, not cruise line or CLIA executives with no engineering backgrounds)

**ICV 3.9:5** What milestones, tests, parameters, (criteria), must the fall detection technology or system pass in order to be on a qualified list of certified system providers? When will that be issued to the public?
If any technology or systems were rejected, what were the USCG’s reasons and where can the public (other interested bidders on this technical issue) find the results? (to assist in bettering the development of the technology)

3.10 Risk Assessments

It is disheartening to this rule making process to learn that Admiral Servidio of the USCG is extending his assurances to the International Cruise Victim’s Association that it cannot work with either the ICV, or CLIA on the requirements for the implementation of the MOB requirements when behind the scenes, they are really being swayed by CLIA’s team of technical experts who are eager to be out in front of the issue. They are ready to assist the USCG to ensure that necessity and feasibility of the requirements are diluted by a host of technical problems and adding additional studies to complicate the process such as “Risk Assessments” to the requirements. (See Appendix B, pg. 5).

If the USCG cannot establish the technical standards for these systems (the requirements for which have already been laid by the CVSSA) then the ICV does not see the value of “Risk Assessments” on the part of the cruise lines to further decide: the characteristics of each ship to incorporate factors such as the ship’s “size, nature of the ship’s operations, crew complement, number of passengers, passenger demographics, ship layout and design, and historical data on the type and location of prior crime allegations.”

It is both understandable (from a financial point of view) yet dubious that CLIA would recommend an additional assessment requirement, especially if they could open up new “issues” that may come to the public’s light. However, because CLIA has made this concept as a possible prerequisite for any future MOB retrofit...

The ICV needs to ask the Rule Making Committee: who will be required to do these “Risk Assessments”?

1. the ship, i.e., the cruise line
2. the USCG, or
3. an independent maritime body?
4. etc.

The answer to these questions will be important considering that these risk assessments have the potential for airing the ship's “dirty laundry,” especially in regards to alleged historical data on the type and location of prior criminal allegations on the ship.

The ICV believes that any risk assessment should take into account the potential for crime and MOB incidents, especially if the risk assessment will validate that some of the documented MOB incidents were indeed the result of foul play.
ICV 3.10: ICV would thus ask that if risk assessments are made a part of the requirement or a prerequisite for MOB technology installation, then **the ICV would like the opportunity to evaluate the risk assessment process as to the installation and location of any cameras and sensors and, to compare the data with the public record on crime on these ships.**

3.11 *Independent Technical Research*

The ICV recognizes that the USCG must work quickly to establish a benchmark for standards however questions why would the USCG allow the interested parties to the law make those determinations? Has the USCG contacted other interested or disinterested parties? That too should be made known.

**ICV 3.11:1 Has the USCG solicited other independent MOB technology companies for their input into the technological or environmental issues?** Companies like FLIR, and to include Seafaring Security Services of Virginia Beach, Va., and PureTech Systems of Phoenix mentioned above?

The ICV, with its very modest resources did just that.

Curious to understand the effects of the marine environment of existing MOB technologies that CLIA has referred to in its response to Capt. Maguer, the ICV independently contacted Mr. Dave Leone, president of *Radio Zeeland DMP Americas.*

Like the FLIR Corporation and many others, DMP has vast experience in marine navigation systems and marine video optics. Mr. Leone articulately responded to the questions regarding the so-called technical limitations of MOB systems as put forth by CLIA in Appendix (B).

His professional technical assessments paint a very different picture indeed and differ greatly on the technical feasibility of these systems which CLIA is so concerned about. For example,

**Q. Continuous changing horizon.**

_A. 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._

**Q. Salinity/corrosion**

_A. 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._
Q. Vessel Vibration.

A. Present [CCTV] 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 vocal point for analytics rather uses a beam that is transmitted and therefore movement and vibration does not affect its operation.

Q. Extreme weather conditions

A. 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.

Q. Vessel movement such as pitching, rolling, yawing

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

Q. Vessel design

A. 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.

Q. Interoperability with other shipboard systems

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

Q. Salt encrustation of lenses

A. 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 current camera systems are maintained this way presently.

Q. Glare Reflection off the water

A. 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 - 1 degrees to catch person falling overboard.

(See Appendix C for Mr. Leone’s response on these questions)

3.12 Requests to Test MOB Technology

In addition to the reportedly vigorous use of CCTV surveillance cameras on board cruise ships, the type of technology that the CVSAA is referring to in detecting images of those who fallen overboard has in fact, been around for several years if not longer.
Mr. Ken Carver, of the ICV has received numerous requests for assistance from American companies with tested technology for solving this requirement of the CVSAA. Almost exclusively, these companies have expressed their amazement that the USCG (and cruise lines) has ignored their requests for implementing this equipment on their cruise ships, essentially making them stakeholders in the technology.

Mr. Carver, with little other recourse, has repeatedly made these companies frustrations known to Representative Doris Matusi, co-author of the CVSSA Bill.

ICV 3.12:1 The ICV believes that an immediate review of these man over board capture and detection system will prove that tested technology is available now and should be the mandated now and not left to be regulated to another indefinite period to study more options if the technology in its current form, can save the lives of the unfortunate passenger and crew who for whatever reason, go over the side of a cruise ship.

SECTION FOUR: BRIDGING THE MOB TECHNOLOGY GAP

4.1 Optional Course of Action to Satisfy the Requirements of Capture and Detection

It is understandable, and reasonable that the cruise lines and the Coast Guard lines should be concerned over issues such as false alarms, weather, and so on. But these are just convenient excuses to further delay the immediate implantation of this requirement. ICV is convinced that fall detection technology is a reality and that for reasons of liability, cost and planning, the cruise lines have thus far been successful in blocking its immediate implementation by the USCG and the law.

Thus far, CLIA, the cruise lines and the Coast Guard, has not issued any conclusive evidence of where these American companies’ technologies are failing to meet fall detection requirements.

ICV 4.1:1 Because as the ICV believes, technology as written into the CVSAA does exist today, it should be implemented immediately as part of the Rule Making Process.

ICV 4.1:2 Because life is so precious, and should be protected and preserved while at sea, the ICV suggests other options are still available as the rule making procedure to help bridge the gap.

If as the cruise lines believe they have the technology now to capture and detect images of bodies going over the side of the ship, it should be implemented with, or without USCG approval as many cruise lines have already done.
If they [cruise lines] cannot or are unwilling to install this technology, then In the interest of saving lives as they claim, they must be required through the Rule Making Process to implement low cost alternatives outlined below.

**ICV 4.1:3** The ICV feels that if technology cannot immediately be implemented by this rulemaking change, then an alternative interim measure, the spirit of the CVSAA requires LOOKOUTS and/or mandatory monitoring of ALL CCTV cameras dedicated as the ship’s MOB surveillance. Watch personnel must sign a logbook to account for their time on watch.

**ICV 4.1:4** The ICV feels that under the language of the law, this low-tech alternative satisfies the technology requirement in that lookouts with binoculars, night vision goggles, and sound powered phones connected the bridge and monitoring of CCTV cameras are all technologies available today which can immediately be integrated with the ship to detect persons who fall overboard.

**ICV 4.1:5** In the absence of detection technology which will instantaneously alert the ship of a man-overboard, either one or the other, or both as described below must be implemented immediately to satisfy the requirements of Section 3507(a) (1)(D)

### 4.2 Cruise Line Interim Man Overboard Responsibilities:

**ICV 4.2:1** These following requirements should remain in place until the U.S Coast Guard, and the industry can decide on the technology they certify which satisfies the Section 3507(a) (1)(D) requirement.

1. **Post Mandatory Lookouts** (as they due on navy ships), port and starboard, at all times while underway.

   ✔ At a minimum, two watch station on the port and starboard bridge wings looking aft of the ship sides, and two watches, on the port and starboard fantails or aft deck in a position on the port and starboard quarters to keep under surveillance, both the side and aft of the ship. Watch personnel must sign a logbook to account for their time on watch.

   ✔ These personnel must be instructed on how to detect and observe objects going over the side of the ship, and how to report it to the bridge and have a flotation device available to throw to the victim while recovery efforts begin.

   ✔ At night and in inclement weather, these watchstanders must have the capability to activate torchlights, spotlight or other strong floodlight that can illuminate the sea in an effort to search for the overboard passenger.

   ✔ These watches must have the capability to instantaneously contact the bridge to report someone they observed falling overboard.
2. Require **MANDATORY MONITORING** of ANY AND ALL MOB SENSORS to include but not limited to:

- CCTV cameras, IR sensors, and video analytics, watchstanders stationed on weather decks, by one or more dedicated watchstanders, either on the ship's bridge or a remote viewing location inside the ship with the specified CCTV video input displayed.

- The watchstanders must have immediate contact with the bridge officers who have the authority to maneuver the ship for the safety and recovery of the man-overboard. Watch personnel must sign a logbook to account for their time on watch.

4.3 **Postscript: Senator Richard Blumenthal Comments on end of Search for Student Who Fell Overboard while on a Carnival Cruise ship, March 2015**

Sadly, as if to demonstrate the urgency and necessity for detection technology to be placed on cruise ships right now, another innocent victim was lost at sea during the very period that the Rule Making Committee is soliciting comments on the CVSSA and man overboard technology.

On March 7, 2015, the U.S. Coast Guard called off its search for 21-year-old Virginia Tech student Cameroon Smook, who is presumed dead and lost at sea after falling overboard from a Carnival cruise ship Glory cruise ship near the Bahamas over the weekend. According to "officials," the search began after the ship’s CCTV captured the incident however, significant time had elapsed before the search began making locating the young man all that more difficult. The search ended after about 6,500 nautical square miles were combed by air and sea.

In a rare display of unselfishness, Carnival Cruise Lines diverted another cruise ship, the Ecstasy to assist in the search begging the question, if they had detection technology installed on the cruise ship, would it have been necessary to disrupt that itinerary of that ship if they could have immediately located and saved the life of Cameroon Smook?

According to the family, the college senior "had just accepted an employment offer, and was looking forward to a very bright future." Another life cut short due to a lack of concern to the cruise industry.

Critics of the cruise industry’s negligence were quick to respond. **U.S. Senator Richard Blumenthal (D-Conn.) issued the following statement:**

"Today, as our thoughts and prayers with the family and friends of Cameron Smook, the stark tragic fact is that readily available Life-saving technology could have spared him. Reprehensibly, five years after the cruise vessel security and safety act of 2010 was enacted, cruise lines still refuse to upgrade outdated video surveillance technology for
In 2013, Blumenthal introduced the Cruise Passenger Protection Act with Senator Rockefeller to address the serious incidents that continue to occur on cruise ships - a result of the industry's failure to prioritize consumer awareness, safety, and security. The bill called for providing the over 20 million Americans who plan to take a cruise every year with critical information about the limited scope of their current consumer protections and would take steps to improve accountability in the industry.

Fig 3. A U.S. Coast Guard helicopter in Miami helped conduct a search of a 21-year-old Virginia Tech student who fell over the cruise ship Carnival Glory near the Bahamas on March 7, 2015. (Photo by Rachel Nicole@rachelnico, a passenger on the a passenger on another ship helping in the search, the Carnival Ecstasy)
PART TWO: ACOUSTIC HAILING DEVICES

Acoustic Hailing / Warning Devices

CVSAA

§ 70.40-7 Hailing or warning devices. Each vessel must be equipped with acoustic hailing or other devices to provide communication capability around the entire vessel.

“Section 3507(a)(1)(E) requires each vessel to be “equipped with a sufficient number of operable acoustic hailing or other such warning devices to provide communication capability around the entire vessel when operating in high risk areas (as defined by the United States Coast Guard).” We designate as “high risk” areas those waters where hazards like widespread piracy activity are known to be present. The location of high risk areas is sensitive security information that we do not divulge to the general public. We think section 3507(a) (1) (E) requires vessels to carry megaphones or other devices for use in high risk waters anywhere in the world. Such devices could facilitate communications if circumstances made use of the vessel’s normal communications system impossible. We do not think section 3507(a)(1)(E) requires vessels to carry high pitched sound-emitting devices to repel unauthorized boarders, and while we take no position on the advisability of equipping vessels with such devices, we note that vessel owners and operators are free to do so if they choose. Because an area in which a cruise vessel is operating may be determined to be “high risk” only after the vessel has entered it and no longer has the ability to procure appropriate equipment, we propose requiring vessels to carry this equipment at all times. “

3. HAILING OR WARNING DEVICES (Cost)

“This proposal requires that all vessels transiting waters that are designated as a high risk area be equipped with acoustic hailing or other devices as required by the Coast Guard to provide communication capability around the entire vessel. Based on International Convention for the Safety of Life at Sea (SOLAS) requirements for all international ships to have a public address system onboard, and based on ship examinations, we estimate that all vessels comply with this requirement.”
PUBLIC COMMENT –

Begin comment – International Cruise Victims Association (ICV) – Acoustic Hailing Devices

SECTION FIVE: ACOUSTIC HAILING DEVICE TECHNOLOGY

5.1 U.S. Waterways, ports and harbors are inherently “High Risk” Areas

The ICV is opposed to the Rule Making Committee designating “high risk areas [within the United States] as only including “piracy” excluding terrorism from the language of the provisions of the CVSSA, especially as it applies to Acoustic Hailing Device provision.

Indeed, while not impossible, maritime piracy is almost exclusively a threat present in foreign waters and not within the ports, harbors and waterways of the United States.

⇒ IVC 5.1.1 The ICV believes that narrowly limiting the usage of acoustic hailing devices to “high risk areas as defined by the USCG” to the CVSSA language proposed by the Rule Making Committee would severely limit the applicability of the CVSSA and would exclude valuable security equipment such as acoustic hailing devices on cruise ships operating in United States waters and ignores one of the U.S. Coast Guard’s basic missions, i.e., guarding the maritime borders of the United States against terrorism. 

The Cruise Vessel Safety and Security Act 2010, speaking about cruise ship security clearly states that, “The Department of Homeland Security has found it necessary to establish 500-yard security zones around cruise vessels to limit the risk of terrorist attack. Recently piracy has dramatically increased throughout the world.”

Unlike civil and international airways, where airborne traffic is tracked, and regulated, the problem of tracking threats in coastal and inland waterways, particularly from small boats makes the threat to cruise ships omnipresent. This mandates the use of sophisticated technology equipment such as acoustic hailing device (sometimes referred to as LRAD or Long Range Acoustic Device) on all cruise ships, especially in U.S. ports and harbors where the Coast has identified varying “security zones” around high risk vessels (for terrorism) such as cruise ships.

As the former Director of Security for Princess Cruises (2003 – 2005), the author was directly involved in the acquisition, testing and training for all Princess, Cunard P&O Australia, and Seaborne cruise ships to be rigged and outfitted with the Long Range Acoustic Device.

The original intent for this technology was the ship’s enforcement of the US Coast Guard’s maritime exclusion zones around “high risk” vessels especially and including cruise vessels. In the post 9/11 environment, the USCG was especially concerned about terrorist strikes against
these high risk vessels in U.S. waters. Piracy was just becoming a serious maritime threat off the coast of eastern Africa. Despite this, **maritime (domestic) terrorism, and not piracy, was behind the USCG’s formulation of security exclusion zones around cruise ships.** Princess Cruises was at the forefront of utilizing LRAD technology on their fleets of cruise ships. The decision served Princess Cruises them well when a year later this technology was used effectively to repel a pirate attack against the *Seaborne Spirit* cruise ship in November, 2005, (discussed below).

Princess Cruises struggled with the use of bullhorns, megaphone and other omnidirectional communication devices as a way of contacting wayward small boats, jet skis and similar waterborne craft entering the cruise ship’s security zone. Additionally, even if the craft acknowledged the verbal warning from the cruise ship, (which was rare), the ship had no way to effectively back up (enforce) its warning to stay clear. This is where the Acoustic Hailing Device or LRAD came to be an exceptionally valuable tool through its so-called “sonic” tone.

In fact, the LRAD was developed for the Navy as a direct result of the terrorist attack on the USS Cole in October 2000. The attack in which claimed the lives of 17 US sailors could have been avoided. Even though the ship’s lookouts saw the small boat approaching, it had no way to effectively communicate at a safe distance (*from the USS Cole*) to ascertain the boat’s intention.

As the Rule Committee should is aware, not all vessels have bridge to bridge communication or, may not be monitoring the channel, or even have personnel on the bridge. Likewise, while PAs are effective for communicating with the ship’s population, it is not effective for hailing vessels or other surface craft at great distances because sound waves dissipate quickly the farther from the speaker source. Thus, megaphones and PAs are ineffective for this purpose. The LRAD (acoustic hailing device) for example channels sound to a narrow $10^0$ degree beam up to distances of two nautical miles (4000 yds.).

**Conventional wisdom dictates that the farther a threat can be identified and communication can be established,** (not with a bridge-to-bridge radio phone), **the greater the reaction time** for high risk vessels to take evasive or other security action.

> **ICV 5.1:2** The ICV believes that the coastal and **inland waterways, ports and harbors of the United States are inherently high risk areas** not just for cruise vessels, but for all maritime traffic.

> **ICV 5.1:3** The ICV does not agree as the Rule Making Committee has stated above, that the US Coast Guard deem “High Risk” maritime areas of the U.S. should only include the threat from piracy. **Clearly, anti-terrorism methods underway in US ports before and since 9/11 are almost exclusively aimed at preventing a maritime equivalent of 9/11 which might include the hijacking or bombing of a cruise ship and most certainly the smuggling of a WMD into a US port.**

### 5.2. Other USCG Technology Used In the Fight against Domestic Maritime Terrorism
It would appear that the US Coast Guard is extremely concerned about terrorism in U.S. ports as evidenced by its continuing search for technology to help identify possible maritime terrorist activity.

**It is evident through the mandates of SAFE-PORT ACT and the MTSA that there are a number of security measures aimed at preventing maritime terrorism in US ports and not “Piracy.”** For example, a specially-designed computer software system has been installed at the ports of Los Angeles and Long Beach protects the area’s harbors against terrorism attacks according to a spokesman for the University of Southern California. The anti-terrorism system, called **Port Resilience Operational/Tactical Enforcement to Combat Terrorism system (ARMOR-PROTECT)**, was created by a USC computer scientist.

The system uses a complex algorithm to scatter the U.S. Coast Guard's boat patrol schedules, all in an effort to achieve maximum port security and make it almost impossible for the [terrorist] attackers to determine a particular target.

**Fig. 4** The Long-Range Acoustic Device (LRAD) in use on the *Queen Mary 2* in the port of Piraeus during the 2004 Summer Olympics in Athens, Greece. The LRAD is a hailing-and-warning device used to establish the intent of small boats and other watercraft that violate the restriction zones around cruise ships and naval vessels. The LRAD was used successfully by the *Seabourn Spirit* to ward off pirates when it was attacked off the coast of Somalia in November 2005. (*Author’s photo*)
Rule Making Committee – Public Comments; ICV

The goal is to make patrol patterns unpredictable for an enemy that is trying to conduct surveillance to plan an attack and yet simultaneously ensure that patrol time is used effectively to ensure maximum protection of high-value targets in the port.

ICV 5.2:1 The ICV simply asks: how the Coast Guard can claim that it is not interested in acoustic hailing device technology even as a means to enforce its mandatory security zones of a high risk targets such as a cruise ship when at the same time it is actively contracting for sophisticated sensor technology (among other measures) for its own heavily armed patrol boats operating in U.S ports? A USCG patrol boat with dual mounted machine guns does not reassure the public that its domestic ports are free from the risk of terrorism.

Fig. 5 Anti-terrorism patrol boats with new software used at the ports of Long Beach and Los Angeles was developed by USC computer scientist. (U.S. Coast Guard photo)

5.3 Original Acoustic Hailing Device Legislative Language

Originally, when the Cruise Vessel Safety and Security Act were first introduced in Congress, the drafters of the legislation were very clear on the intent of this technology. The original Bill included the following language:

(E) The vessel shall be equipped with a sufficient number of operable acoustic hailing and warning devices to provide 360 degrees of communication capability around the vessel.

11 The acoustic hailing and warning devices shall be capable of communicating clear voice instructions to approaching vessels that are 500
14 yards away, over 88 dB of background noise at
15 the listener’s position with 90 percent intelligibility
16 The broadcasts made by such devices
17 shall be directional in nature so as not confuse
18 other vessel operators who are not in the secu
19 rity zone and to limit unnecessary noise. The
20 device controls shall be manned and operable
21 during transits in and out of harbors and when
22 ever another vessel approaches within 500 yards
23 of the passenger vessel.

Clearly, the legislators were not describing a “public address system” as the Rule Making Committee believes this requirement to be. They were describing sophisticated acoustic hailing technology which was designed for that very specific purpose.

The acoustic technology is described precisely as to its needed capabilities discriminating ability to project audible “clear voice instructions to vessels that are 500 yards away….with 90 percent intelligibility.” Additionally, the acoustic hailing devices were to be rigged (manned and operable) …“during transits in and out of harbors and whenever another vessel approaches within 500 yards of the passenger vessel.” PAs and megaphones do not have this capability.

ICV 5.3:1 The ICV asks who removed the technical language from the CVSSA 2010 and for what reasons?

ICV 5.3:2 The ICV believes that the intent of this cruise vessel safety and security provision was negated with the insertion of the following language “….when operating in high risk areas (as defined by the United States Coast Guard).”

ICV 5.3:3 In sum, the ICV believes and is opposed to the USCG’s intention to exclude maritime terrorism as a domestic risk and thus, not requiring cruise vessels to be rigged with acoustic hailing devices. This endangers the American sea-going public I domestic waters. Further, the ICV is in disagreement that the technological aspect of this requirement is satisfied with the ship’s public address system, or a bullhorn or megaphone.

SECTION SIX: DOMESTIC MARITIME TERRORISM

6.1 Risk of Domestic Maritime Terrorism

In April, 2010, the Government Accountability Office, also known as the GAO, published a noteworthy study entitled, “Maritime Security – Varied Actions Taken to Enhance Cruise Ship Security, but Some Concerns Remain.”
In this study, conducted for the Committee on Homeland Security, the GAO was asked to review cruise ship security and address to what extent, the U.S. Coast Guard, the lead federal agency on maritime security, assessed the risk to cruise ships in accordance with the Department of Homeland Security’s (DHS) guidance, and to what extent other federal agencies, cruise ship operators and law enforcement entities have taken to protect the American sea going public while they are embarked on cruise ships operating in U.S. waters and ports.

While the U.S. government stated that its maritime intelligence agencies had not reported any credible threats against cruise ships in the previous 12 months (March 2008 – April 2009), it did state categorically that U.S. government law enforcement agencies such as the U.S. Coast Guard and the cruise line industry itself, noted the presence of terrorist groups and that they have the capability to attack cruise ships.40

The GAO’s report is significant to the issue of cruise ship safety for two reasons. First, the report makes it clear that the study was conducted to document what the U.S. government, the cruise line industry and its stakeholders have done, and is currently doing to protect itself from terrorist (domestic) attacks. What is glaringly apparent however in reading the GAO report is its failure to address the growing concern over internal safety and security equipment used on cruise vessels.

The second important point to consider about the report is that it is exclusively focused on the security of cruise ships operating wholly in U.S. territorial waters.

When one recognizes that cruise ships traditionally operate in foreign waters and that cruise lines take their fleets of ships to foreign ports of call, the following finding in the GAO study should give passengers and crew, as well as cruise line security planners, a reason to be concerned.

In the report, “according to an official of the Cruise Lines International Association (CLIA), of the cruise lines included in our (GAO) site visits, only one had a vessel registered in the United States. Hence, although they carry large numbers of U.S. passengers, the vast majority of cruise-line operated vessels, generally come under U.S. authority only when they enter waters over which the United States has jurisdiction.”41

The implications of this fact become apparent when speaking about the overall efforts to protect cruise ships from international security risks. At the very least, cruise ships are a greater risk from terrorists and pirates when operating outside of the territorial waters of the United States and, the United States government and its vast law enforcement resources and even its military have limited or no jurisdictional authority or mandate to protect cruise ships on the high seas. This in itself would be reason enough for the Rule-Making Process to require acoustic hailing devices in both domestic and overseas cruising destinations.

ICV 6.1:1 The ICV believes that even if “no credible threats” have been received by U.S. intelligence agencies – at least any which can be made publicly known due to reasons of “national security classifications” – it is safe to assume, as the government report makes clear, that cruise ships remain highly attractive targets to terrorists representing high...
prestige and symbolic targets to well-known international terrorists groups such as al-Qaeda and more recently ISIL.\textsuperscript{42}

\section*{SECTION SEVEN: INTERNATIONAL MARITIME THREATS}

\subsection*{7.1 Risk of International Maritime Terrorism - Discussion}

Regarding specifically threats from international terrorists and not speaking about pirates, cruise ships have historically been a target for terrorists, fortunately to date, in foreign seas.

In August 2005, Turkish authorities arrested Louai Sakka, a senior al-Qaeda operative when a one-ton bomb he designed detonated prematurely in a terrorist safe house. \textit{Sakka had intended to place the bomb on a yacht and ram a cruise ship} carrying vacationing Israeli and U.S. soldiers on rest and recreation in Antalya, Turkey.

The threat from terrorists seems to have taken roots in the frustrated efforts of al-Qaeda to attack cruise ships and it appears that the cruise ships are still an attractive target for a spectacular al-Qaeda terrorist plot as the GAO report suggests. \textit{Foreshadowing the recent ISIL executions, in early May, 2012, an unsettling report from Germany revealed a plan to hijack a cruise ship on the open ocean and execute passengers broadcast on the internet.}

German investigators questioned a 22-year-old Austrian suspected of having terrorist connections. They were surprised to find hidden in his clothes, a digital storage device and memory cards. The investigators discovered after weeks spent cracking a password to open the software, they discovered encoded in the video a wealth of intelligence -- more than 100 al Qaeda documents that included an inside track on some of the terror group’s planning for future operations.\textsuperscript{43}
One document was called “Future Works.” The document appears to have been the product of high-level discussions to find new targets and methods of attack. German investigators believe it was written sometime in 2009 and that it remains the template for future al Qaeda’s plans.44

One attack plan described in the document was to seize passenger (cruise) ships. According to the author of the document, the writer says that “we could hijack a passenger ship and use it to pressurize the public.” An intelligence analyst stated that the terrorists “would then start executing passengers on those ships and demand the release of particular prisoners.” The plan included dressing passengers in orange jump suits, as if they were al Qaeda prisoners at Guantanamo Bay, and then videotaping their execution.45

The former Commandant of the Coast Guard, Admiral Thad Allen said that the United States must introduce closer surveillance of small boats, which constitute the most serious threat to maritime security. In the wake of the September 11 attacks, the US government had introduced a series of measures to improve port and cargo security (including security zones around high risk vessels like cruise ships and tankers), but Allen said small boats were still a "vulnerability."

The use of a small vessel as a platform for conducting a stand-off attack is viable.

Pirates have already tested the possibility of the targeting the lucrative environment of a cruise ship with the failed attack on the cruise ship Seabourn Spirit in the Gulf of Aden in November 2005, fortunately with little success.

In November 2005, a Carnival brand cruise ship 100 miles off the coast of Somalia was attacked by two 25-foot rigid hull inflatable boats. The pirates used rocket-propelled grenades and automatic weapons at a distance of no more that 25 yards from the Seabourn Spirit. The pirates were ultimately repelled by the ship’s crew using a device that generated disabling sonic blasts, in other words, an acoustic hailing device.46

There have been at least two other pirate attacks on cruise ships subsequent to this famous incident all using small boats as attack platforms. It is clear that the threat of terrorist attacks taken with the omnipresent threat of pirate seizures in certain parts of the world have demonstrated that sailing on cruise ships carries some inherent physical risk.

The maritime threat was thrown into sharp reality when in November 2008, 10 heavily-armed gunmen launched attacks on several Mumbai landmarks, killing 166 people and injuring 300 more. The attackers arrived by sea to India and entered Mumbai by rubber dinghies.

The US government has been looking into other small boat-based threat scenarios, including their combined use with portable surface-to-air weapons to attack airports and with improvised explosive devices.47

While small boats have rarely been used to conduct attacks, when they have, the destruction has been stunning. Perhaps the best known “small boat” case was the attack on the USS Cole in the port of Aden in October 2000. This was followed two years later by an attack on the M/V Limburg 12 miles off the coast of Yemen. More recently, on August 6, 2010, the Japanese tanker
M. STAR was attacked by a small boat in the Strait of Hormuz; while a terrorist organization assumed responsibility, their involvement remains unconfirmed. **Simply put, small boats require low investment and minimal training to achieve even partial terrorism goals.**

The Small Vessel Security Strategy, drafted in 2008, notes that there is little to no “Advance Notification of Arrival” with regard to small craft.

In fact, U.S. law requires only ships over 500 tons to provide 96 hours’ notice to the U.S. Coast Guard before entering U.S. waters; there is no such requirement for small boats. Furthermore, there is also a limited ability to screen for weapons of mass destruction on small boats.\(^48\)

**Cruise ships operate in areas that are frequented by small vessels. Small vessels may easily blend or disappear into other vessel traffic in ports and the coastal maritime environment, and are usually subject to less scrutiny than larger vessels in these areas. They are often inconspicuous, fast, highly maneuverable, and able to quickly relocate via roads and surface transportation, making them particularly dangerous and lethal if used as waterborne incendiary explosive devices (WBIEDs).**

Finally, the **Maritime Transportation Security Act of 2002 (MTSA)** has mandated that the United States Coast Guard evaluate the effectiveness of anti-terrorism measures in foreign ports and provides for the imposition of conditions of entry on vessels arriving to the United States from countries that do not maintain effective anti-terrorism measures (MTSA, 46 USC § 70108).

The Coast Guard is particularly concerned enough about the risk of terrorism from ships arriving from ports where anti-terrorism measures are not stringent to require additional protective measures such as possibly including armed guards at gangways, and additional portside security forces.

**For the USCG to claim then that any major U.S. port where vessels from unregimented ISPS ports enter US waters are not at risk from terrorism is to ignore its own extensive homeland security mission and to deceive the American public as to the inherent risk of maritime terrorism within its ports, harbors and waterways.**\(^49\)

Many cruise vessels, such as the Princess Cruise Lines fleet of ships already have instituted the LRAD acoustic hailing device as mandatory security equipment, primarily as an effective method of hailing small vessels encroaching on their [US] security zones. The cruise ships are able to remain at safe distances (over 4000 yards) yet are able to hail small boats or vessels with pinpoint accuracy and clarity. The LRAD when used in this manner allows for threats to be identified and warned (to stay clear), at greater and greater standoff distances than is possible with just a megaphone or PA.

If the vessel, small boat etc., ignores warnings to alter course and depart the security zone, the cruise ships are instructed to inform the harbor police or coast guard but also has the warning (sonic) capability of the LRAD to use as a non-lethal method of warning.
7.2 **ICV Comment Summary (Acoustic Hailing Devices):**

- **ICV 7.2:1** The ICV does not agree with the Rule Making Committee’s conclusion that the ship’s public announcing system (PA) or a megaphone satisfies Section 3507(a)(1)(E) to require “each vessel to be “equipped with a sufficient number of operable acoustic hailing or other such warning devices to provide communication capability around the entire vessel...”

- **ICV 7.2:2** The ICV believes it the intent of Congress in drafting the legislation that the technology known as “acoustic hailing devices” e.g., the LRAD be used to satisfy this requirement and not the ship’s PA or bullhorns or megaphone WHICH HAVE NO WARNING CAPABILITY like the LRAD.

- **ICV 7.2:3** ICV agrees that this proposal requires that all vessels transiting waters that are designated as a “high risk” area be equipped with acoustic hailing to provide communication capability around the entire vessel and that vessels be required vessels to carry this equipment at all times and not just as a piece of discretionary security equipment. The intent of acoustic hailing equipment was never meant as a defensive weapon (against pirates) but as a means for effective and pinpoint accuracy when hailing vessels encroaching on a cruise ship’s security zone.

- **ICV 7.2:4** ICV disagrees that the Coast Guard believes that U.S. waterways are immune from domestic or foreign terrorism thus excluding the need for such equipment as opposed exclusively to be used in overseas ports. Its own regulatory actions and reports as well as related incidents seem to suggest otherwise.

- **ICV 7.2:5** ICV recommends that as part of the Rule Making process, the Committee adopt the policy of requiring ALL North American Cruise Vessels subject to the CVSSA furnish themselves with acoustic hailing devices such as the LRAD, or similar equipment which is equipped with a “warning” capability as required by Section 3507(a)(1)(E). The acoustic hailing device should be rigged in all domestic ports and harbors as a way to enforce the Coast Guard’s designated security zone around high risk vessels e.g., cruise ships.

- **ICV 7.2:6** The ICV agrees that each cruise line should use its own risk management process when operating their cruise vessels overseas in areas known for pirate attacks (such as off the horn of Africa) and when there is an indication of terrorist maritime threats around the world and take appropriate security measures to include use of acoustic hailing devices.

**PART THREE: SECURITY GUIDES**
“Section 3507(c)(1) requires a vessel owner to provide each passenger with a security guide. The guide must identify onboard personnel designated to prevent and respond to criminal and medical situations, and must describe applicable criminal law procedures for crimes committed in any waters the vessel might traverse during the voyage. The vessel owner must provide the FBI with a copy of the security guide for comment, and must publicize the security guide on its Web site. “

“Section 3507(c)(2) would require a listing of U.S. embassy and consulate locations in any foreign countries to be visited during the voyage. This list must be provided in each passenger stateroom, and must be posted in a location that is readily accessible to the crew. Although these requirements are largely self-executing, and enforcement guidance has been provided for Coast Guard inspectors, (12) we need regulatory text to make it clear how we will ensure that each passenger is provided with a security guide. Therefore, we propose adding 46 CFR 70.40-9, to require that a copy of the guide must be provided in each passenger stateroom prior to each voyage.”

6. SECURITY GUIDES – pg. 10

Based on research into company Web sites, security guides are available via the company Web site. However, the CVSSA requires that vessel owners provide each passenger with access to a security guide. The guide must identify onboard personnel designated to prevent and respond to criminal and medical situations, and it must describe applicable criminal law procedures for offenses committed in any waters the vessel might be in during the voyage. The guide must also provide a list of U.S. embassy and consulate locations in foreign countries to be visited during the voyage. We propose that a copy of the security guide must be placed in each stateroom. Industry will incur a cost for this requirement initially as well as an annual replacement cost. The Coast Guard Foreign and Offshore Vessel Division within the Office of Commercial Vessel Compliance estimates that, on average, there are 1,600 staterooms per cruise ship. We estimate 147 cruise ships would be affected by this proposal, meaning there would be 235,200 security guides required for the affected population. As security guides are currently available on company Web sites, there will be no additional cost to develop the content of the security guide.

PUBLIC COMMENT –

Begin Comment – International Cruise Victims Association (ICV) – Security Guides

SECTION EIGHT: SECURITY GUIDE REQUIREMENTS

8.1 Notices to Passengers

While it might appear to be self-evident, passengers under the section 3507 (c) 1 & 2 must be made aware that such a guide exists.
ICV 8.1:1 While the ICV believes that the passenger stateroom is the logical place for a security guidebook, at the time of embarkation, each passenger should be advised that such a guide exists and that the security guide is available to them in their stateroom/cabin. Each stateroom door should have posted a summary and notice of the guide in their cabin.

ICV 8.1:2 The ICV suggests that passengers should be strongly advised (either in writing or orally) at the time of check-in to make themselves familiar with this information AND, if there are any questions concerning the meaning, significance of this guide, they are advised to consult with the ship security officer (SSO). The ICV suggests that the passenger should be advised (in writing or orally) that there are scheduled times available before, during and after the cruise for the SSO to discuss relevant safety and security concerns with passengers. The SSO should be available as soon as practical after the ship is clear of embarkation, and the gangway is closed and the ship is underway after each port call.

8.2 Options for Delivery of Security Guide Information

Along with the requirement that passenger be made aware of the security guide, there should be alternatives to receiving information. Passengers may be loath to spend any active time reviewing their security situation while on the ship just as a guest in a hotel usually does not take the time to review fire and safety information. Because the information is vital to the safety of each passenger:

ICV 8.2:1 The ICV recommends that as an alternative and/or supplemental informational resource for passengers, a security / safety video should run continuously on the ship’s internal entertainment (TV) system available to all passengers within their stateroom/cabin. The video can be prepared by the cruise lines with supplemental information prepared/input from the FBI and US Coast Guard addressing maritime safety in general, with the cruise lines commenting on embassy/consulate locations as well as practical advice on staying safe while ashore on port visits in foreign and domestic destinations.

It seems logical that the cruise vessel would or should go to these lengths to advise passengers of certain [inherent] risks in overseas ports if and when passengers depart the ship. As stated, costs added to this requirement are minimal or negligible and the cruise vessel/cruise line can justifiably take the position that they did everything within their power to advise passengers of risks onboard the ship and ashore, advice on how to avoid them, and ways to contact the U.S. authorities should there be a need to access a public service that the U.S. Embassy/Consulate can provide, e.g., American Citizen Services, Consular Affairs, etc.

SECTION NINE: SECURITY GUIDE CONTENT
9.1 Victim’s Rights under the CVSSA and the “Victims’ Rights and Restitution Act”

One of the greatest concerns for the ICV is that the content of the security guide must advise passengers of their rights under the CVSSA and the Victims’ Rights and Restitution Act. 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, an outside National Sexual Assault Hotline program or other third party victim advocacy hotline service; and legal advice and, a lawyer without going through the security of the cruise ships that write the report the way they want them.

In addition to providing rights under the CVSSA, if the alleged 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, then the FBI is also required by the Victims' Rights and Restitution Act to provide immediate notice, information, and assistance to the victim.

ICV 9.1:1 The ICV must insist that cruise ship passengers be advised via the (stateroom) security guide that if they believe they are the victim of a sexual (or other crime meeting the CVSSA criteria for FBI involvement investigation), they have the right to consult with one of the groups listed above via the cruise ship’s dedicated “hotline,” internet, ship’s telephone or other communication device designed for this purpose and DO NOT and SHOULD NOT first relate their details (of the alleged crime) to [uncertified advocacy] cruise ship personnel in the chance that it could discriminate against their legal rights under the provisions of the CVSSA and the Victims' Rights and Restitution Act.

ICV 9.2:2 The ICV requires in accordance with the CVSSA and the Victims’ Rights and Restitution Act, that the security guides, provided to the cruise passenger(s) contain the victims’ rights as specified under the Crime Victims’ Rights Act of 2004, 18 U.S.C. § 3771 AND, a victim of a federal crime may file a complaint against any employee of the Department of Justice who violated or failed to provide the rights established under this statute. (See below, Part FOUR, Section Ten).

PART FOUR: Victim’s Confidentiality

Table 1—Breakdown of CVSSA Provisions

<table>
<thead>
<tr>
<th>Legislative section</th>
<th>Provision</th>
<th>Self-executing?</th>
</tr>
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<tbody>
<tr>
<td>3507(e)</td>
<td>Confidentiality for victim’s information</td>
<td>X</td>
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</tbody>
</table>

§ 70.40-2
Statutory requirements.

(c) The confidentiality of sexual assault examination and support information must be protected in accordance with the detailed provisions of 46 U.S.C. 3507(e);

§ 70.40-10

Sexual assault response.

(c) Any crew member who interviews an alleged sexual assault victim must have been trained to communicate appropriately with a trauma victim.

Victim’s Confidentiality

Section 3507(d) specifies what medical personnel, equipment, and “adequate” supplies vessel owners must maintain on board for responding and providing victim treatment in the event of a sexual assault. It also specifies the measures the vessel owner must take to give victims access to lawyers, investigators, and victim advocacy programs.

Section 3507(e) requires confidentiality for information obtained as the result of providing medical or other assistance to sexual assault victims. This requirement is self-executing and Coast Guard inspectors have enforcement guidance. (14) We propose referencing the section 3507(e) requirement in regulatory text at 46 CFR 70.40-2(c).

Public Comments

Begin Comment – International Cruise Victims Association (ICV) – Victim’s Confidentiality

SECTION TEN: VICTIM’S CONFIDENTIALITY ON A CRUISE SHIP

10.1 Guaranteed Victim’s Right to Privacy

One of the motivating factors behind the effort to create legislation to enhance safety and security on cruise ships was the need to protect the rights of victims, especially those who are sexually assaulted while onboard the cruise ship.

Presently, when a passenger is sexually assaulted on a cruise ship, they must depend on the ship’s security personnel, medical staff and other assistance to provide: immediate medical care and attention, protection against further injury or assault from the assailant or sexual predator, investigative assistance to document the facts and collect evidence of the alleged crime, and to ascertain the circumstances which led to the alleged incident. Just as important, the victim
needs to receive emotional counseling after suffering a traumatic and potentially life threatening event.

One of the main provisions of the CVSSA legislation to give the victims certain rights and the keeping of information confidential from the cruise line without first obtaining the permission of the victim.

**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

### 10.2 Victim’s Rights in a Federal Crime

In addition to the guarantees of the CVSSA, 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.

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).^{50}

Currently, the ICV has learned through correspondence with the FBI that victims of these types of crimes are neither being contacted by the FBI (as they are required to do under the CVSSA and Victim’s Restitution Act) or being advised of their rights. What’s worse, without a certified advocate on the cruise ship, victims who have been raped or brutally assaulted sexually, are providing the graphic details of these crimes to the very entity (i.e., the cruise lines) with whom they might one day have to defend themselves against in criminal or civil court.

Reliable statistics from the cruise lines themselves demonstrate that well over fifty percent of sexual assaults and rapes committed on cruise ships are perpetrated by cruise lines employees, e.g., crewmembers. In a highly publicized cruise ship rape case involving Ms. Laurie Dishman who was a guest onboard a Royal Caribbean cruise ship, the attacker was in fact a cruise line appointed security officer. The subsequent questioning and investigation was pathetically rigged to protect the crewmember with the investigative security officer even piously remarking that Ms. Dishman should “watch her drinking” while on the ship. These callous remarks demonstrate how rape and other sexual crimes were treated prior to the passage of the CVSSA. However, the proposed regulations now require that the Coast Guard train someone on the cruise ship to take care of those that are the victims of a sexual crime.

\[\Rightarrow\] **ICV 10.2:1** The ICV agrees with the necessity of a victim’s advocate on the ship but disagrees with this proposed rulemaking solution to train a crewmember in victim’s advocacy. Unfortunately, because so many of these crimes are perpetrated by crewmembers, the effect has been, and would continue to be, providing the cruise line with the information [details] of the alleged crime directly to the cruise lines and their legal teams before the victim has had a chance to consult with their counsel, a certified victims’ advocate who is required under the CVSSA and the Victim’s Restitution act to provide counselling.

\[\Rightarrow\] **ICV 10.2:2** The ICV is unwavering in its opinion that the proposed legislation under the CVSSA was clearly not to provide an advantage to the employer of the alleged perpetrator in legally defending them either in criminal or civil court or allowing him/her to escape justify by returning the crewmember back to their home country even before the FBI has a chance to investigate. The CVSSA makes it clear the intention of the CVSSA is to first provide the victims of sexual and other crimes meeting the FBI’s jurisdiction their legal [victim’s] rights.

\[\Rightarrow\] **ICV 10.2:3** The ICV believes that victims need to be advised, according to the CVSSA act, at the time of the crime, that they have the right for go directly via a private hotline to the FBI or other governmental law enforcement agencies to report the alleged crime, an outside National Sexual Assault Hotline program or other third party victim advocacy hotline service; and legal advice and, a lawyer without going through the security of the cruise ships.
In addition to providing rights under the CVSSA, if the alleged 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, then the FBI is also required by the Victims’ Rights and Restitution Act to provide immediate notice, information, and assistance to the victim.

The Rule Making Committee has assumed the following: “The proposed regulation would require that a person who interviews an alleged sexual assault victim must be trained to communicate appropriately with a trauma victim. We assume that a VSO would be the first point of contact for an alleged sexual assault; therefore, we assume that they would need additional victim assistance training in the event that a sexual assault occurs.”

ICV 10.2:4 The ICV believes that instead of the Coast Guard training cruise line employees how to consult a sexual 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 ship to give the alleged victim their rights to make sure the cruise ship complies with the actual CVSSA requirements. In sum, training and certification should be bundled as the requirement, not just providing a cruise line employee with “training” as a VS advocate. This would also make the cruise line’s VS advocate responsible under the provisions of the Victims’ Rights and Restitution Act.

SECTION ELEVEN: FBI JURISDICTION OVER CERTAIN CRIMES AT SEA

11.1 Summary FBI Jurisdiction over Certain Crimes at Sea

Statistics indicate that close to 50% of all alleged crimes involve crew members the crew members (employees of the cruise line). This is alarming considering that as previously mentioned; the ship’s security personnel are the very people who are currently charged with investigating the alleged crime.

Indisputable facts tend to support the notion that cruise line employees are not an objective and disinterested party to a criminal investigation onboard cruise ships. As with the case of Ms. Laurie Dishman, they filter out what they are told and only report what they want to report, or what the cruise line allows them to report. In some cases there is a written statement/account from the passenger/victim but not always. Often, the only account of the alleged incident is that which is written by the crew member. Even though the FBI is charged with the jurisdiction for investigating such [sexual] crimes, the FBI is almost exclusively relying on hearsay evidence; not on a victim's first-person account (which would normally be the case when a crime is committed on land).

Although maritime law and jurisdictional issues are very complicated, a state has authority over all crimes which happen within its borders. However, the issue is a bit more complicated when determining whether the federal government has jurisdiction over a particular crime at sea. In
such cases, Article III, Sec. 2 of the Constitution grants federal courts original jurisdiction over all “admiralty and maritime” cases.

Title 18 crimes of sexual violence (including the federal government’s rape and sexual assault laws) acknowledge this, as these laws state that the federal government can prosecute only when a crime occurs “in the special maritime and territorial jurisdiction of the United States.” This phrase refers to US Code Section 7, Title 18, which in turn expands on Article III, Sec. 2 of the Constitution, to define what exactly is meant by admiralty and maritime jurisdiction.

In summary, federal authorities like the FBI have authority to prosecute crimes at sea if:

1. The ship, regardless of flag, is a U.S.-owned vessel, either whole or in part, regardless of the nationality of the victim or the perpetrator, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular state;
2. The offense by or against a U.S. national was committed outside the jurisdiction of any nation;
3. The crime occurred in the U.S. territorial sea (within 12 miles of the coast), regardless of the nationality of the vessel, the victim or the perpetrator; or
4. The victim or perpetrator is a U.S. national on any vessel during a voyage that departed from or will arrive in a U.S. port.

In summary, there are two issues with the FBI’s responsibilities and victims’ rights:

1) The victim's statement is not being received by the FBI so they are basing their decision on hearsay and on unreliable accounts; and
2) The "security officer" or cruise line employee is not objective or disinterested; their view and perspective can be and likely is colored by the interests of their employer or the interests of their colleague on crew (who could also be a friend). The lack of independence makes it unlikely that a victim will have confidence that there can be a just and fair outcome to an incident where they are victimized.

SECTION TWELVE: THE FBI RESPONSE TO CRIME ON CRUISE SHIPS

12.1 FBI’s Stated Position on Cruise Ship Crime

The ICV had a chance to ask the FBI directly on their process for investigating crimes on cruise ships. The FBI’s willingness and ability to respond to cruise ship crime, especially in allegations of sexual abuse is directly relevant to the issue of victim’s confidentiality.

When the ICV asked how the FBI responds to a report of a crime on a cruise ship, the FBI stated they do not take action. Even though the FBI “believes “they have jurisdiction, and an obligation to investigate, they choose to do nothing.
In a hypothetical scenario, the ICV asked: “Suppose....a U.S. citizen is raped on the high seas; the cruise lines calls and reports this to the FBI, will the FBI ask to be put in direct contact with the victim after hearing the report?” The answer was no, they will not respond to this alleged crime because even though they may have jurisdiction they feel obligated to advise all of the remaining ports of call before arriving in the United States of the crimes that occurred on the High Sea to a U.S. citizen that that country might want to take on the case.

ICV contacted our lawyers who have indicated to us that when a crime meets the criteria of crimes listed under the CVSSA the jurisdiction might be concurrent with another county but the jurisdiction is still with the FBI.

When a crime occurs outside U.S. jurisdiction, (we assume within the territorial waters of another country and not on the high seas) it might be the case that the FBI legal attaché’s work with the local (foreign) officials and the authorities conducting the investigations. Most countries welcome FBI assistance in collecting evidence, and in some cases they invite FBI agents and analysts to play a larger role. However, not every U.S. Embassy or Consulate has FBI “Legats” (legal attaché) which puts the investigation of the alleged rape in the scenario above, in the hands of a foreign law enforcement jurisdiction.51

ICV 12.1:1 The ICV believes that the failure to contact the victim when notified of the crime violates that law and clearly leaves the victims at risk for the rest of her trip and fails to respond to the requirements of the CVSSA. It leaves the victim without the rights of immediate contact with the FBI, independent sexual counseling and any outside legal advice and at the mercy of the cruise ship employees and security officers. This must be remedied through the Rule-Making Process making it mandatory for the FBI to contact the victims and not a discretionary response.

The FBI apparently sees no issue with that process because they maintain that they must have a cooperative relationship with the cruise lines. We strongly disagree.

According to the FBI, they believe that most cruise lines are over-reporting crimes which may or may not be applicable (covered) under the CVSSA; they see that as a good thing. The ICV disagrees. The ICV believes that if a crime was serious enough to be reported it should be followed-up with investigative action by the FBI, and USCG.

The ICV has been told by the FBI that they are less inclined to open a case due to the complexity of jurisdictional issues. (See Appendix D)

According to the FBI, there are other issues considered by the FBI in determining whether to open a full case, to include the complex jurisdictional issues.

The FBI’s attorneys have said in the past, even having legal authority under US law in these cases does not always translate to being able to physically take jurisdiction over a crime that did not occur inside US boundaries. That is not an excuse for not even responding/investigating an allegation for which the FBI clearly has jurisdiction if it involves a U.S. citizen.
ICV 12.1:2 The ICV asks that the Rule-Making Committee clarify these “jurisdictional issues” for the benefit of the FBI so that victim’s rights and immediate investigation action can be rendered on cruise ships.

ICV 12.1:3 The ICV believes that “jurisdictional difficulties” are an excuse for the FBI to let the cruise lines handle their own investigations.

ICV 12.1:4 In summary, the ICV believes with regards to victim’s confidentiality that:
- The CVSSA makes it clear that victim’s confidentiality must be served when a cruise ship passenger is the victims of a CVSAA (sexual) crime.
- Because there are no “agents of the state” e.g., Sea Marshall, FBI, Coast Guard, etc. servicing on cruise ships, it can be said that there is NO law enforcement presence on cruise ships.
- The FBI has stated that it is reluctant to investigate crimes on cruise ships for jurisdictional difficulties and lack of resources.
- Victim of a sexual crime on cruise ship who makes voluntary statements of their traumatized assault or incident to cruise ship employees lose their ability to prosecute the perpetrator if and when that person is later arrested.
- Victims or these crimes must in accordance with the CVSSA be given immediate access to a “hotline” or other communication device and be put in contact with the FBI who must advise them of their rights as a victim under the provisions of the Victims’ Rights and Restitution Act.
- Even though the FBI may have concurrent jurisdiction with a foreign law enforcement agency, it DOES NOT relieve them of their responsibilities to investigate the crime completely and render victim advocacy assistance in accordance with the law.
- Notification of the alleged crime by the cruise ship to the FBI invokes an immediate and mandatory and not discretionary investigative action and victim’s assistance by the FBI.

Regrettably, the CVSSA and other federal law indicates that the victims should be given immediate access to hot line to the FBI/ and outside organization to advise them. From sources and investigation and by statements of the FBI itself, the process of immediate victim’s rights and investigation by the FBI is not being carried out.

PART FIVE: MODEL TRAINING COURSE
In section 3508, paragraphs (a) through (d) concern training in appropriate methods for prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment. Section 3508(a) requires the Coast Guard to consult with the FBI and MARAD to develop training standards and criteria, and permits (but does not require) MARAD to certify U.S. and foreign training and certification providers. We complied with section 3508(a) by consulting with the FBI and MARAD, and incorporated the results of that consultation in our policy guidance and model course. (16) The model course covers the minimum standards set out in section 3508(b). Our guidance was issued on June 28, 2011. It established the interim training requirement called for by section 3508(d) (effective from July 2011 to July 2013) and the final certification requirement called for by section 3508(c). We made the final certification requirement effective on July 27, 2013. Since that date, persons who voluntarily develop and provide training that meets the model course criteria have been eligible for certification as training providers under section 3508(a), and persons who voluntarily receive that training have been eligible for certification under section 3508(c) as having received the training specified by that paragraph. However, the policy letter is not binding on members of the public and therefore, until new regulations are in place, no one is obligated to receive certification either as a training provider or as having received training.

We propose making certification mandatory by adding new 46 CFR 70.40-11. A person who develops and provides training in all the subjects listed in section 70.40-11(a), and who certifies those who successfully complete training, would be eligible for certification as a training provider. This certification could be made by MARAD, if MARAD chooses to exercise its discretionary section 3508(a) authority to provide certification, and section 70.40-11(b)(2) makes it clear that we would accept the validity of MARAD's certification so long as MARAD's certification criteria requires training in all the subjects listed in section 70.40-11(a). If MARAD chooses not to provide certification, a person could become a certified training provider under section 70.40-11(b)(1) by self-certifying that the training provided meets or exceeds the criteria detailed in our model course.

Public Comments

Begin Comment – International Cruise Victims Association (ICV) – Model Training Course
SECTION THIRTEEN: MODEL TRAINING COURSE – GENERAL COMMENTS

13.1 Course Relevance

The ICV would like to take this opportunity to comment on the provisions and add its critique of the proposed training course with the goal of incorporating these recommendations in the Model Training Course.

ICV questions the validity and purpose of the requirement for a model training course when in reality ship security officers cannot act in the best interest of enforcing state, federal, or even international laws regarding the professional investigation and prosecution of crimes at seas. Ship Security Officers are employees of the cruise line which employs them. There has never been a proposal to make ship security officers “agents of the government” in these instances. Almost exclusively these SSOs work to protect the rights of the cruise industry.

FBI officials have stated that they believe it is important to have cruise line security officials begin some evidence preservation work. They added that this is important given that even they acknowledge there is no law enforcement agency onboard and that the FBI interviews and evidence collection are generally conducted when the cruise vessel has arrived in a U.S. port.

To help support this effort, the ICV understands that the FBI has provided CLIA with information on how to preserve crime scenes. However, in the information provided to CLIA, the FBI cautioned that cruise line personnel should not be “collecting evidence” nor does their effort to preserve a crime scene create an agency relationship such that cruise vessel or other maritime vessel personnel are deemed to be acting as “agents of the government,” or vice versa.

ICV 13.1:1 The ICV suggests that to give meaning to this CVSSA Model Training Course requirement, the course be given greater significance in that once certified, they (SSOs) become agents of the government, deputized / or duly authorized (by the FBI, USCG) to collect evidence, process crime scenes, testify in state, federal courts, etc.

The proposed revision has indicated that since July 27, 2011, passenger vessels have been required to certify to the USCG that they have at least one crewmember on board that is “properly” trained on prevention, detection, evidence preservation, and reporting requirements of criminal activities in the international maritime environment before entering a United States port on a voyage or voyage segment on which a United States citizen is a passenger.

MARAD, the USMMA, and the FBI worked together on a security training program which would instruct and then certify, prospective training providers for the cruise industry to satisfy the requirement that each cruise vessel has at least one “certified crewmember” knowledgeable in the required aspects of crime prevention, crime scene response, evidence collection and reporting requirements.
IVC members with experience and training in cruise line security organization and administration have reviewed the proposal and make the following observations:

SECTION FOURTEEN: VOLUNTARY CERTIFICATION PROGRAM

14.1 Critique of a strictly “Voluntary Program”

Overall, the ICV views the guidelines, implementation, and requirements of Model Training Program appear as a comprehensive certification program which might satisfy the CVSSA training requirement. Significant thought and guidance was included to clear up some of the ambiguities of the interim training course. However, if ICV understands the proposal under its current format, regardless of the content structure, the biggest and most essential critique of the program is that it is still, voluntary.

The Rule Making Committee states that “the policy letter is not binding on members of the public and therefore, until new regulations are in place, no one is obligated to receive certification either as a training provider or as having received training.”

Under the current proposal, “MARAD is planning to implement this training certification program on a voluntary basis” to “help assure the general public that passenger vessel security and safety personnel have received proper training consistent with the model standards developed by USCG in coordination with MARAD, the USMMA, and the FBI.”

ICV 14.1:1 The ICV questions the validity of a purely voluntary program to provide and deliver this crucial and vital component of the CVSSA. Aside from the specific implementation issues ICV sees many potential problems and conflicts with a voluntary program aimed at providing the cruise lines and their ships with a qualified crewmember.

While each individual cruise line may for sake of argument, adhere to the Model Training Program as a means to provide a “certified” crewmember, the program under its current design still equates to “best practices” rather than a strict standard to provide standardized training for certification.

ICV 14.1:2 In the opinion of the ICV, voluntary participation does not guarantee that every cruise line has, or will adopt the same requirements. There are numerous reasons why the cruise line might “opt out” of such a program, including cost, time, red-tape, etc. Additionally, the cruise lines have been meeting this requirement currently under the interim guidelines. If given a choice to use this “best practice,” some in the industry might reason that they are currently meeting the requirement just fine under the existing model.

ICV 14.1:3 The ICV firmly believes that in order for this program to successful and to add true value for the purpose for which it was designed, the Model Training Course and its provisions for certification need to be mandatory and applicable to the cruise industry as a whole.
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If the program for certifying instructors is not mandatory, it essentially becomes a “paper drill” which in the opinion of the ICV, most of the industry will simply opt out.

ICV 14.1:4 The ICV understands that the Rule Making Committee is planning on making certification mandatory by adding new 46 CFR 70.40-11. ICV would agree that certification should be mandatory, however is against allowing a person, if MARAD chooses not to provide certification, that this person could become a certified training provider under section 70.40-11(b)(1) by self-certifying that the training provided meets or exceeds the criteria detailed in our model course. To do so would warrant questionable training content as to what constitutes “meeting or exceeding the criteria in our model course.”

SECTION FIFTEEN: COURSE CONTENT, TIME ALLOTMENT AND COURSE DELIVERY

15.1 Course Content and Ship Security Officer’s Role

ICV would like to comment again on the original course content proposal.

ICV 15.1:1 The ICV does not believe that the current amount of time allotted to crime scene preservation and evidence collection is adequate to properly equip the crewmember who responds to a cruise vessel crime scene.

Unlike a policeman whose full time job encompasses crime scene investigation, evidence collection, witness interview and suspect interrogation, etc., crime scene investigation is a collateral duty for fleet security officers whose main duty is to set the appropriate MARSEC security levels throughout the ship and to interface with his port security officer counterpart per the ISPS Code. He also ensures that the ship’s Declaration of Security (DOS) is in order in accordance with the prevailing MARSEC levels. Thus, the fleet security officer’s first and foremost duty is with the physical protection of the ship. Crime prevention and crime scene investigation are secondary and collateral duties and are not part of the fleet security officer’s duties according to any provision of the ISPS Code.

Although an onboard security officer may be recruited for his past military or law enforcement experience, and may trained in the art of criminal investigation using the lessons supplied by the cruise lines, the officer still has no real authority in any official criminal investigation. Ultimately, just like a private security guard, the collection of evidence, interrogating suspects/witnesses etc. has no room for error least the security guard and ultimately the employer i.e., the cruise line, be sued for false imprisonment, due process, etc. This is not a risk that cruise lines readily embrace. For example, whereas a security guard hired by Walmart may be given [citizen’s] arrest power in duties assigned with loss prevention, the same security guard’s duties do not
include substantiating allegations against the employer for which the employer may be sued by a customer.

**ICV 15.1:2** The ICV is firm in its belief that in strictly law enforcement terms, a **ship’s security officer** whether certified or not does not lead to impartialness when trying to determine a suspect’s alleged guilt or innocence for the simple reason that the SSO is an **employee of the cruise lines** and is no different than a land based private security officer hired to protect the property of the employer.

This collateral duty for fleet security officers places him or her in a position in some cases, of being called to testify in court proceedings against his or her employer if and when the evidence he or she collected at the alleged crime scene on the cruise ship is allowed to be introduced into a court of law.

This is even more crucial if the prosecution can prove that the alleged crime (on the ship) took place as a result of the cruise ship, or cruise line’s negligence, lapse of security oversight, or incompetent adherence to the standards which led to, or contributed to the criminal incident.

On the other hand, since the fleet security officer is presumably the first to collect evidence and/or interview witnesses and suspects, the defense for the accused (suspect) will undoubtedly try to impeach the evidence collected by the fleet security officer and/or his or her security training in crime scene investigation. Presumably, this is why certification is at present, only voluntary.

In short, although cruise ship security personnel cannot help but act as agents of the government when assigned the duties of collecting evidence and interviewing witnesses, suspects and victims on the cruise ship, they are in an unenviable position vis-à-vis their employer who may be held liable if the investigation is botched. While it is agreed that cruise ship security personnel are not agents of the government, in a real sense, the prosecution of a crime still depends on their trained and swift actions.

**ICV 15.1:3** The ICV is firm in its belief that the course content is pitifully lacking with regards to ever preparing a [private] security guard to “investigate’ crime on cruise ships, especially if these officers are not empowered as “agents of the state.”

### 15.2 Time Allotment and Course Delivery

ICV is concerned with the 8 hour time allotment for this training course in its entirety.

Our research indicates that similar courses for those undergoing training in criminal investigations such as is taught at the Federal Law Enforcement Training Center (FLETC) in Glynco, GA for investigators with the USSS, ATF, DSS, NCIS, etc., are of a length and duration of 8 hours a day for 16 weeks.
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Even with the understanding that some of the courses taught in that program include subjects that are not applicable under the CVSSA guidelines, the bulk of their instruction is devoted to crime scene investigations utilizing crime scene simulations, mock-ups, role-playing culminating in a practical test which demonstrates core skills and knowledge of the subject matter, as well as structured, written tests.

It is unlikely that a thorough and comprehensive training course, covering all the issues as required by the law, could be sufficiently taught in an 8 hour time frame with even less time devoted to crime scene preservation and evidence collection. (3 hours).

⇒ **ICV 15.2:1** The ICV firmly believes that the Rule Making Committee consider expanding the course content commensurate with an significant increase in time to adequately prepare ship’s security officers for even a “limited role” in crime scene processing and evidence preservation. The ICV is not prepared at this time to offer a new “course length” suffice to say that even in its present form, eight hours does not seem reasonable to even properly teach the current course contents.

Under the heading of course delivery, we are again concerned with the fact that the course could actually be taught on-line or via distance learning. How would it be guaranteed that the person who is supposed to take the course actually receives the training?

Given that many times (if not most instances) when on-line training is mandated, students tend to rush through the course in less than the suggested time in an effort to just complete the course. The concern becomes that even less time will be spent on the training than the already insufficient 8 hour time allotment.

Additionally, because the course may be taught online, students have no way to interact with an instructor when questions on the course are raised. This further diminishes the overall impact of the course and limits the student, who may be thoroughly unfamiliar with the course subject matter.

⇒ **ICV 15.2:2** ICV strongly believes that the students (ship Security Officers or other designated security personnel) should attend a formal place of instruction where the instructor can take advantage of a large group of participants who may share various insights and experiences as well as questions. The formal place of instruction should also be a place where investigative techniques and learning aides are available such as the Federal Law Enforcement Training Center in Glynco, Georgia, the FBI Academy in Quantico, Virginia or a large sheriff’s or police academy.

SECTION SIXTEEN:   COURSE OBSERVATIONS / COMMENTS

16.1   **Application For MARAD Certification:**
In the application process, MARAD asks for the incorporation of the training service provider (the “provider”). Presumably, only instructors from a company e.g., maritime security can submit for certification of its providers.

**ICV 16.1:1** Does the prospective training provider have to be part of an incorporated company, e.g., llc, plc, or can they be an independent “consultant?” It is conceivable that these instructors will be contracted by the company to perform this service. Presumably, there are no restrictions on the type of company / business that desires to become a service provider? It will be based solely on the SME of the instructor(s) who are submitted under the application process.

MARAD asks the service providers to provide list of instructors with a description of their experience, background, and qualifications that demonstrate that they have the subject matter expertise.

**ICV 16.1:2** What criteria is MARAD using to evaluate the SME of the prospective trainers/instructors? Will that criterion be provided for review/comment?

**ICV 16.1:3** Will MARAD make available for the cruise lines and public a summary or description of the training providers SME credentials?

MARAD asks the cruise lines to provide the names, positions, and backgrounds of shore side and shipboard staffs that will evaluate, review, and monitor any element of the CVSSA course.

**ICV 16.1:4** ICV recommends that a similar “Subject Matter Expertise” qualification be included for personnel who are assigned in a security or safety position on shore or at sea. For example, a Corporate Safety Officer may not be in the best position to evaluate, review security issues related to the CVSSA, likewise, the background of many shore and sea staff should be evaluated for security experience which qualifies them to evaluate and review the CVSSA, not just because they hold the position and title of “Corporate Security Officer” or “Ship Security Officer.”

### 16.2 Course Completion Certification

MARAD has indicated that the certified CVSSA Training Provider must first verify the identity of all students (whether live training or E-learning) who have completed a certified security training course and issue consecutively numbered certificates to students who successfully complete the approved course.

MARAD should have a controlled certificate that is one standard so everyone recognizes it and accepts it.
ICV 16.2:1 ICV recommends that **MARAD develop the Course Completion Certificate(s) and issue (with serial # etc.) the certified course provider.** The Certificate is issued by the training provider on behalf of the MARAD.

ICV 16.2:2 While MARAD has spelled out precisely what the course completion certificate should contain, and what type of foils it should use, ICV believes **it makes better sense to standardize the course completion certificate as being issued by the MARAD and not the individual service providers.** This is proposed several reasons,

1) it makes clear to the auditors that the certificate is an “authentic” official certificate (which can only be provided to the service provider upon certification).

2) it reduces confusion on the part of the participants and the cruise lines when a certified crewmember transfers and supplies his new employer (cruise line) with his/her course completion certificate from an unknown provider, and

3) standardizes the implementation of the certification program under the MARAD as one identifiable training program, even though it has been administered by numerous certified training providers.

16.3 **Implementation and Administration**

MARAD has indicated that Training Provider Certification will be issued to the applicant only after the voluntary agreement has been entered into. MARAD will thereafter publish the certified training providers name and contact information on its website.

ICV 16.3:1 The ICV asks **can the public view the contents and see who MARAD has certified?**

MARAD has indicated that it will ensure compliance utilizing two methods. 1) Through audits performed by private accredited auditors on a scheduled basis and 2) Random audits performed by agency personnel.

ICV 16.3:2 The ICV asks **what is the schedule for compliance audits** on a regular basis? Annually, semiannually, bi-annually etc.?

It is understood that independent auditors who are “accredited,” will perform the compliance review and/or be done by “agency” personnel. What are the specific requirements for MARAD to employ an independent third party? This would imply an entirely separate set of qualifications for independent auditors. Please clarify that the audits, whether they are independent or by “agency” personnel are at the Corporation’s expense, i.e., the cruise line.

The independent auditors **should not** be affiliated with the companies or organizations who are providing the training, nor should they be affiliated with the cruise industry other than to have audited the cruise lines e.g., BUREAU VERITAS.
The ICV asks what does accredited mean and does this refer to contractors, other auditors or companies?

The ICV would ask to clarify who the agency personnel are? Are these members from the USCG, MARAD, and/or the FBI?

Finally, compliance audits are very important in the certification process. Random audits are extremely useful in uncovering areas for immediate improvement and also in identifying potential fraud.

For example, an auditor should be able to Q&A students/crewmembers that were certified as having completed the training. If it is evident that even though the student “passed” the course, and the student cannot answer or demonstrate proficiency in these concepts, there is reason to investigate the teaching methods, e.g., e-learning, in-class, etc. the test/exam, the instructor’s grading criteria etc.

16.4 Certification Expiration

MARAD has indicated that course approvals and certification are effective for a period of five years or until the approval and certification is suspended or withdrawn.

The ICV asks what actions or issues would provoke the certification to be withdrawn? Is this also done by MARAD? It is presumed that the compliance audit procedures would uncover actions or deficiencies leading to suspension. Is it conceivable that a provider’s certification may have to be withdrawn for the reasons indicated above (16.3)?

16.5 Revocation and Appeal Process

Training providers can appeal disapproval, revocation, or suspension of the certificate by appealing to the Maritime Administrator.

If a service provider’s certification is suspended or revoked, are they allowed after a certain amount of time to reapply or are they barred permanently? If made, is there a waiting period for reinstatement or permanent?

The ICV would argue the point that the provider should be disbarred and that the provider should not be able to apply again for certification if it can be shown that their disbarment was the result of fraud, or negligence, or a lack of expertise for the subject matter.
PART SIX: TEMPORARY PORT CALLS

APPLICABILITY OF CVSSA TO CRUISE SHIPS MAKING TEMPORARY PORT CALLS

Section 3507(k) describes the vessels to which the CVSSA applies, to include any voyage that “embarks or disembarks passengers in the United States.” This phrase could be interpreted as applying to a voyage originating and ending in a foreign country, and on which no U.S. national is a passenger, but which makes a brief port call in a U.S. port. 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, we propose specifying, in 46 CFR 70.40-1(a), that subpart 70.40 applies to a voyage that embarks or disembarks passengers in the U.S., “except that embarking and disembarking does not include temporary port calls by passengers.” We also propose clarifying, in 46 CFR 70.40-1(a), that subpart 70.40 applies to foreign as well as to U.S. vessels, notwithstanding 46 CFR 70.05-3(b), which generally exempts foreign vessels from Coast Guard passenger vessel regulations. We propose amending 46 CFR 70.05-3(b) to clarify that this general exemption is subject to specific exceptions, such as the exception we propose to include in 46 CFR 70.40-1(a).

Public Comment

Begin Comment – International Cruise Victims Association (ICV) – Temporary Port Calls

SECTION SEVENTEEN: SELECTIVE LANGUAGE CHANGE

17.1 Language Intent

Cruise ships inherently are foreign flagged vessels and are registered in convenient flag states such as Panama and Liberia to name a few. It is not the place within this process to discuss these arrangements, it should be noted however that the same vessels which pay virtually no Federal corporate tax enjoy the safety and security resources of the Federal and State governments in which these ships operate.

While the Rule making Committee has stated that it intends under subpart 70.40 to subject all foreign vessels, it does not seem logical to add an exclusion if the ship only comes in and out of a U.S. port and does not embark or disembark passengers. 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.
ICV 17.1:1 The ICV is opposed to the Rule Making position that: “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.”

ICV 17.1:2 The ICV is unclear on the intent of excluding ships from provisions of the CVSSA if they are only making port calls in the United States.

ICV 17.1:3 The ICV is against adding the phrase “except that embarking and disembarking does not include temporary port calls by passengers,” in the belief that it is purposely aimed at dodging protective “safety and security” provisions of the CVSSA and may align the cruise industry to add more cruise itineraries beginning and ending in foreign ports e.g., the Caribbean, Canada, Mexico, Tahiti with extensive, exclusive port calls in the United States.

ICV 17.1:4 The ICV opposes two levels of protection for cruise ships, regardless of whether they are foreign or domestically flagged, based on the sole principle of temporary stopovers in United States’ ports. (see 17.2)

ICV 17.1:5 The ICV believes that the CVSSA (also known as the Kerry Act) was passed by the Congress and signed into law requires all cruise vessels utilizing U.S. ports to comply with the CVSSA and would not be given special dispensation because it is in a “temporary” visiting status.

ICV 17.1:6 The ICV believe this creates a convenient loophole for cruise ships operating in the waterways of the United States to ignore provisions of the crime reporting and investigative aspects of the CVSSA. Excluding ships that only visit a U.S. port but do not embark / disembark (i.e., start and end the cruise itinerary) allows for ships to be exempt from reporting crimes at sea and providing assistance to victims of crime.

17.2 Two-Tiered Protection Levels

To illustrate the effect of excluding cruise ships only making a temporary port call in the U.S, consider the following example:

A cruise ship departs a foreign port, perhaps in Mexico or the Caribbean and has two U.S. port calls scheduled before returning to its foreign homeport. During the cruise, either before arriving at the first U.S. port, or after leaving the first U.S. port on the way to the next U.S. port, a serious crime occurs on the ship, (reportable under the CVSSA.)

According to the current arrangements, the FBI must investigate if the victim is a U.S. citizen. If the victim is a foreign national, the law enforcement authority in the next port may investigate and assume jurisdiction for the crime (this would also be the FBI or local state jurisdiction).
The CVSSA require cruise lines to provide victims of alleged sexual assault with free and immediate access to contact information for law enforcement, hotline services, and others and a private telephone line and Internet connection by which the individual may confidentially access law enforcement, an attorney, and information and support services. If the victim is not a U.S. citizen, then by excluding temporary port calls from coverage under the CVSSA, this victim is offered a second (inferior) level of investigative response, counseling, resources etc., regarding the alleged crime even though the legal authority to investigate and assume jurisdiction is a U.S. port.

What would happen if by chance, on the same cruise, one rape victim was a foreign national, and one was a U.S. citizen, and the crime was committed by two different suspects and thus, were two separate crimes? Does the CVSSA apply to only the alleged U.S. victim and not the foreign national? Does the CVSSA even apply since the cruise started and ends in a foreign port but has made port calls in the United States?

Conversely, if the victim is a U.S. citizen, and happens to have embarked on the cruise from a foreign port, he or she may arbitrarily be excluded from the rights guaranteed under the CVSSA. The cruise ship and cruise line company may argue justifiably that they were not obliged to provide a “victim hotline,” internet access, or a private telephone by which the victim may confidentially access law enforcement, because the CVSSA does not apply. In this case, the FBI who under the CVSSA, must investigate may decide that under 46 CFR 70.40-1(a), they do not have a responsibility to respond under the CVSSA.

ICV 17.2:1 ICV understands and **agrees on making all foreign vessels subject to the CVSSA**, what the ICV questions **what is the logic of excluding vessels regardless of registry, exempt from the CVSSA when they only make temporary port calls.**

It is not expedient for any vessel when visiting a US port, to be exempt from the same standards under Section 3507 even if it is only a brief “port call.” Even if there is only one U.S. passenger, or no U.S. passengers, the ship must be required to satisfy all the requirements of the CVSSA, 46 U.S.C. 3507 to include rail heights, man-overboard fall detection technology, victim’s assistance, crime reporting, acoustic hailing devices and the like.

The USCG does not question a request for search and rescue of a missing cruise passenger of the same cruise vessel when it departs the U.S. after its port visit and is plying the coastal waters of the United States. The Coast Guard does not have a policy of asking if the missing passenger is a U.S. citizen before it dispatches its SAR resources even if it knows the same cruise ship has only made a brief port call in U.S. port on its way back to its foreign port. This would interject prejudice to the role of the U.S. Coast Guard to protect lives at sea.

The requirements of the CVSSA must be applied to any cruise vessel visiting the United States.
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To not abide by this rule is arbitrarily excluding foreign citizens who should depend on the same security safety measures designed into the Cruise Vessel Safety and Security Act and in reality would create two - levels of safety in U.S. ports and waterways.

NOTES:

1 Author’s details:

Mark J. Gaouette. Serves as a volunteer on the Board of Directors for the International Cruise Victim’s Association since 2008:
• Physical security consultant with American cyber-security company in Abu Dhabi, UAE.
• Previously employed by the Department of Homeland Security (DHS), Customs and Border Protection (CBP) as a Sr. Security Specialist, Office of Air & Marine.
• Special Agent of the Defense Intelligence Agency (DIA) as a Force Protection Officer. Department of Defense, Level II trained in anti-terrorism.
• Former Director of Security for Princess Cruises in Santa Clarita, California from 2003 to 2005.
• Federal government career was spent as a Special Agent of the Diplomatic Security Service (DSS) of the U.S. Department of State. Served as a Regional Security Officer (RSO) at five high-threat U.S. Embassies (La Paz, Bolivia, - 2 years, Managua Nicaragua, - 2 years, Moscow Russia, 2 –years Beirut, Lebanon, 1 year, and Sana’a, Yemen - 6 months). Served within the State Dept.’s Crisis Operations Center during the first Gulf War.
• Special Agent of the Diplomatic Security Service, conducted criminal investigations for the Department of State in Los Angeles, Ca. and presented criminal cases to the Assistant U.S. Attorney in the Central District of California. Testified before the Federal Magistrate and Federal Grand Juries.
• Naval Officer on active duty (1982 – 1986) 42 consecutive months of sea duty aboard a helicopter aircraft carrier. Surface Warfare (1115 designator) qualified as an Officer of the Deck (OOD), Assistant Communications Officer, Assistant Engineering Officer on Watch (EOOW) and the Ship’s Security Officer (SSO) aboard the USS Tarawa, LHA-1. Awarded numerous military decorations.
• Reserve Agent of the Naval Criminal Investigative Service (NCIS) with the rank of Commander (0-5) in the U.S. Naval Reserves / Office of Naval Intelligence (1635 designator). Investigated criminal and counterintelligence conduct of U.S. Naval Forces throughout the world (NCIS Europe, the Middle East (5th Fleet), Asia/ Pacific and US NCIS field offices) which included, murder, rape, child molestation, and assault. (1986 – 2001)
• Graduated from the U.S. Federal Law Enforcement Academy, Glynclo, Georgia on two occasions - once with the Naval Criminal Investigative Service (NCIS), and once with the Diplomatic Security Service, (DSS). On both occasions, completed the Federal Criminal Investigator’s Basic Course (16 week program) as well as follow-on security training in weapons and protective services.
• Graduated from advanced language programs at the Foreign Service Institute(FSI), U.S. Department of State in Arlington, Virginia, 6 months full-time language training in Spanish (1991) and 1 year full-time language training in Russian (1998- 1999). In addition to this, completed numerous professional, military, and government security training courses online and through formal schooling.
• Graduated from the University of California at Los Angeles, (UCLA) with a Bachelor’s degree in Political Science, International Relations.
• Holds a California Private Investigator License #27271 and CCW (Carry Concealed Weapon) license in 36 states.


3 Ibid

4 Opinion of maritime attorney Philip M. Gerson, Gerson & Schwartz P.A. Florida


7 Ibid


9 http://www.cruisejunkie.com/Overboard.html

10 “In 2011, there were five cruise ship-related cases of a person in the water who required a search and rescue (SAR) effort by the Coast Guard. These cases resulted in one life lost and four lives unaccounted for. These five SAR activities required 14 sorties at a total expense of approximately $1.2 million. We believe that the introduction of more robust fall-overboard detection or capture capabilities could lead to a decrease in the SAR costs associated with fall-overboard incidents on cruise ships. By providing accurate information about where and when a person may have fallen overboard, the industry and the proper authorities would be able to reduce their search area, which would reduce costs and could also lead to an increase in recovery and survivability of a person who has fallen overboard.” Dr. Ross Kline, a noted cruise ship security expert in his testimony to Congress stated that: “In just one case – that of Michelle Vilborg, who went missing 70 miles southwest of Pensacola, Florida on June 15, 2009 – the total cost incurred during the search was estimated by the Coast Guard to be $813,807.8 This is on a not cost-recovery basis.”

11 http://www.internationalcruisevictims.org/LatestMemberStories/Daniel_Dipiero.html


13 Timothy Sears set sail on the Carnival Cruise ship Celebration in April 2003 to the balmy water of the Gulf of Mexico. After being on the ship for only eight hours and after drinking heavily with a friend, Sears fell from the ship. Sears, a former paratrooper with the 82 Airborne credited his survival in the water to his military training. While in the water, he set a goal to swim toward some distant lights which later turned out to be an oil platform. By chance, he was pulled from the water 17 hours later by a passing small boat.

Another example occurred in March, 2007. Two passengers were reported over-board from the cruise ship Grand Princess, operated by Princess Cruise Lines in March 2007. By the time the U.S. Coast Guard received the call at Ellington Air Force Base; the ship had been underway for approximately seven hours and was by then 180 miles off the coast of Texas well into the Gulf of Mexico. According to the Coast Guard Helicopter pilot assigned to perform the rescue attempt, the odds were not in the favor for the young passengers, a female and male, age 20 and both 22 years-old. The weather was foggy, visibility was limited and the helicopter crew was at its max distance with only enough fuel to make it back safely to Ellington Air force Base. Fortunately, the Coast Guard helicopter was able to land on a deep-sea oil platform and was able to refuel. By the time the helicopter made visual and radio contact with the Grand Princess cruise ship, their rescue boats had already recovered the woman from the sea but the man was still missing. Flying low over the ocean, the helicopter crew spotted the man splashing in the water. They directed the ship’s life boat towards the man who pulled him back onboard. Through his ordeal, the man had been able to stay afloat in the balmy Caribbean water at night for over four hours without flotation devices. The young man, an Air Force Academy cadet credited his survival in the water to his survival training at the academy and the woman was a lifeguard. The woman suffered a broken rib in the fall and both had numerous jelly fish stings from their ordeal in the water.

15 Ibid


17 Ibid


19 Ibid

20 Ibid, Huff, “Missing from the Norwegian Pearl”


22 Ibid

23 Jim Walker noted the failure of the Bahamian officials to investigate properly, the disappearance of crewmember Rebecca Coriam off the Disney cruise ship “Wonder” in 2011. He said “When a crew member (or passenger) goes overboard, there should be images of the [that person] on a deck and walking around the ship. There should be a review of the location of the CCTV cameras, an inspection of the CCTV / security office and equipment, a review of the diagrams for all CCTV cameras, and a walk-around of the cruise ship from the [victim’s] cabin, through all connecting hallways, stairs, and elevators, to the upper decks.” CruiseLawNews [online] “What Happened to Youth Counselor Rebecca Coriam on Disney’s Wonder Cruise Ship?” March 26, 2011, http://www.cruiselawnews.com/2011/03/articles/disappearances-1/what-happened-to-youth-counselor-rebecca-coriam-on-disneys-wonder-cruise-ship/

24 Detection systems which offer additional lifesaving capabilities such as the automatic launching of a life preserver, life raft and light or dye marker are ideal. Robust capture systems must be able to collect evidence of a crime, foul pay or even suicide.


26 FLIR Corporation is one of the world’s leaders in thermal imaging. FLIR systems and components are used for a wide variety of thermal imaging, situational awareness, and security applications, including airborne and ground-based surveillance, condition monitoring, navigation, recreation, research and development, manufacturing process control, search and rescue, drug interdiction, transportation safety and efficiency, border and maritime patrol, environmental monitoring, and chemical, biological, radiological, nuclear, and explosives threat detection. Today, FLIR is a publically traded company on the NASDAQ exchange under the ticker FLIR. It has revenue: $1.5 billion (2013), net Income: $177 million (2013), over 2,800 employees worldwide headquartered in Wilsonville, Oregon. Source: http://www.flir.com/aboutFLIR/

27 Ibid, pg. 15

28 For example, if the design of these devices worn by the passenger, a wrist band, necklace, etc., is thrown over the side as a prank, the cruise vessel is obligated to respond to the MOB event.

Dr. Ross Kline, (Cruise Junkie.org) discussed the issue in his testimony to Congress. He states that: “The issue of persons overboard has already been discussed at previous Congressional hearings in December 13, 2005, March 7, 2006, March 27, 2007, September 19, 2007, and June 19, 2008. While the cruise industry tends to view these incidents as comprising accidents and suicides, this is not supported by the 177 incidents recorded since 2000. Admittedly, many incidents are intentional suicides – the 15 year old child who leaves a note after fighting with his parents, the 82 year old man who goes missing in the North Atlantic, and cases where a spouse jumps overboard after an argument – and some are accidents, such as the 23-year-old man who fell overboard while urinating over the side as the ship steamed away from San Juan (he swam to shore), or a 19-year-old man who climbed over a railing and threatened to kill himself after an argument with his girlfriend; when his girlfriend pleaded with him to climb to safety he complied but slipped and fell overboard. However, there are at least two known murders (and a third where a body was thrown overboard to hide a murder), a number of cases where a severely intoxicated person bent over a railing to vomit, and many incidents that are mysterious. It is the mysterious incidents that raise the most concern. These are people who have given no sign of being suicidal, are happy and enjoying the cruise (often with family members along), and then go missing. Congressional hearings have already heard about some of these cases: Merrian Carver, Annette Mizener, and Hue Pham and Hue Tram, to name a few. In these cases, video surveillance footage was not made available – in the case of Annette Mizener the camera had been covered with a map or newspaper. Interestingly, video surveillance footage is readily available when it confirms the incident is a suicide or accident, but is not available in these incidents that remain a mystery. The situation suggests there is need for better video coverage of deck areas and that video feeds are monitored in real time, at least on a random basis and at times when these incidents most frequently occur.

Ibid

Radio Zeeland DMP Americas is a developer and manufacturer of leading navigation, automation, monitoring and integrated maritime control systems. We are setting the standard with easy to use, high quality and reliable products. Radio Zeeland has locations in Terneuzen, Netherlands and Fort Lauderdale, Florida, USA. Founded in 1970. Certification : ISO9001-2000, MED approved

USCG had launched “the largest homeland port security operation since World War II” in the aftermath of September 11 terrorist attacks. As part of Operation Noble Eagle and Enduring Freedom, first phases of the effort to destroy al Qaeda, USCG deployed 55 cutters (small armed vessels), 42 aircraft, and hundreds of boats to establish port and coastline patrols. It also called up more than 2,800 reservists to support homeland security operations at the country’s 361 ports. At the ports of San Francisco, Los Angeles, and San Diego, USCG developed a pilot armed escort initiative, the Sea Marshals program, whereby it provided armed escort to vessels during their transit through U.S. waters. USCG also established Naval Vessel Protection Zones, the maritime equivalent of no-fly zones, for a distance of 500 yards (457 m) around all U.S. naval vessels in the navigable waters of the United States.

H. R. 3360—2, Cruise Vessel Safety and Security Act, paragraph 12

“LRAD Determines Intent at Distance and Resolves Uncertain Situations” - Under the U.S. Coast Guard’s new plan, it is more vital than ever that ships in pirate-infested waters deploy LRAD on their vessels, regardless of whether armed or unarmed guards are employed. LRAD use may have prevented the unfortunate incidents that occurred in March 2008 when The Global Patriot mistakenly killed an Egyptian civilian on a small boat in the Suez
Canal when firing warning shots, or in November 2008 when a Thai trawler was sunk off the coast of Somalia when it was mistaken for a pirate ship. http://www.lradx.com/site/content/view/248/55/


40 Ibid

41 GAO, “Maritime Security – Varied Actions Taken to Enhance Cruise Ship Security, but Some Concerns Remain,” pg. 11

42 In yet another demonstration of how terrorists view cruise ships and their passengers as “soft targets,” IS claimed responsibility for machine-gunning passengers from two cruise ships (Costa and MSC) in the port of Tunis on March 18, 2015 as they stepped off tourist busses in front of the Bardo Museum. At least 17 cruise passengers were killed and dozens severely injured. Although the terrorist attack occurred on shore, the cruise ships quickly departed the port in fear of an attack on the ship before a full accounting of missing passengers could be made.


44 Ibid


47 Andrew Beatty, “US Coast Guard security warning on small boats,” August 9, 2007, The Sydney Morning Herald


51 The author was Diplomatic Security Special Agent (DSS), and served in five U.S. embassies, of those five, only Moscow and Nicaragua had LEGATs on a full time basis. Not once in the author’s experience did any of these LEGATs render any assistance to U.S. victims of cruise ship crime. Reports of American crime victims would have come first through the Regional Security Office (RSO) in the embassy. Additionally, when the author was the Director of Security for Princess Cruises, he had the responsibility of travelling to Princess ports of call and making contact with the Regional Security Office of the U.S. embassies where the Princess ships would be, and had been visiting during seasonal port visits. Not once did any of the RSOs (most of whom were former colleagues in DSS of the author) relate any instances of American cruise ship crime or requests for investigative assistance by local law enforcement. The author is not aware of any other FBI involvement in cruise ship crimes with Americans aside from the one case of the FBI investigating the George Smith disappearance off the Royal Caribbean Brilliance of the Sea in July 2005. There, a “vacationing FBI agent” in Turkey voluntarily agreed to respond to the cruise ship to investigate. The FBI still has an open case on the disappearance of the American citizen. While beyond the scope of this rule-making process, the ICV and the author would welcome facts provided by the FBI into the number, and nature of investigative assistance their “LEGATS” have provided in allegations of cruise ship crime involving Americans.
APPENDICES
Appendix (A) Email btwn Admiral Joseph Servidio and Ken Carver dtld 02 Dec 2013 pg. 1

Kendall Carver

From: Joseph.A.Servidio@uscg.mil on behalf of Servidio, Joseph A RDM
[Joseph.A.Servidio@uscg.mil]
Sent: Monday, December 02, 2013 8:29 AM
To: keaver17@cox.net
Cc: Mauger, John W CAPT
Subject: RE: NBC wpnv

Ken,

CLIA is not actively working with the CG on the regulations for MOB systems. I can not speculate on what she was referring to. I recognize CLIA is not a disinterested party. I believe I clearly have stated on record and in hearings that I am not promoting the Cruise Ship industry (and think the blog you highlighted reflected the same). When the time for comment on the proposed regulation is at hand I expect you will provide your thoughts and I will both welcome and look to solicit your comments then. Until then I can neither work with you on crafting the regulation nor work with CLIA on it.

Joe

-----Original Message-----
From: keaver17@cox.net [mailto:keaver17@cox.net]
Sent: Friday, November 29, 2013 10:19 AM
To: Servidio, Joseph A RDM
Cc: Mauger, John W CAPT
Subject: FW: NBC wpnv

Rear Admiral Servidio...

This morning I read the Christine Duffy response to the Miami Herald article. Her responses says in part the following:

"Although regulations to implement the legal requirements for systems ‘capturing images of passengers or detecting passengers who have fallen overboard’ have yet to be published, the cruise industry continues to work collaboratively with the U.S. Coast Guard to provide input and information on such technologies. CLIA members also continue to evaluate, test and conduct trials to identify systems that will work best in a marine environment.”

The link to her entire response is as follows:


While I am being told one thing, it appears that CLIA is actively working with the CG on the regulations for MOB system. Clearly, CLIA is not a disinterested party since they are required to add these systems and clearly don’t want to do so.

Recent articles in Travel News has former CG Rear Admirals promoting the cruise line industry. This is also of great concern since they are clearly wearing the uniform of the CG to promote this industry. The following Blog raises serious question concerning this issue.


I represent victims of crimes and our goal is to improve the safety of all passengers on cruise ships. I would hope that we could work together for this common goal but am concerned.
ICV has many high level experts that are working with us and we would welcome the opportunity, as CIIA apparently has, to work with your experts.

Ken

-----Original Message-----
From: Joseph.A.Servidio@uscg.mil [mailto:Joseph.A.Servidio@uscg.mil]
Sent: Friday, November 22, 2013 3:18 PM
To: kcarver17@cox.net
Cc: Mauger, John H CAPT
Subject: RE: NBC wptv

Mr. Carver,

I know that you sent an email to CAPT John Mauger on this and he is working on a reply. I appreciate your bringing the Miami Herald article to our attention and have shared it with those on my staff working on the issues. As you know, we are finalizing regulations implementing the CVSSA, but do not yet have requirements for such systems or approval/inspection authority for them. Because of the active reg project, I am limited in how much I can discuss at this point in the process.

Best Regards,

Joe

J. A. Servidio
Rear Admiral, U.S. Coast Guard
Assistant Commandant, Prevention Policy (CG-SF)
202 372-1009

-----Original Message-----
From: kcarver17@cox.net [mailto:kcarver17@cox.net]
Sent: Friday, November 22, 2013 12:00 PM
To: Servidio, Joseph A RADM
Subject: FW: NBC wptv

John,

http://www.wptv.com/dpp/news/local_news/investigations/cruise-lines-are-slow-
to-implement-a-man-overboard-detection-system-for-passengers

This was on TV last night. This follows the Attached article on Sunday by
the Miami Herald. If you read the Miami Herald article the systems is being install on ships. How do we make this happen??? Systems are available but nothing is being done. Also, did the CG approve the installation of the installation of these systems on the 30 ships that are referred to in the Miami Herald article???

I will look forward to a response to my question.

Ken
Appendix (B) ICV FOIA Request to USCG / 22 January 2014

International Cruise Victims Association, Inc.

January 22, 2014

U.S. Coast Guard
Commandant (CG-611)
2100 2d Street S.W.
Washington, D.C. 20593-0001
Attention: FOIA

Re: FOIA request for the Material requested and Received from CLIA for the MOB systems as per the attached memo Dated January 7th, 2014 by Capt John Mauger.

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 USC 552, as implemented by 49 CFR Parts 7 and 10, and as amended, please provide the following:

"Per your questions from earlier today, we've discussed previously that we asked CLIA for economic information this past Autumn."

If you have any questions, please do not hesitate to call. Pursuant to the rules and regulations, you have twenty days to respond. Please let us know if you need more time.

Sincerely,

Kendall Carver
Chairman
International Cruise Victims Association

5521 North Camelback Canyon Drive
Phoenix, AZ 85018
Tel 602 852 5896 – Cell 602 989 6752
E-mail: kcarver17@cox.net
Appendix (B) Cont’d – USCG FOIA Response/ 17 April 2014

Kendall Carver
Chairman
International Cruise Victims Association
4747 E. Elliot Road #29398
Phoenix, AZ 85044

Dear Mr. Carver:

This letter is in response to your Freedom of Information Act (FOIA) request of January 22, 2014 concerning the correspondence involving Cruise Lines International Association on November 6, 2013. Your file number is 14-0995. This office received your request on February 25, 2014.

We are granting your request under the FOIA, Title 5 U.S.C. § 552, as amended, and DHS’ implementing regulations, 6 CFR Chapter I and Part 5. After carefully reviewing the responsive document regarding economic data for the Cruise Vessel Safety and Security requirement, I determined that they are appropriate for public release.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because the cost is below $14 minimum, there is no charge.

We have enclosed all of the information requested in your letter of January 22, 2014. If this does not reflect your understanding, please advise me in writing, within twenty days from the date of receipt of this letter.

Sincerely,

[Signature]
D.E. Boniface
Chief, Office of Standards Evaluation and Development
U.S. Coast Guard
By direction

Enclosure: (1) Cruise Industry Response to USCG Questions—Final document

Copy: CG-DCO Directorate FOIA Coordinator

Page 2 of 6
Appendix (B) Cont’d – USCG Questions for CLIA pg. 1

Cruise Industry Response to USCG Questions

Original USCG Questions are in RED

Cruise Lines International Association (CLIA) is the world’s largest cruise industry trade association with representation in North and South America, Europe, Asia and Australasia. CLIA represents the interests of cruise lines, travel agents, port authorities and destinations, and various industry business partners before regulatory and legislative policy makers. CLIA is also engaged in travel agent training, research and marketing communications to promote the value and desirability of cruise holiday vacations with thousands of travel agency and travel agent members. CLIA’s Associate Member and Executive Partner program includes the industry’s leading providers of supplies and services that help cruise lines provide a safe, environmentally-friendly and enjoyable holiday vacation experience for millions of passengers every year. As an industry, CLIA and its member lines are committed to the safety and security of our passengers, crew and ships.

This document is provided by CLIA in response to questions submitted by the USCG requesting information on video technology currently in use on today’s cruise ships.

1) Overboard detect or capture:

What technology would you use to comply with the overboard requirements?

CLIA believes, as we stated in our submission to the USCG Technology docket (Docket USCG-2011-0357), that these are two distinct issues. Capturing an image of a person going overboard is different from detecting (i.e. Alarming on the bridge as a Man Overboard System (MOB)). The CVSSA provides that either method is acceptable to meet the Act’s requirements.

The most common capture systems today are state-of-the-art closed circuit television (CCTV) technology. Ships’ overboard capture capabilities may rely on internal (inside the rails) CCTV cameras that cover a substantial portion of the ships’ external passage/deck railings. Some incorporate high speed, high resolution, thermal and digital video that covers outside the rails.

The cruise industry, recognizing the potential benefits of MOB detection systems, as an aid to detecting when persons might go overboard, (similar to how a radar is considered an aid to navigation) began assessing MOB detection systems as early as 2006. The process continues. CLIA recognizes that systems exist and are suitable in a static land based environment. However, the cruise industry has evaluated and demonstrated numerous MOB detection systems, and most have been determined to be unworthy of further consideration onboard cruise ships in transit. Factors that constrain system effectiveness and reliability at sea include:

- Continuous changing horizon
- Salinity/corrosion
- Vessel vibration
- Extreme weather conditions
- Vessel movement such as pitching, rolling, yawing
- Vessel design
- Interoperability with other shipboard systems
- Salt encrustation of lenses
- Glare/reflection off the water
Appendix (B) Cont’d – USCG Questions for CLIA pg. 2

A major problem for the industry is there is no standard for an acceptable detection rate and false alarm rate. CLIA member lines continue to research, test and evaluate existing and future technologies; it may be that the impact and costs may be even greater than discussed here.

One system is currently being trialed on board a CLIA member’s vessels. This capture and detect system cost $1.2M for four ships or approximately $300,000 per ship. Additionally, annual maintenance cost is about $40,000. One line that will be testing a system in the near future estimates the cost at $350,000 per ship.

Is your existing surveillance or man overboard equipment sufficient to detect or capture man overboard incidents? If not, how many additional cameras would you need to install? Or better yet, how much would it cost to install additional cameras?

One cruise line provided the following statistics: the CCTV technology has captured images of the actual overboard event in 10 of 13 incidents that have occurred since January 1, 2011. The CCTV system has also captured related (but not the actual event) activity for the remaining three overboard events (such as when a crew member is seen climbing over an internal railing and ducking under a life boat to reach the outer rail which was out of view of the CCTV system). All overboard related images were preserved and made available to Coast Guard and law enforcement agencies for review and retention.

The Coast Guard estimates that additional equipment to comply with the overboard requirements would cost on average $67,500 per ship. Is this a reasonable estimate?

If not, what would you estimate the cost per vessel to be, or alternatively, what additional equipment would you require to capture or detect man overboard incidents?

The answer to this question will vary from vessel to vessel. For example, some older vessels will require more work on cabling, terminations and other factors, while newer ships may already have network and power drops ready for installation of, if not the whole system, then at least part of it. Current technology requires IP class rated cabling, terminations as well as networking equipment. The following cost estimates were provided by one company and include examples of the costs that go well beyond the simple answer of “just install more cameras.” Please note the estimates below are per ship.

Major components and their costs (all estimates based on a 100 channel CCTV project):
- Cabling – $70,000 including materials, work hours, cable testing, test protocol, welding/hot works, terminations
- Networking equipment - $45,000 including core switches, modules
- Recording equipment - From around $40,000 and up
- Cameras - depending on specifications, $40,000 - $80,000

Low end estimate – 100 channel system without thermal cameras and MOB detection: $195,000

Another estimate for the number of additional cameras required to achieve complete 100% coverage of open decks, railings and gangways ranges from 50 to 90 additional cameras per ship plus the required servers, displays and switching equipment. In many cases the existing systems are of the older analog type, and to achieve 100% coverage, IP cameras would need to be added, removal of the older analog systems and replacement of all with the high resolution IP type equipment. The cost range depending on the ship size could be anywhere from $150,000 to $700,000 per ship.
Further, one cruise line stated that if a regulation were to require an overboard capture system that incorporates thermal imaging (outside the rail) cameras (or some other technology) to cover 360 degrees of each of their existing ships, it would cost about $120,000 per ship or $4,000,000 to retrofit the existing ships.

2) Video storage requirements

In terms of video storage, how long do you store surveillance videos? The Coast Guard estimates that an additional 2 weeks of storage could cost $200,000 per vessel. Is that a reasonable estimate? If not, what would you estimate the cost per vessel to be for an additional 2 weeks of surveillance video storage, or alternatively, what is the compression rate, resolution, and frames per second that you use for video storage?

CLIA maintains that a risk assessment for the purposes of the video surveillance system required by the CVSSA is the only realistic solution and should take into account the type, frequency and location of incidents occurring on different cruise ships. This risk assessment can serve as the basis for the video surveillance system design. This assessment would establish the types of alleged crimes that are reported within specific areas of the ship (Threat). The assessment would also consider the frequency with which such incidents occur (Vulnerability) and the documentation needed to assist in providing evidence for prosecution (Consequence). Finally, the assessment would take into account existing precautions or measures used to mitigate incidents.

A risk assessment would reflect the characteristics of each ship and incorporate factors such as: ship size, nature of the ship’s operations, crew complement, number of passengers, passenger demographics, ship layout and design, and historical data on the type and location of prior crime allegations. Arbitrary standards as to the location of cameras, the number of cameras, or image retention periods should be avoided. Standards should be based upon a logical and objective analysis and on the risk assessment of that ship’s unique characteristics. One size does not fit all.

Image retention periods are generally a product of storage space, number of cameras, frame rates and image size/quality. The quality and frame rates of the images produced by many (over 1,200 in some of the largest ships) digital (and some analog) cameras intentionally varies, depending on the established system requirement they serve. For example, in guest stateroom corridors, the required frame rates and image quality are sufficient to identify persons in view. For a pool deck mast camera, the requirement is much less. One requirement gives a high-level overall view; the other a greater level of detail. Cruise industry CCTV systems are designed with cameras having a range of resolution for different applications and the position/location of the camera. The overall system must balance camera resolution versus the storage capacity available.

Video retention practice is based on a sound, risk-based analysis. If required to arbitrarily increase CCTV retention time by two weeks, the cost estimate would be approximately $400,000 to $600,000 per ship. Some newer ships might have a lower cost estimate based on the design of the existing CCTV system.

3) Crime reporting

When are crimes reported (from the time the incident occurs to the time reported) for your company? Within 24 hours, within 1 week, etc?
Appendix (B) Cont’d – USCG Questions for CLIA pg. 4

CLIA believes that there are two answers to this question that are relevant for both this and the previous question. First, cruise lines report the overwhelming majority of alleged CVSSA incidents to the FBI immediately. Typically, once any crime allegation is reported to the CSG, the facts are obtained, interviews and/or medical examinations conducted, as appropriate and depending on the circumstances (location, jurisdiction, etc), the matter is then reported to the appropriate law enforcement agency, which may include the FBI, USCG, Flag State and local authorities. It is difficult to state an average time, but incidents are routinely reported within 24 hours to the FBI and local authorities.

The second part of this question and answer relates to when the alleged crime is reported to the cruise line by the alleged victim. Two cruise lines provided statistics on the average time from the incident occurring to it being reported to the cruise line. These statistics should be considered when looking at the video retention requirement discussed above.

A review of the incident reporting history since January 1, 2012, for one cruise line revealed that more than 86% of their worldwide allegations of the types delineated in the CVSSA, were reported to onboard security within 6 days of the incident (typically, they were reported within minutes of the alleged incident and relevant video was preserved (and is still maintained today). The remaining 10% were reported: 9, 10, 14, 16, 34, 38, 49, 56, 124 and 351 days beyond the incident.

Another review of all incidents involving alleged serious crimes, from July 1, 2010 to October 14, 2013, noted the average time from when an alleged crime occurred to victim reporting it to the cruise line – 40 hours, 24 minutes and 4 seconds.

Note – one incident was reported over 24 days after the incident occurred. If this incident is taken out of the equation, then the average time from when an alleged crime occurs to when the victim reports it to the onboard Security Officer is approximately 18 hours.

CLIA believes that extending or requiring an arbitrarily selected period of time would have no measurable benefit to victims or Government agencies such as the USCG and FBI. CLIA continues to believe that a risk assessment for the purposes of the video surveillance system required by the CVSSA is the only realistic and practical basis for system design, camera location, type, quality and retention time.

CLIA and its member lines would be happy to meet with the regulation developers to answer specific questions on CCTV systems, MOB systems and crime reporting. We understand the limitations of the USCG due to the Administrative Procedures Act and wish only to make our experts available for further explanation on this complex issue.
Appendix (C) DMP’s answers to the CLIA’s list of “Technical Problems”

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 vocal 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 not 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 5 – 8 degrees to catch person falling overboard.

Regards,

Dave Leone
President

www.radupa.com
Kendall Carver

From: Kendall Carver [kcarver17@cox.net]
Sent: Monday, January 21, 2013 1:03 PM
To: Kathryn Turman (Kathryn.Turman@ic.fbi.gov)
Subject: FW: Erasing cruise ship crime
Attachments: Cruise Control at Sea - Med.PDF

Here is part two with the second attachment.

-----Original Message-----
From: Kendall Carver [mailto:kcarver17@cox.net]
Sent: Monday, January 21, 2013 12:31 PM
To: Kathryn Turman (Kathryn.Turman@ic.fbi.gov)
Subject: FW: Erasing cruise ship crime

Kathryn...

Wanted to clarify your recent memo to me.

1. You are clearly saying that the FBI did not make the requests to have the wording change contrary to the statement put out by Kerry’s office. Strange that they would put out a PR release if it was not true but will accept your answer.

2. In your second paragraph you indicate that the FBI does not have legal authority over compliance on the issue of giving notice. Who then does enforce this requirement of the law?

3. In your third paragraph you indicate that when a crime occurs that meets the criteria of crimes listed under the CVSSA the FBI is required to provide notice, information, and assistance to the victim. In line with the memo is sent in May to you, you appear to be agreeing that the FBI will contact the victim. Assuming I am reading this correctly, that is exactly what we requested. Is this assumption correct??

4. Regarding the two victims stories you mentioned the overboard and assault. Regarding the overboard case, I assume you are referring to the Rappe case which happened at the end of November. I assume that the Cruise Line report indicated that they had a video of the person going overboard. If this is the case, the family saw the video and could see nothing showing him going overboard. I have also been advised the Broward County police reviewed the tape and “the copies of the video he has do not show the events” of him going overboard. Did the FBI actually review these tapes or did they just take the word of the cruise lines?

Regarding the assault, the Royal Caribbean also characterized the victim as sustaining only “minor injuries and was treated in the ship’s medical facility.” But according to Cruise Critic member “Bloemerli,” the man was transferred to a Fort Lauderdale hospital at the conclusion of the sailing to be checked for broken ribs and possible internal injuries. Again, did the FBI just take the report from the cruise lines and close the file? Clearly, if the person had to go to the hospital, it can’t be considered minor.

Other area that concerns me is the following statement in the attached article on page 8 which indicates the following:

“Pennant (who is with the Coast Guard), however, defends the USCG’s training course to Security Management. explaining why the training was only eight hours long, with only three
hours devoted to crime scene preservation. "One of the key things that was consistent throughout the development of the training was that we don't want to train crew members to act as agents of the law," says Pennant.

This statement was also made at the FBI meeting we attended, that they don't want the crew members to act as agent of the law. If, in fact, the crime report is only made by the cruise ship to the FBI with no verification with the actual victim, then they are acting as the law. Would appreciate your comments.

Also, note the attached on how the Cruise Ships respond to a victim that has been raped. Starting with page four you will see this being discussed in of the attached. You can see how Gary Bald responds to the issue of how they respond to when they are advised when a victim indicates they have been raped and the comments of Sen. Kerry in the Congressional Hearing of June 18, 2008. Since 50% or more of these crimes involve crew members, they clearly are trying to act not as an arm of the law, but a protector of the cruise lines to limit their liability. That is why we feel it is important that the FBI interview the victim and are pleased with your response that the FBI is required by the Victims' Rights and Restitution Act to provide notice, information, and assistance to the victim.

Kathryn, in your follow-up memo you reviewed the issue of determining whether to open a full case and you indicate the following". The Act is clear about what constitutes crimes and does not contemplate the FBI filtering whether an incident did or did not occur or even whether the "label" for the crime is correct. While the FBI does have a role in determining whether a crime will be prosecuted, that is a different issue (for example, a theft of less than $10K isn't prosecuted, but that doesn't mean the theft didn't occur).

Also, our lawyers have indicated to us that when a crime meets the criteria of crimes listed under the CVSSA the jurisdiction might be concurrent with another country but it is still yours.

Kathryn, as always we appreciate your help and will look forward to your response.

Ken

-----Original Message-----
From: Turman, Kathryn M. [mailto:Kathryn.Turman@ic.fbi.gov]
Sent: Friday, January 04, 2013 9:04 AM
To: Kendall Carver
Subject: RE: Erasing cruise ship crime

Ken -

I be happy to check on the status of your FOIA request.

With regard to the determination of whether an incident meets the CVSSA criteria -

At this point I understand that most of the cruise lines are notifying the FBI about incidents that may or may not meet the criteria for one of the categories listed in the CVSSA if it is unclear or they are not sure. It seems to me there is more over-reporting going on than under-reporting but that is not a bad thing. There are other issues considered by the FBI in determining whether to open a full case, to include the complex jurisdictional issues we have talked about. As our agents and attorneys have said in the past, having legal authority under US law in these cases does not always translate to being able to physically take jurisdiction over a crime that did not occur inside US boundaries.
Thanks,
Kathryn

-----Original Message-----
From: Kendall Carver [mailto:Kcarver17@cox.net]
Sent: Thursday, January 03, 2013 7:00 PM
To: Turman, Kathryn M.
Subject: RE: Erasing cruise ship crime

Kathryn...

Thanks for your quick response. We will review it and get back to you.
However, since the cruise lines are required to report only those crimes the meet the
criteria laid out in the CVSSA, I am somewhat confused by your statement about the FBl
determination of what meets the CVSSA criteria. Is there a difference?? However, we will have
this reviewed and then get back to you.

In the meantime, you will find attached a FOIA request of all alleged crimes that were
reported by the Cruise lines for last year in 2011. You might want to check on the status of
this request. As always, we appreciate you assistance and I know that we share the goal of
victim rights are important in all cases.

Ken

-----Original Message-----
From: Turman, Kathryn M. [mailto:Kathryn.Turman@ic.fbi.gov]
Sent: Thursday, January 03, 2013 1:02 PM
To: Kendall Carver
Cc: jamielb@cbssc.com; lauriedishman@gmail.com
Subject: RE: Erasing cruise ship crime

Ken,

Here is my best shot at answering your questions.

With regard to the final version of the CVSSA: the FBI provided written comments through DOJ
in which we expressed concern with language in the bill. We do not know who requested the
changes in the bill. When asked, the staffers on the Hill could not provide a name of the
individual or individuals who asked for the changes to the bill. We do know it was not anyone
representing the FBI.

With regard to victim notification: There are a couple of aspects to this issue. The first
pertains to the information, access, and assistance that the CVSSA requires the cruise lines
to provide to victims. The FBI and DOJ do not have legal authority over compliance by the
cruise lines on this issue.

The other aspect pertains to what victims of federal crimes are entitled to under crimes
victims' rights and assistance statutes. 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.
When the FBI opens a case on incident that meets the criteria laid out in the CVSSA, we do contact the victim and try to provide information and assistance. Whenever possible the FBI Victim Specialist will meet the victim when she/he returns to port in the US. In some cases, the VS has arranged for and escorted victims to medical facilities in the US for a sexual assault exam and related services.

We have offered and provided some training to employees from two cruise line employees on responding to victims and educating them about FBI victim assistance resources, as well as community-based resources and NGOs. We are also exploring internal options for a more centralized reporting capability to make it simpler and easier for a victim to contact the right people in the FBI.

We looked into the last two incidents you referred to us. The first involving the missing person was resolved by reviewing video footage from the ship. The second incident was determined not to be an assault involving serious bodily injury. In both cases the cruise lines were in contact with the FBI.

I congratulate ICV for keeping the issue before the public and for your efforts to improve safety and security for cruise passengers. We will continue to increase and refine our efforts in the areas for which the FBI is responsible.

Thanks,
Kathryn

-----Original Message-----
From: Kendall Carver [mailto:Kcarver17@cox.net]
Sent: Thursday, January 03, 2013 1:55 PM
To: Turman, Kathryn M.
Subject: FW: Erasing cruise ship crime

Kathryn...

Because of the size of the file this e-mail did not go through, I am removing some of the attachment and will send in two parts.

Ken

-----Original Message-----
From: Kendall Carver [mailto:Kcarver17@cox.net]
Sent: Thursday, January 03, 2013 11:35 AM
To: Kathryn Turman (Kathryn.Turman@ic.fbi.gov)
Cc: Jamie Barnett (jameb@cbssc.com); Dishman, Laurie (lauriedishman@gmail.com)
Subject: FW: Erasing cruise ship crime

Kathryn...

In reviewing our files, you indicated on June 29th that the FBI raised concerns about the Change in language. The question is who requested the change? We can only go from what was said in the Kerry press release unless we can determine the true facts.

We continue to get tremendous press. I will be going to Australia at the end of January to testify on February 1st. Also, we are also getting some tremendous media coverage this
month. Attached is a major article coming out in the UK this month in Marie Claire. In addition, we have had some great interviews this month.

1. On December 18th, Coast to Coast Radio network broadcast a two hour interview show on 550 stations on the issue. This is the largest radio network in the world and the response to that broadcast has been outstanding.

http://internationalcruisevictims.activeboard.com/t52005820/dec-18-12-cruise
-ship-disappearances-rapes-thefts-how-the-in/

2. On December 12, the Vinny Eastwood Show, A Radio Show in New Zealand, did a one hour live interview on Skype with Ken Carver again discussing the issues of crimes on cruise ships.
http://www.youtube.com/watch?v=StAHpA7j2R8

3. Just last night we did a major one hour interview on WBZ in Boston which is attached and more interviews are on the way.

Since the legislation passed our only goad has been to put in place the actions called for in this legislation. On May 3rd we sent a memo to you asking the victims be notified of their rights when they are subject to a crime. So far we have not received an answer. How can we work to make this happen in 2013? Do we need to get together again.

Kathryn, we truly count you as a friend but we are going to continue our efforts to expose what is going on regarding crimes on cruise ships and the treatment of victims until action is taken. However, if you are unable to help us at this point who is it we should be contacting within the bureau or Department of Justice? Mueller or Holder??

Ken

-----Original Message-----
From: Turman, Kathryn M. [mailto:Kathryn.Turman@ic.fbi.gov]
Sent: Friday, June 29, 2012 2:15 PM
To: Kendall Carver; Jamie Barnett; Laurie Dishman
Subject: RE: Erasing cruise ship crime - Salon.com

Hi Ken, Laurie, and Jamie:

We have conducted an extensive review of all internal records pertaining to the legislative process for the CVSSA. There is nothing to indicate or support that the FBI requested or supported the change to limit the scope of reporting. We did find information to document that the FBI raised specific concerns about the change due to the limitations it would place on reporting. It is our policy to offer technical advice and commentary on proposed legislation, which is conveyed to the Department of Justice and then to the Office of Management and Budget (OMB). In the case of the CVSSA the Department of Transportation also received our comments. You may recall that we were the ones who highlighted the discrepancy between the original legislation and the final version to ICV.

As we discussed with ICV in the last meeting, we are moving forward with establishing a separate case classification for cruise ship crimes to facilitate a clear distinction between these crimes and crimes involving other types of crime on the high seas. We are also working with Victim Specialist working group on cruise ship victims to ensure that victims receive information and support at the earliest opportunity.

Thanks,
Kathryn