



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON SOCIAL POLICY AND LEGAL
AFFAIRS

Crimes committed at sea

FRIDAY, 1 FEBRUARY 2013

BRISBANE

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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON SOCIAL POLICY AND LEGAL AFFAIRS

Friday, 1 February 2013

Members in attendance: Mr Neumann, Mr Perrett, Dr Stone.

Terms of Reference for the Inquiry:

To inquire into and report on:

The arrangements surrounding crimes committed at sea, with a focus on crimes against the person. The Committee will, having regard to the principles of international law:

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

WITNESSES

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BRIMBLE, Mr Mark Andrew, Director, International Cruise Victims Australia**Committee met at 12:46.**

CHAIR (Mr Perrett): I now declare open this public hearing of the inquiry of the House of Representatives Standing Committee on Social Policy and Legal Affairs into the arrangements surrounding crimes committed at sea. I acknowledge the traditional custodians of this land, and pay our respect to the elders past, present and future. The committee also acknowledges the present Aboriginal and Torres Strait Islander people who now reside in this area and thanks them for their continuing stewardship of this land.

Please note that these meetings are formal proceedings of parliament. Everything said should be factual and honest. It can be considered a serious matter to attempt to mislead this committee. This hearing is open to the public and is being broadcast live. A transcript of what is said will be placed on the committee's website.

Welcome. Would you like to make an introductory statement before we proceed to questions?

Mr Brimble: Yes, I would. I was first introduced to the cruise industry in 2002 when receiving a fateful call that my first wife had died on board a cruise ship while sailing out of Sydney. I did not understand the complexities of what I was heading into 10 years ago. First and foremost what I did was look to protect my family even though the members on board the ship were not my direct family. I had two sons to Dianne, and it was imminent for me to make sure I would protect them as my first priority. It was that night that I found that I could not even find the telephone number to call the cruise industry to be able to speak to people on board a ship where their mother had died. I was unable to contact that ship until such time as I forcefully found a way to have that ship ring me. It was then that I spoke to Alma Wood, my former sister-in-law, who was sailing on board the ship with Dianne's daughter and her daughter, Corriane. That was when I had found out that Dianne had died on board the ship and that the ship was still sailing for two days to the port of Noumea. I made specific arrangements there and then to have the insurance that they had taken out used to have the family repatriated. I made arrangements for Dianne's body to be flown back, and I know it had to be flown back to Glebe mortuary. I made arrangements for Dianne's family to be flown to Brisbane airport—

CHAIR: So you made these arrangements, not the family?

Mr Brimble: I made the arrangements to have the family repatriated.

CHAIR: And via the insurance company, was it?

Mr Brimble: Via the insurance company that they had taken out insurance with before they went on board the ship.

CHAIR: What would have happened if there was no insurance? You would have to pay for all that yourself?

Mr Brimble: I would have had to have flown to Noumea to deal with the consequences for the family because, quite frankly, the family were left at the gangplank. They were put into a hotel room in Noumea. They could not speak French. I had to track down where they were to speak to them to try to advise them what they should do, even for their own personal hygiene requirements.

CHAIR: So the insurance company, upon your request, was able to step up. What about the cruise company? You are saying they literally were left at the gangplank?

Mr Brimble: Literally left at the gangplank in Noumea.

CHAIR: Were they given money, tickets, advice?

Mr Brimble: Nothing. They were put in a taxi and the taxi took them to the hotel that they moved into and that is where I took over.

CHAIR: And had the cruise company arranged for the hotel?

Mr Brimble: No, the insurance company arranged for the hotel. All arrangements that were made to get them home, which was the repatriation—and I commend the insurance company for what it did because it stepped in and took responsibility. If I could recall the name of the insurance company, I should like to—

CHAIR: We are a public hearing; we are not about concealing anything.

Mr Brimble: I cannot recall them. If I could recall them, I would certainly name them.

Mr NEUMANN: Drop us an email later.

Mr Brimble: Absolutely, I will.

It was from that that I, in being the spokesperson, was not made aware that Dianne had died under suspicious circumstances. I was left with having to deal with the grieving of the family for Dianne and my children. It took 18 months before we found out what happened. I was badgering the Coroner's Court of New South Wales for 18

months for the brief to be provided to the family, which we understood we were entitled to. It took 18 months for the brief to be prepared for the coroner to consider whether or not an investigation should take place into Dianne's death on board the ship. It was announced some 18 months later that it should. It was while reading the brief, which was a considerable brief, that I found that Dianne did die in circumstances that involved other people, other parties, and how her body was found. There was a lot of hearsay that happened within the 18 months, where we did find out that she was found in a cabin of other parties. So it was not until that brief was in my hands that I was able to then become part of a coronial inquest.

The family went to the inquest and I represented the family at the inquest to start to find out what actually happened. All that we were searching for was the truth. That, again, was a period of time of perhaps up to two years that the inquest took place. It was then that the publicity in the media started to become very extensive, and it was something else—

CHAIR: Yes, I recall it was a front-page story basically.

Mr Brimble: It was, yes. The first time I received communication from the cruise company was at the coronial inquest, which was some two years later. I was handed back money that was belonging to Dianne that the cruise company had held in its accounts for two years. There are a number of things that the cruise company at that time knew; they knew they had made some fundamental errors right up until that day. It seemed that nobody cared. And it did not go away because, as we know, the coronial inquest then started to reveal the manner in which the investigation was conducted, the police that were involved, the time that the police took to interview people. I found out some two years later that the police force—

CHAIR: The New South Wales Water Police.

Mr Brimble: —water police were flying around the country interviewing passengers on board the ship. We had thought that perhaps they were meant to be interviewing passengers while they were on board the ship, but they did not seem to do that, and they were using that as a delay as to why it took so long to get to where they were.

CHAIR: When did the New South Wales Water Police actually get to the ship? Was that in Noumea?

Mr Brimble: When it arrived in Noumea. They boarded the ship in Noumea and continued on with the cruise until they arrived back in Sydney.

CHAIR: What was the time from Noumea to Sydney?

Mr Brimble: I think it was another eight days.

CHAIR: One would assume that there were no other ports between Noumea and Sydney.

Mr Brimble: There were.

CHAIR: The passengers would have stayed on board.

Mr Brimble: It visited Fiji and a number of other ports afterwards.

CHAIR: Yes, but I imagine they would not have docked and lost a lot of passengers.

Mr Brimble: I would not have thought so.

Dr STONE: Were the persons of interest still on that ship at that time or they had left at Noumea as well?

Mr Brimble: I think some had taken the option to leave at Noumea and some had decided to remain on the ship. I am not exactly sure, but I know that there was a mixture of both.

CHAIR: So since that time you have been involved with the International Cruise Victims Association.

Mr Brimble: I was looking for assistance. At that time, I was caught within this as a victim because of the family. I was looking for an organisation that could help me, and it was then that I heard of an organisation that had only just started called International Cruise Victims. I contacted Ken Carver in the US only to find that there lived a world of crimes and unsolved crimes on cruise ships around the world. Ken spoke to me of the loss of his daughter, and then I met other parties who had lost their parents—just completely vanished on board ships.

CHAIR: We will be hearing from Mr Carver.

Mr Brimble: There was finally somebody I was able to talk to, and began to understand that it was not just me who was coming up against jurisdictional issues. I had confusion as to whether or not the Noumea police were going to investigate this matter, whether New South Wales police were going to investigate the matter and where the autopsy was going to be conducted. This was all news to me, and I was dealing with a foreign country in a foreign language trying to make sure that it was done the correct way. Nobody was offering me the correct way in which it should be done. I was stumbling in the dark even to find out how I could get Dianne's body from the

Glebe mortuary back to Brisbane for her funeral, which took two or three weeks. International Cruise Victims opened my eyes to start asking questions, and then I asked questions to resolve the contamination of the crime scene that we started to find out had taken place. The manner in which they had treated the family while on board—I recall one story of Alma Wood expressing to me how she wanted to go and speak to an official on board the ship but they were at a function. She went to the function to go into the room to speak to this official and she was denied access because she was inappropriately dressed. She had no clothes, yet she was not allowed to go and speak to a person that she was trying to seek assistance from because her dress was inappropriate, which was caused by the same problem: the company.

International Cruise Victims then started to make me take a critical look at the operation and the structure of cruise ships and their operations within Australia. I started to find a lot of unanswered questions. I started to find other victims who were caught in circumstances on board cruise ships not knowing what to do nor where the law is. Who is the jurisdiction that they should go to? The introduction of CCTV cameras I know came later as a result of Dianne's death. Let me say that that, to the best of my knowledge, is something that is in place for Carnival Cruise Lines or P&O cruise lines but we have got a lot more cruise lines than just P&O and Carnival operating in Australia. I do not know whether or not CCTV cameras are actually in place on board all ships that operate out of Australia. I cannot say that and I am not in a capacity to say that.

CHAIR: Yet Carnival's competitors would actually have these costs.

Mr Brimble: I would not think so if they did not have the CCTV cameras. But if they were in place at the time of Dianne's death I think that they would have been very helpful in knowing what the movements of individuals were on board the ship at that time.

When you talk about putting the CCTV cameras on these ships, we have also got to look at the monitoring of them. It is all well and good putting cameras up on a wall but the monitoring of them is critical. The storage of information from those is also vital if you are on a 14-day cruise and you have got the capacity only to retain recordings for up to 14 days. Most sexual assaults when reported are generally reported delayed and it may well be at the time that they come back to ground, to shore here in Australia, and report that something transpired. But is that too late? Is it that by then the video that could have been used to help prove the alleged case has been wiped over? What is the use?

These are some things that I saw P&O doing to make changes in their operations but they fall short of being regulated by somebody that is independent. They fall short of knowing that they are continuing. Do we know that they are happening? They fall short of whether or not the cameras that are on the ships are actually being monitored by personnel that are monitoring them. They fall short of this: have they got enough? Anyone could say, 'I've got 600 cameras,' but where and on how many ships? So bring in a new ship—but has it got the cameras on it? Has it got a railing height that should be sufficient to stop passengers from falling overboard? Take new systems that are being introduced like man overboard systems where we know that people have fallen overboard from a ship and can do something about it immediately. People are falling off cruise ships and are never found. You will hear people tell you quite a direct story of how that has happened. As you start to go through it and see where these laws are, you will see there is an industry that is sitting there and is turning around and saying, 'We'll do our best to make sure that these things don't happen again,' but they are not responsible to anybody. They are not paying a penalty as a result of not doing it. I do not see that in any legislation. Yet we do get into the complexities of the legislation being somewhat complex, difficult. I am a layman in terms of my understanding of that yet I have been able, in my pursuit of this, to unearth and find people that have got the experiences that can give us some answers and also raise a lot of questions that still have not been answered yet.

CHAIR: Can you tell us a bit more about what ICV Australia does for the Australian victims of crime on board ships apart from the spotlight but in terms of support?

Mr Brimble: We provide a service by which anyone that is involved in incidents can come and speak to us and ask us for direction and guidance. We are not a counselling service. I am just a person saying, 'Knowing that this has happened, this is what I suggest that you should or could do.'

Dr STONE: Can I ask you about a specific example. Say someone comes to you and alleges that they were raped on a P&O liner in Australian waters three weeks before. What could you advise them to do about that that would be effective in terms of bringing the alleged perpetrators to justice?

Mr Brimble: The only thing I could do—which I would have thought would have been done at the time—would be report it to the authority.

Dr STONE: On the ship?

Mr Brimble: Independent authority.

Dr STONE: On the ship?

Mr Brimble: Not on the ship.

Dr STONE: So you would advise her she should have phoned whom? Triple 0?

Mr Brimble: Triple 0, or she should have got an authority in a country. Australia would be the country that I would say that they go back to. But the difficulty with that is that, if I were advised that that was a sexual assault between a crew member and a passenger, the one thing that the passenger is perhaps going to be reluctant to do is report it to a crew member, because they are not independent.

Dr STONE: That is right.

Mr Brimble: They are going to go and report it only to other people that are working for the same company. The independence needs to be there. I would prefer that they could have reported it to somebody on the ship that is independent, but the direction that I can give them is sometimes way too late. By the time that they have arrived in Australia, some of the evidence has gone. I was involved in an incident where an alleged rape took place on a ship, and the victim came to me and said, 'What should I do?' I said to go immediately to the authorities, but then I was advised that there were people on board the ship that were not capable of conducting the rape kit and they did not even have one on board to be able to conduct it. They did not have the requirements to investigate it properly. So, by the time that they had landed back in their original country, it was too late. Sometimes, as much as I can say, 'Go to the authorities,' I know within my heart that we have missed the opportunity and the perpetrator is going to be able to get away. In some ways I feel that that was what happened in the instance with Dianne. There may well have been a better opportunity to bring people to justice for crimes that they committed, but the evidence was contaminated.

CHAIR: Or hidden, concealed or thrown out the window.

Mr Brimble: We do not know, and we never will know. It should not happen again, I think.

Mr NEUMANN: What are the fundamental errors, to use your expression, that the cruise company made?

Mr Brimble: Firstly, I think that they did not treat the death as a possible crime in the first instance. They brought medical assistance to Dianne's aid, which I heard, and I think that that may or may not have been correct; I do not know from a technical point of view. But then the purser was being harassed by the persons of interest and allowed them into the room, and they cleared their room out. They took all of their possessions out of the room. That allowed any evidence that was in there that could have been used for a future prosecution to be removed.

The care of the family is a side that I think was fundamentally wrong, and I think it has been recorded many times as to what happened to the family on board the ship. They were the victims. They seemed to be treated almost as if they were guilty of something, and I still to this day wonder why they were treated that way.

CHAIR: Especially when you are talking about young girls.

Mr Brimble: Young girls, yes. They were 12 years of age, and Alma, who was Dianne's sister, was the custodian. It was quite shocking.

CHAIR: Have you had any assurance from the cruise companies in the last 10 years, either as Mr Brimble or as ICV Australia, about guidelines for the way authorities would respond to a crime on a cruise ship?

Mr Brimble: I was party to the information that was provided to the New South Wales coroner on their proposals for guidelines for that. That was presented by Carnival, but I have not seen anything from any other cruise company that operates in Australia. There were some protocols, I think, that were introduced later.

CHAIR: They are company guidelines or company decisions?

Mr Brimble: Correct—all company guidelines, yes.

Mr NEUMANN: So self-regulation.

Mr Brimble: Self-regulation, yes.

CHAIR: Not even by the industry.

Mr NEUMANN: By the individual companies—maybe by the Insurance Council of Australia. It is individual self-regulation by the company itself.

Mr Brimble: I have seen nothing that has made them accountable or able to be penalised by anyone, other than themselves, if they do not do it. They say it is their best intention; they say it is their best practice. My fear has always been when could that not be done. How do we know the responsible service of alcohol is conducted on board the ship? The only people who are going to turn around and tell us that are themselves.

Mr NEUMANN: When they talk about best practice, what do they adhere to? Australian standards?

Mr Brimble: Their best practice is the best practice of—

CHAIR: But you are saying that if their competitors do not do it that is a cost burden their competitors do not have. It could actually be the lowest common denominator in a way: their best practice might be undercut by their competitors who do not pay for CCTV or security guards or do not have a responsible service of alcohol policy.

Mr Brimble: Yes.

CHAIR: It is interesting you use that term because that is a statutory term, I think, but that statute does not apply to ships outside of Australian waters.

Mr Brimble: No, it does not.

CHAIR: In fact, outside of New South Wales waters or Queensland waters!

Mr Brimble: Where does it state that they have to? They can say that they are the guidelines they will follow, but I am hearing reports coming out of the US where they are saying you can buy drinks packages. If you put 5,000 people on a ship, you have a town. Then when you add all of the other pressures of society into that you are going to get issues come out of that. The only thing that I see that none of the cruise ships here in Australia have is an independent force or an independent police force or independency at any given time.

Dr STONE: Sky marshals were introduced on planes when we were most concerned about terrorism. Do you see an equivalent type of placement on a cruise ship? Who would you see employing those—let us call them ship marshals instead of sky marshals?

Mr Brimble: If you had those independent marshals who had authority on board ships, then I think it would be something that the federal government—there would be a cost to the federal government, yet it would have to be borne by the industry ultimately. Every passenger who goes on board a ship believes that they have the same safety and security as they do on mainland Australia. I do not know whether or not they are ever made aware of what they are forgoing as a result of stepping on board a cruise ship. Are they being advised of what their rights are or what rights they are giving up as a result of going on board a cruise ship?

CHAIR: Mr Brimble, if I could be devil's advocate for a minute: the reality is that a ship marshal—our Constitution or the Queensland Police service brief does not extend to Noumea or to Hawaii or to any other destination. It would be a legal nightmare, wouldn't it? You would have a person with an AFP type badge, but that badge would just be a remnant of another place.

Mr Brimble: Yes, that is a complexity that I see. It is not an area that I profess to know the answers for.

CHAIR: Yes, I know you are here as a layperson.

Mr Brimble: However, the safety and security of an Australian on board a cruise ship should not be denied because of the complexities of that. We should put something in place for it. I will not put a family member of mine on board a cruise ship because I know there are possibilities that they could get caught up in. I am aware of it only as a result of what I have endured. I have always said that cruising is a good holiday for people. I am not opposed to people doing it, but they need to be doing it with the safety and security that they need.

Dr STONE: What about the American Kerry legislation? Is that an improvement on what Australia's situation is?

Mr Brimble: It is a huge step forward.

Dr STONE: So you would recommend that we would embrace some—

Mr Brimble: Yes. I did say that in my recommendations to the New South Wales coroner, to have a similar act to the Kerry act. A lot of thought has gone into that and a lot of the ships that operate are American-based organisations. I think they have learnt a lot of lessons. International Cruise Victims have learnt a lot from the ships over there because they operate so many more than we do and are experiencing so many different things on board their ships. There are introductions that are being made that I think would assist us in giving the protections that I think Australians deserve when boarding a ship. You look at what happens when they go and they say that even free alcohol is denied on ship. It is different, but it is going one step towards helping. But then there is alcohol consumption on board a ship.

The greatest thing that I saw in recent times is the *Costa Concordia* in Italy. We all know what happened over there. You get 5,000 or even 8,000 people on board a ship and you evacuate that ship, you create chaos. If you had alcohol and all of the other things of society added to that and try to evacuate 8,000 people from a ship, I would hate to think what you would get. You won't get 32 people die, you will get thousands. How well trained are security staff, how well trained are the staff on board ships to be able to evacuate them. And ships are getting

bigger and bigger and bigger. We can see how easy it is for a ship like the *Costa Concordia* to get into trouble. I would hate to see that something like that could happen here, in Australian waters, and it could be Australians. We had Australians who were involved over there. I would hate to see that that could happen here.

It is inevitable that crime will be on ships. It is how we manage that, the jurisdictions we put into place, the laws we put into place to handle that to give the victims the protection that they need—that is, the victims who are either left on board the ship or the victims who are on mainland Australia. There certainly is a lot to be said about how you should be treating those people as well.

I have looked at some of the things that the industry is attempting to do. I have always said they should not be cleaning up their image, they should be cleaning up their act. What things are they seriously willing to put into place, not suggest or recommend or look at or propose? Let us put some laws to this; let us put something together so that they have to be accountable to an independent body, such as the federal government, so that we know and can be assured that those things are happening. Otherwise we will have on our hands again another incident on board a cruise ship that will show we have gone back to what we did before. Or it could be a ship that operates within Australia that is not doing what other cruise liners are doing. That is the thing that frightens us as a family the most.

CHAIR: Mr Brimble, what if I put it to you that if the federal government steps in and legislates, then the cruise industry would just decamp and make Noumea the point of departure—or New Zealand or any other place—and people would fly there and so Australia misses out on a valuable industry that turns over billions of dollars and is expanding in Australia?

Mr Brimble: Explain that to my children. Explain that to my son. Ask him whether or not his mother's life was worth less or more to him than that? You cannot quantify that in dollars. I know that cruise operators operate under a profit; I know as a country we have to look to be able to attain the volume of dollars, but we are talking about lives here. We are talking about innocent people getting put into circumstances—it goes on forever. I do not mean to be emotional about that—

CHAIR: No, and I was being deliberately provocative.

Mr Brimble: but it is quite a pertinent point. We could find other ways.

Mr NEUMANN: In some industries where there is self-regulation—there is obviously self-regulation by the individual company in this case—there are voluntary codes of practice. But in the insurance industry there are also, for example—and we are just dealing with the natural disasters in Graham's electorate and my electorate and also Sharman's—organisations above that. For example, a financial ombudsman service that people can go to. And if—

Mr Brimble: Industry fund?

Mr NEUMANN: Industry, and there is also assistance there. But what do you say about something like an ombudsman service that is available? Because in those cases, for example, even if someone is declining the insurance claim, the abuse of the claims process could result in a financial penalty recommended by the ombudsman's service to that particular thing. So, for example, in your case, even if there were not a conviction, if the company had behaved in an egregious manner towards your family there could be some sort of penalty. That is the only thing I can think of.

Mr Brimble: I think it is what needs to be put in place on board ships that is going to be preventing these. The ombudsman position in this would be: what would be coming to them? Would it be the aggrieved consumers who are on board the ships, complaining about specific things? But I think there is a lot of prevention that needs to be done before we can look at it. Ultimately, maybe that could be functioning, but—

Mr NEUMANN: What about the equivalent of air marshals or something like that?

Mr Brimble: It could well be the answer. It becomes the jurisdictional difficulties of that, but that could be the answer—that or getting the independency on board a ship. That would give the right of passengers to know, 'I have gone on board this ship. Now, if anything happens I can go to this person and know that I am not dealing with the company'. Every person that is on board that ship is being paid by the company; nobody else is paying them.

CHAIR: An air marshal is anonymous for a 20-hour flight. But for 14 days with 3,000 or 4,000 people on a ship—would you want the 'ship marshal' to be anonymous, or to be walking around with a badge saying, 'I am the independent person you can come to if you have troubles'?

Mr Brimble: You would think it would have to be a person on board the ship that they know is who they could go to.

Dr STONE: And they would have notification in a pamphlet, or a whatever made—

Mr Brimble: Correct—on a paper as they board.

Dr STONE: 'By the way, if there is any offence committed, or whatever, you can call this number.'

Mr Brimble: Call this number.

CHAIR: Yes. You could work with the security.

Dr STONE: Yes.

CHAIR: Could you tell us about the types of incidents you have dealt with, say, since Dianne's death—say, in the last 10 years—or that you have heard of in Australia? We will hear from Mr Carver after in terms of internationally, but particularly Australian incidents and the types of incidents—assault or theft or whatever.

Mr Brimble: I have heard of an incident of a young man jumping off the back of a ship as it was coming into the country, and the ship could not find him. So, ultimately, he was lost at sea, and the family suffered badly. That was an Australian based family. I have had—

CHAIR: Was there a suggestion that that was illegal activity?

Mr Brimble: When people make contact with me I never make that determination.

CHAIR: Yes.

Mr Brimble: I just merely take the information and try to guide them to see whether or not there is anything that is alleged around it. There have been rape victims. There was a 15-year-old raped on board a cruise ship here, allegedly, and I have heard the circumstances around that. I have heard of sexual assault; of people getting into people's cabins when they should not have. I have heard of drunken, alcohol induced parties on board. I have heard the gamut of what I probably would hear by reading the local newspaper for what might happen in a small town of 5,000 people.

There are funny things that I do not hear about. I certainly do not hear the statistics of these crimes that may or may not happen on board ships. Where are they? How many people are reporting sexual assaults?

CHAIR: In that town of 5,000 people the officer of the Crown is duty-bound to report and investigate before making a decision.

Mr Brimble: Yes. I am interested in seeing what drug convictions have actually happened as a result of drugs being found on board a cruise ship. Where are the statistics on that? I cannot find them. I have tried. As I said, they have zero tolerance to drugs. That means that there is no drugs on board a cruise ship? That just does not work. It is those things that make you ask questions, because there are certain things that have to be put in place to start to report and record this, to know what we are dealing with so that we are putting the right measures in place to be able to deal with it.

Dr STONE: Have you approached or been approached by the National Sea Passengers Facilitation Committee, a joint government and industry forum established to discuss and develop collaborative approaches to managing cruise vessel issues?

Mr Brimble: No.

Dr STONE: Okay. So that cannot tell us much about whether you think it is working.

Mr Brimble: No.

Dr STONE: There is also the Crimes at Sea Act 2000, which was probably established in another context—more about people smuggling. Are you aware of that act and have you looked at the legislation in terms of what it might have done or could do to make passengers' lives safer?

Mr Brimble: I have. The small parts of the Crimes at Sea Act that I dealt with were revealed during the coronial inquest as to where the jurisdiction held. It was more arguments as to where a victim's rights are. I certainly would not say that I am any expert on that at all. I have not dealt a lot with the Crimes at Sea Act.

Dr STONE: Right. Whereas you feel that the Kerry act, if it were introduced to Australia, would take us a long way to giving greater protection?

Mr Brimble: It simplifies some things and puts specific things in place. International Cruise Victims started with a 10-point plan. The 10-point plan was submitted to the federal government at the beginning of the coronial inquest as a plan that could be looked at to be put in place to protect passengers. The Kerry act, through the work of Ken Carver and our organisation in the US, was a combination of some very clever people thinking that these could be world measures that when put in place would help protect passengers. So I would say yes.

Dr STONE: Okay.

Mr NEUMANN: So what you are really describing to us is, as I have said before, rule of the company rather than rule of law. Whether people behave or misbehave, there is no restraint, there is no sense of sanction or enforcement. It is sort of describing to us something that could be a lord of the flies type of situation where people do whatever they want and reports to the company result in no sanction, no investigation, contamination of evidence, dealing with people in an outrageous way. Is that what you are saying can happen? That is sort of what you are describing with your experience with your family—and others as well?

Mr Brimble: Fortunately, an experience such as our family's has not happened again. We talk about the cruise industry. Who is the cruise industry? Who are the members of the cruise industry and who speaks for all of them when they turn around and say, 'We will implement these things' as simple as the CCTV cameras? Where is it that says this? Is that going to be self-regulated? If the CCTV cameras are on board ships, that is good, but are they operational? Do they work 24 hours a day? Are they in the places that they should be? Is that the self-regulating part that should be there or should that be the thing that we are putting laws to so that they are there rather than leaving an industry to do what it thinks is best? Their intentions may well be good, but those companies change. The people within the companies change. The cultures within those companies change. I would not know what it would be like to sail on a Royal Caribbean, Carnival, Princess, P&O, Orion or Norwegian America, but they are all different and they create different challenges. But when they come into Australian waters they have Australian passengers on them that I believe duly deserve the safety and protections that they have while they are on mainland Australia. Why should the laws and people around them that protect them be diluted because they chose to take a cruise as a holiday? I go to Club Med and it does not change, but if I go on a cruise it changes and puts my family in jeopardy.

CHAIR: Thank you very much for taking the time to appear before us. On behalf of the committee I say a big thank you and pass on our respect and best wishes to the Brimble extended family. It is sad to see that we have known you for 10 years through the media. I know it has been a very difficult journey for the whole family, so thank you for the great work that you have done on behalf of many other families.

Mr Brimble: Thank you.

CARVER, Mr Kendall, Chairman, International Cruise Victims Organization

[13:31]

CHAIR: Welcome. Thank you for providing a written statement and accompanying documentation, which we have authorised as a supplementary to your original submission. As we have these documents here, it is not necessary for you to read out your statement, but perhaps you would like to make a bit of an introductory statement about the background and objectives of the ICV before we proceed to questions.

Mr Carver: Yes, I would. First of all I would like to thank you for the opportunity to be here. I had an interesting flight yesterday in that one out of Dallas was cancelled and I then had to go to LA and sit on an airplane for six hours last night.

CHAIR: Welcome to Queensland. We have two Queensland MPs here and are very happy to have you here.

Dr STONE: And Victorian.

CHAIR: And Dr Stone represents the rest of Australia—especially Victoria!

Dr STONE: Especially rural Victoria.

Mr Carver: I am here today both as a victim and as Chairman of International Cruise Victims, an organisation formed by people who have experienced tragedy on cruises and have been treated poorly by the cruise lines. My prior working experience was to serve as president and CEO of an insurance company in New York City for 18 years. This is the last thing I ever thought I would be involved in. As a victim I have personally felt the pain, as Mark has, not only of losing a daughter but also of the struggle with a cover-up by a major cruise line of the facts concerning her disappearance. She was a passenger on Celebrity Cruises. Each member that has joined ICV, which was founded in January 2006, has had a similar painful experience. Having listened to many of these stories, I feel like a counsellor when somebody comes in and shares these tragic, horrific stories that I listen to.

The Brimble case is fairly famous, but I will give you some background on my daughter's case. I have four daughters. We were first aware of the problem with our daughter—we lived in Cambridge, Massachusetts—when our granddaughter called to say that Merrian was not returning her phone calls. So I got involved and said I would check it out to see if there was a problem. I eventually went to the Cambridge police and filed a missing person report. Based upon their efforts, after three weeks they found a credit card transaction putting her on an airplane flight to and from Seattle and on a Celebrity cruise ship. So I called Celebrity Cruises and said, 'Gee, was our daughter on your ship?' They got back in a couple days and said: 'She was but after a couple days didn't use her room. That's not uncommon. We can't tell you whether or not she got off.' So there we were.

CHAIR: But she was definitely on the ship?

Mr Carver: She was definitely on the ship. They have a photograph of her on the ship, and her steward saw her for the first couple days.

A brief summary of the facts concerning Merrian is that the FBI was only notified of her disappearance five weeks after she disappeared and only after we had talked to the cruise line. The cruise line disposed of her property, giving it away to charity immediately. Their protocol calls for 90 days. I love the cruise line protocol. They took her items and got rid of them. The steward said, 'What do I do with them?' They just said, 'Put them in a bag' and got rid of them. When we asked about videos which could show something concerning Merrian's disappearance, they said that we had really got there too late and that there were no videos because they had already been erased. We then sent our detectives on the ship. They were told there was no video, no review concerning Merrian.

CHAIR: Remind us of the date that she was on the ship.

Mr Carver: 28 August, 2004.

CHAIR: So digital was widespread.

Mr Carver: I will get into that. In a deposition we asked about the videos. They said that it was national security and would not talk about it. Then, when Merrian's case was getting a lot of press in the United States, the President of Celebrity Cruises, David Hanrahan, asked Carol and I to come to a meeting and said he would meet us any place. So we went to Miami and met him. He indicated the tape was broken. So now we had that it was erased within three weeks, it was national security and it was broken. They made a report to the FBI saying the same thing: there was no tape. In the material that I furnished to you you will find that in 2008 they said that they did have a video. They had kept it for several months and reviewed it, then got rid of it. So they had been lying to us from the beginning.

We made the decision that we wanted to speak to one person on that ship: the steward. We had to hire an international detective agency. We put a law firm on retainer in Boston and spent \$75,000 just to get a deposition from that steward in January, at which point he said he had reported Merrian missing daily and they had told him to forget it and do his job. At the end of the cruise he said, 'What do I do with the stuff in the room?' they put it in a bag and got rid of it. They took a purse with her name and social security number and put it away in storage. When we went to Miami to get the deposition we had to hire another law firm, so we ended up with two law firms and an international detective agency to find out that this organisation had been lying to us from the beginning. We were not looking for baggage. We were looking for our daughter.

That summer in June of 2005 a book came out called *Devils on the Deep Blue Sea: The Dreams, Schemes, and Showdowns That Built America's Cruise-Ship Empires*. It was written up in *Businessweek* in a whole-page article. I went out and bought the book. It was about Royal Caribbean and Carnival. I came to a page, which is in all those documents you have, stating that cover-up was a standard operating procedure. If they get a person involved in a crime, they get them off the ship, which they had done in Merrian's case. That is just the way they did business. All of a sudden I realised it was not just us. That is the way this industry did business.

In December 2005, at the first congressional hearing, it talked about two cases. One was Merrian and the other one was the Smith boy. They indicated that, as soon as they knew she was missing—third week of September, when they knew before—they cooperated. Starting in the third week of September, as you will find if you look at the material, there were internal emails where they were setting up the cover-up of the disappearance. You will also have the book I mentioned. After that first hearing I came to the conclusion that I was not alone and that there was a major problem in this industry. So with four families we started a little group called International Cruise Victims. That little group is now in 24 countries in the world. It has gone international with victims and friends around the world. In the past, if a victim suddenly went off a ship or whatever happened, it never made the news or only did for a few days; but, because of International Cruise Victims, it is now a group of victims speaking. Mark has picked up the ball here in this country.

When I testified for the first time—I ended up testifying to Congress four times: three times in the House of Representatives and one time in the Senate, so I am almost getting used to testifying—

CHAIR: I hope they were nice to you every time.

Mr Carver: Yes. At the first hearing we did something that nobody expected. We had six victims testifying, but we produced a 10-point program. It is in the material. That was probably the smartest thing we ever did. They were pretty commonsense things. I remember at that hearing I went up to Michael Crye, who ran the Cruise Lines International Association at the time, and said, 'Michael, we ought to work together.' They have a public statement that they have zero tolerance for crime. They did that in 1999 because the *New York Times* started to go after them. They came up with this one-page statement, which is in your material. He looked at me, like, 'Who is this guy?' A year later we came back, and Congress ordered them to meet with us. So we all flew in. We were doing this at our own expense. We have no money. We are up against an industry to whom money means nothing. So we met with them in Washington. If you go through the material that I submitted you will see that the last thing they wanted to do was meet with Carver.

We were going over these rather simple things. On the day that they agreed to meet with us, they sent out a letter, which is in your material, which said: 'To all passengers and the families—oh my god, that's millions of people—we want to hold a meeting in Miami. We're going to pay your expenses. Bring your family. We'll talk about all the good things we're doing.' As the summer developed they kept saying, 'Carver, we want you to invite your people.' I said: 'What's the program and who did you invite? It says all passengers and families.' I could not get an answer. Finally, about two weeks before the meeting, I was threatened me with a lawsuit if I did not invite our members. This is CLIA, the cruise line industry that we have dealt with. It turns out I decided I had better go to that meeting. They had 10 people there. They only wanted our representatives. This was, in effect, a raid on ICV by the cruise line industry by offering a free trip to Miami. I must admit that did not make me very happy.

But then we had another hearing in September 2007. Finally, at the end of the hearing, Elijah Cummings, the chairman, said: 'We've had four hearings. Tell me: what are you willing to do? What are you willing to commit to?' I have in my briefcase here and can show it to you. They came up on 19 December with this slick 32-page report going through all these points. It said: 'Good ideas. We'll think about it. We'll study it, review it, but no commitment.' They would not commit to anything. They said they would voluntarily think about something; but, when it comes to committee, they had 32 pages. But they did something else in that report. They said on the first page of the report, which is in our material, that the FBI testified that the crime rate on a cruise ship was 0.01 per cent. Then we went to the third page, and the headline said the FBI testified in September that the crime rate was 0.01 per cent. They said the same thing on the fourth page. There was only one problem with that, as you will find

in your material: it was not true. I went to the FBI. I said: 'Did you say this? I was there. I didn't hear you say that.' They told me it was not true. So here we are. When I got to the Senate hearing it was a very effective item for me to use that here this industry, given the opportunity to commit to things that work, lied to the committee.

That is one of the roads we have been down.

CHAIR: I want to rewind just a little bit to clarify the 'they' you were talking about. It was the collective body for cruise industries in the united states? Is that right?

Mr Carver: Yes.

CHAIR: There is a peak body that can speak for all cruise industries?

Mr Carver: That is CLIA, yes.

CHAIR: Okay.

Dr STONE: These are ships flagged to the United States?

Mr Carver: No. There is only one ship flagged in the States. These are Carnival, Royal Caribbean. They are flagged wherever their corporations are: the Bahamas, Bermuda, Liberia. If you want a project, you might go watch the Senator Rockefeller's hearing on the cruise lines in March this past year. It was not a good day for the cruise lines in that hearing in that he said: 'You're using the services of 21 government agencies and you're paying nothing in taxes. Do you think that's fair?' Just go watch that hearing. It was not a good day.

Dr STONE: When you said these were American owned companies that were in turn flagged—

Mr Carver: They are not American owned. They are owned in Liberia and Panama. They are really American companies—

Dr STONE: That is what I am saying. They are American owned companies but flagged to these different nations.

Mr Carver: Their ships are flagged in different nations. Their corporations are set up in Panama and Liberia.

CHAIR: But much of their turnover comes from American wallets.

Mr Carver: Yes—with 65 per cent of the passengers, it is an American business. They are on the New York Stock Exchange.

What have we learned? We have learned that cruise lines take the legal position—the paper is in there—that they are not required to investigate crimes on cruise ships and are not equipped to do so. They also are not responsible for the medical care or excursions. They are independent contractors. The ships now hold thousands of passengers. The cruise lines promote unlimited drinks for one price. In fact, I found it most interesting to read on the airplane last night the submission where they say they are controlling drinking. Carnival Cruise Lines just came out with unlimited drinks for one price, 15 drinks a day. That is inhibiting alcohol? My goodness. I would say it is insane.

Dr STONE: Are you aware that the bar staff are also on commission for the number of drinks served?

CHAIR: Have you ever heard that?

Mr Carver: I have heard that, and sometimes they say that are not paid a commission and other times they are, but when you are buying for one price--\$50—you do not need to give the bartender a commission, because the people have unlimited drinks.

Dr STONE: Sure, but the bar staff would be more inclined to keep serving you inebriated if they were on commission.

Mr Carver: Oh, absolutely. I just think that is an insane policy when I read their statements that they have made about inhibiting it and training their people to inhibit it. They are inhibiting it to 15 drinks a day. That is rather incredible. And, with unlimited drinks, crimes are going to occur. If a woman is raped, you know what the defence is? 'You were drinking.' One of our female victims in the United States was raped by a crew member. It was a security agent, but he is really a janitor during the day. So the person said, when this woman called, 'You've got to learn to control your drinking.'

Since cruise lines do not investigate crimes and report them only on a voluntary basis, most crimes go unrepresented. It is the perfect places to commit a crime.

CHAIR: So that is prior to the Cruise Vessel Security and Safety Act?

Mr Carver: That is right. Cruise Critic, which is a well-known cruise blog, took a survey. They said, 'How many of you have been involved in crimes?' Ten per cent said they were involved with crimes on cruise ships.

CHAIR: A self-selecting survey?

Mr Carver: It covered 1,800 people.

CHAIR: It was not self-selecting and they randomly surveyed?

Mr Carver: Yes. They asked a whole series of questions: where have you been on a cruise et cetera.

CHAIR: Okay.

Mr NEUMANN: These are customers of the cruise liners?

Mr Carver: Yes.

Mr NEUMANN: And you are saying 10 per cent said that they have been involved in crimes.

Mr Carver: I did not say that; they did.

Mr NEUMANN: You are saying they reported that.

CHAIR: Did they give the method that they used to obtain the sample?

Mr Carver: I cannot confirm the sample.

CHAIR: Right, but if it is a self-selecting blog then that might distort it.

Mr Carver: I can support that. I can also support other studies that have been done by Dr Ross Klein, who worked with Jill Poulston. I believe you have their report showing that sexual crimes on a cruise ship are anywhere from 50 per cent or higher than they are in the average American city. That is pretty significant. In addition, every two weeks somebody goes overboard on a cruise ship. Often they say there is no video, and every time they say there is no video I think of my daughter's case. They said there was no video, but then three years later—how many people spend \$75,000?

CHAIR: That is right—with two lots of lawyers and a private investigator to find out that they were with holding the evidence at some stage you made contact with them.

Mr Carver: And in the Cruise Vessel Security and Safety Act there is a provision saying that, if there is a man overboard system, you have to have it on your boat. The Coast Guard asked two years ago for proposals for man overboard systems, and guess what? They got them. They got companies that spent hundreds of thousands of dollars, and yet nothing has happened. Nobody has put those on their ship, and we are talking about human beings overboard every two weeks.

Dr STONE: In the same line: in your information you suggest 50 to 75 per cent of all crimes on board involve crew members. Does your organisation—or, indeed, does the Kerry Act—specifically home in on the crew members being better vetted when they are engaged to go on a ship in terms of character checks or checks of their own prior offending and so on?

Mr Carver: That is an interesting question because we have had several meetings with CLIA in the case of the supervisor involved in Merrian's case to get him off the ship. I asked them, 'Do you do background checks or disclose that information if somebody goes to hire them?' They said that would violate laws to disclose that information to the new employer. I said, 'Would you give me a legal memorandum from Liberia saying that that is illegal?' I never got that. The answer is no. They just go from one ship to the next.

CHAIR: In Queensland we have something called a blue card where, before you become a teacher, a lawyer—

Dr STONE: Childcare workers—

CHAIR: they do check up on you quite a bit. You have to show at least that there have been no criminal charges or even, I think, interviews.

Mr Carver: That would make sense. I had a woman write me last week on something else I had never thought about: the child care on a cruise ship. If you have a childcare centre here, you have to go through all kinds of checks. There is nothing like that on a cruise line.

CHAIR: Whereas, from the research I did over the summer talking to people, people go on cruise ships to have a break from their children and repose a lot of trust in the childcare workers on the ships.

Mr Carver: And there are no standards.

So I would say that the goal when we started this process was to voluntarily work things out. I think that is what the cruise lines would like to say: 'Voluntarily trust us.' You will see Kerry's hearing. He pleaded with them: 'Come in. Talk to us. Let's work this out.' They chose not to do that, so a bill was introduced, and this little group of victims passed the first major legislation in the world. There were only four votes against it in the House and the Senate. That is rather amazing. When we got done, CLIA said, 'Oh, this is just what we wanted.' I had letters to Christine Duffy I wrote in the first year saying, 'This is what you wanted, so let's work together.' Somehow she

never responded to me. It showed the force of the victims' stories and the fact that there needs to be protection for the citizens of the United States, the citizens of Australia and the citizens of all countries. People don't realise when they step on that ship what they are stepping where the police are not really police, they do not investigate the crimes and they take the legal position that is not their duty. So they are just totally at risk.

CHAIR: They are not protected by the rule of law. They are protected by the rule of contract.

Mr Carver: By contract and by what the cruise lines are doing. The problem of security on a cruise liner is half the crimes are conducted by a crew member. So they clearly do not want to—

CHAIR: Investigate, it exacerbates their liability obviously.

Mr Carver: So as an organisation we have no-one to lobby over here. I was in Europe this summer. We have a passion that action needs to be taken against this industry. In the past there was no consolidated voice and no action on their part. I have given you a lot of attachments. I could go through them all.

CHAIR: Mr Carver, the language you just finished off there was that action needs to be taken against this industry. Do you mean this industry needs to lift its standards or is it a retrospective punishment?

Mr Carver: These corporations need to operate under governmental rules and, if they violate those rules, then there is punishment for them. Right now they are not under the rules. A cruise ship is a city of 8,000 people. They have cooks and they have waiters and they have entertainers and they have a captain who acts like the mayor. They are serving unlimited alcohol. They have a crew from the Third World and they have no police. It is a recipe for disaster.

CHAIR: You come from the insurance industry. This committee has looked at the insurance industry in the past. It is self-regulating, by and large, in Australia with government oversight, so what is the difference?

Mr Carver: Let me tell you. We are so regulated with laws coming out of our ears. This state examines our office every three years. It is not a free-rolling thing where you come in and say, 'Okay, we are able to do this or that.' It is a highly regulated thing.

Mr NEUMANN: Via APRA, ASIC, the financial ombudsman service. You are being a bit disingenuous there, I think.

Mr Carver: No, we are highly regulated.

Dr STONE: Given this cruise industry relies very heavily on projecting an image of fun, glamour perhaps and maybe value for money too, is it sufficient just to expect public awareness of these crimes of the real state of self-regulation and—I will not use the word 'lawlessness'—the free-for-all in what Australia would call a kangaroo court scenario on the ships? Is it sufficient to make sure the media is always aware via organisations like your own of what can happen? Is that not enough to keep them self-regulated?

Mr Carver: It is very helpful. There is the fact that it has moved ICVA to date also. The *60 Minutes* program from Australia came over and filmed this year. I do not know if you saw that. *Dateline* came over from Australia filming. We have had constant media. The passengers on a cruise ship need to have rights. Our says you have rights, that when a crime occurs you do not go to the security of the cruise ship. You can get a direct hotline to the FBI. The victims or the passengers need to have rights that are given to them to avoid this voluntary relationship. In fact, I have a memo here from the FBI. The FBI have reviewed this and said that, according to the laws, they have to communicate when a crime is reported to them.

CHAIR: Could you talk about the gaps then in the Kerry act? Obviously, ships are arriving in the US and ships are departing the US. What are the gaps in the legal protection for passengers?

Mr Carver: The gaps are that, if you are from Australia and you get on a cruise ship in New York harbour and are heading for London or wherever, you have no protection. You have to be a US citizen. That is why I think Australia is extremely important. Our goal is to move this around the world. We have had a meeting with the IMO. Unfortunately, the IMO is controlled a lot by the countries who do not have an interest. Our goal is to move these laws out around the world.

There are structural changes that need to be made to the ship. That they have time locks and that the crewmembers have only certain hours that they can go on the ship. There are structural items that need to be addressed.

CHAIR: The International Maritime Organization is developing these guidelines. Have you had a look at the views of the effectiveness of the guidelines, particularly relating to when there is an allegation of a crime on board?

Mr Carver: I have. At this point our opinion is that they are voluntary actions not mandatory and there is no enforcement. The enforcement of laws on SOLAS and things like that rests with the country where the ship was flagged and where the ship was flagged they do not do anything.

CHAIR: Are you saying Liberia isn't passionate about some of these things?

Mr Carver: I would say that.

Dr STONE: Uzbekistan?

Mr Carver: The people who should be policing it are where the ships have been flagged. What is interesting is that Cunard line just moved from England to the Bahamas. They took it from English law. They do that to avoid the worker rules, crimes and all the issues. There is a famous crime case in England with a Disney cruise ship. They have done the same thing. People say, 'Is Disney better than anybody else?' They have done the same thing. They sent somebody from the Bahamas all the way to LA for one day and back. It was a joke.

CHAIR: There is a suggestion often in business, especially when it comes to workplace health and safety and standards, that it is the lowest common denominator that sets the standard when there is self-regulation because if you are being undercut by the people who do not care about CCTVs or locking up a crime scene properly because security and prevention costs money. If you want to do the right thing it is the behaviour of your competitors who do the wrong thing that will actually set the standards.

Mr Carver: You have a great example. Royal Caribbean started, let us say, two years ago an unlimited drink package—'We're going to test it.' So I wrote to Royal Caribbean and they came back with the same answer, 'Our people are training not to let people get drunk.' Then Carnival comes up and says, '15 drinks in a day, I guess that's all right.' So one starts it and then the next one starts it. Pretty soon then they will all have unlimited drinks.

That brings up another point. The limited data that we have gotten for a year where the age is given of the victim, 18 per cent were minors, children, on the ships. If the Marriott in the United States or Australia said: 'You can now come in and we're going to give you for \$50 unlimited drinks. We have got no police. Nothing is going to happen.' Australia would say, 'You can't do that. That's not safe.' Yet that is what they are doing on the cruise ships. I guess alcohol is a way to make money but it is a crazy way to make money. It just leads to disaster and it is leading to disaster.

You should take the calls I get from women who are raped. When women are raped very seldom do they want to go public. I get those calls. When I am done with one of those calls, I am exhausted. Nobody has helped them; nobody has done anything. The children who are raped do not even tell their parents for a couple of months that they have been raped. They are embarrassed by the whole thing. I get calls all the time. I got one in December about a 42-year-old who had just disappeared off a cruise ship and they were calling me, saying, 'What do I do?' I do not have a good answer.

There is a good answer: there should be a video that says that you cannot go off a ship without being seen. The man overboard systems that companies claim they have got should be on those ships, and then you know immediately that they went over. In fact, last March I was in Washington for a meeting with the FBI. At the Marriott Hotel, I was having breakfast and I was telling the guy and his wife what I did, that I run this group for victims. I said to them: 'What do you do?' He said, 'I am search and rescue for the coastguard.' I said, 'Would it help you to know exactly when they went over and where?' Sure, they might actually find somebody. We did a freedom of information inquiry on two of these search and rescue operations, and \$900,000 had been paid by the United States government. It just should not happen.

Dr STONE: Was the \$900,000 to look for the victims?

Mr Carver: Two people went off a ship.

Mr NEUMANN: That is not a levy on the cruise industry, is it?

Mr Carver: No. If you go to the 1 March hearing of Rockefeller. He said 'You are using the services of the coastguard and 21 agencies and you pay nothing in taxes.' He said, 'Do you think that's fair, while we pay what is due?'

Dr STONE: Is there any international standard about the height of railings around a ship?

Mr Carver: That brings up another point. One of the things in our original legislation was that the railings should be 54 inches high. Guess who got it changed to 42 inches high? The cruise line industry. The 42 inches may be higher than it was, but I am not sure that it is higher than it was. But we asked for 54 inches as a barrier in the design to keep somebody from going overboard. Here are things that could be done today and they are in our law, but they are not going to voluntarily do it. They could say, 'We've got some protocol in force.' I have had protocol coming out of my ears. The government has to set the standard, and then you have an enforcement issue.

Is the enforcement issue easy? Not necessarily. Your police will probably not necessarily have to get involved. But we are talking about Australian citizens who have been victims of a crime or victims of something, and they are all there at the mercy of Malta.

CHAIR: Mr Carver, most of the cruise ships are flag-of-convenience vessels. They are not flagged in the US, although I think you said that there was one.

Mr Carver: Right.

CHAIR: Since the US Cruise Vessel Security and Safety Act, has there been a mass movement of these operations to Mexico or Canada, and they now have passengers fly to Vancouver or wherever?

Mr Carver: I will answer the question this way. There has been an exodus, and you have somewhat raised the point. A lot of ships were moved over to Europe. They said, 'We'll get away from all this in America.' Guess what? The business is not there. Royal Caribbean have just announced that they are returning 25 per cent of their ships because the market is not there. It is like chasing a rabbit: 'Maybe I'll go to China.' Well, if China does not care, then, God bless them.

CHAIR: I think you said that 24 countries have joined the ICV. Do you know whether there are other countries outside of that, perhaps in Europe, that are considering similar laws to the Kerry legislation?

Mr Carver: Brazil is holding hearings now. Once we got the Kerry bill passed—that is pretty major for a group that has no lobbyists, just a bunch of victims—then we started, just a year ago, moving international. So I am a stakeholder now in the EU. We have had meetings in parliament. We had our first meeting with the IMO in May—the new guy on the street. The gentleman sitting here, Michael O'Connell, is on the executive board of the World Society of Victimology, which is the top victim group in the world. We went to that organisation and it has taken the official position of supporting ICV in dealing with this victims issue. In fact, I was invited in May to give a panel presentation in The Hague to the World Society of Victimology because it was not aware of the problems; it was a new issue for it. But when it looked at it, it was most pleased that Victim Support Europe, which is the umbrella organisation for all major victims groups in Europe, not only were supportive of us but they also made us a member. We are the only group outside of Europe to be a member. And in the United States the victims groups were really key to our success. The National Centre for Victims of Crime raised their organisations. We are a virtual organisation; we have no paid staffers.

CHAIR: So to distil something from what you have said: capital has not fled from the US market or cruise capital has not fled because they are—

Mr Carver: No. In fact, Disney have just announced they are bringing their ships back to the United States.

CHAIR: Okay, so the industry will come to where the customers are.

Mr Carver: Sure. Do you think people are going to stop doing business because the ships are safer?

CHAIR: Are Mexico and Canada simpatico with the views of the ICV, or is there any suggestion that the Kerry legislation—

Mr Carver: Our membership in Europe has grown tremendously and it is growing in Canada. Our only problem is we do not have a lot of money. In a year-and-a-half we have made tremendous progress. Mark has brought the subject here; now I have a separate chapter in Europe. Frankly, Australia doing something like this in the Commonwealth would have a huge impact in Europe and Britain. You do not go through five congressional hearings up against an industry and then pass a bill with only four votes against it unless it is something that needs to be done. It is an area that has been overlooked. As I said when I started, this is the last thing in my life—I retired to Phoenix, Arizona, to live a life of ease and here I am working harder than I have ever worked, but for a cause.

CHAIR: Well, we appreciate it. We appreciate the work you are doing on behalf of victims, and we particularly extend our best wishes and thoughts to you about your daughter Merrian. I hope that your loss will be to the benefit of people, despite how sad it is. Thank you very much for taking the time to come. I hope you enjoy some nice, sunny Queensland weather some time.

Mr Carver: Okay. Well I live in Arizona, so I am used to sunshine.

DOUMANY, Ms Nicola, Director, Victim Assist Queensland, Department of Justice and Attorney-General, Queensland Government

[14:14]

CHAIR: I welcome the representative from Victim Assist Queensland to give evidence. I invite you to make a brief introductory statement before we move to questions.

Ms Doumany: I can give you a brief outline of Victim Assist and its role. We were established in 2009 under the Victims of Crime Assistance Act to assist victims of acts of violence that have occurred in Queensland to recover from their injuries. We replaced a previous criminal injury compensation scheme. Victim Assist was established not only to provide financial assistance to victims of violent crime. We were also established to assist in improving the coordination of government and non-government services for victims of crime. We fund some non-government agencies, such as Relationships Australia or the Queensland Homicide Victims Support Group, to provide specialist services to victims of crime such as case management support or counselling.

CHAIR: With Relationships Australia, is that on a contractual basis?

Ms Doumany: Yes, on a contractual basis with the government. We also provide funding to LivingWell, which is a men's sexual assault service, and to Protect All Children Today, which is a child witness program, as well as to Women Working Alongside Women with Intellectual and Learning Disabilities, who work with adult victims with intellectual disabilities who have been the victims of sexual assault. We have an information and referral service. We provide some court support and other types of assistance for victims and a financial assistance service.

CHAIR: How do people get connected with Victim Assist Queensland?

Ms Doumany: I think the main way that people get connected is through the Queensland Police Service. We have a memorandum of understanding with the police. We also use the Queensland Police Service's SupportLink service. They are now rolling out across the state a referral service where Queensland police are required, where they see either an offender or a victim or a person at high risk who could be assisted from a community or government org, to make a referral through SupportLink to the relevant organisation. So a lot of our clients are referred to us via SupportLink at about the time that the crime is reported. The other way is word of mouth or through their agencies—for example, they might have a referral to us from a domestic violence support agency.

CHAIR: Medical practitioners?

Ms Doumany: Medical practitioners, hospitals.

Dr STONE: From the media?

Ms Doumany: Yes, some people pick us up directly through media or other advertising.

Mr NEUMANN: You do it through the courts, too, don't you? I have seen that happen many times.

Ms Doumany: Yes, through the courts and other justice agencies. So there are a range of referral pathways to us. About 50 to 60 per cent of people will get to us through the police.

Dr STONE: How long have you been in existence?

Ms Doumany: Since 1 December 2009, when we were established.

CHAIR: The precursor?

Ms Doumany: The precursor was a criminal injury compensation scheme.

Mr NEUMANN: Is it going a lot better than that old crappy scheme we used to have here in Queensland? That was a terrible arrangement.

Ms Doumany: Yes, it is. It was not a good arrangement—it was very legalistic and long and it required victims to take offenders to court, which was a very traumatic process for them.

Dr STONE: Therefore you pre-dated the Ms Brimble catastrophe?

Ms Doumany: The scheme was introduced in 2009.

Dr STONE: How many victims of crimes that have been committed at sea on cruise ships would you see? Have you seen any?

Ms Doumany: Interestingly, we have not seen any through our financial assistance service to date.

Mr NEUMANN: How many do you deal with in a year?

Ms Doumany: Applications over a year? I do not have an exact figure. I believe we conducted around 2,000 financial assistance. I will happily send you a range of those sorts of figures so you have the exact numbers.

Mr NEUMANN: And a breakdown of the nature of the crimes?

Ms Doumany: Yes, we could do that as well. Probably the bulk of the crimes are what you would call common assault. We also help related victims of somebody who has died because of an act of violence committed in Queensland, and witnesses to an act of violence as well. We can provide assistance to parents who have been injured because their child has been injured due to an act of violence too.

CHAIR: I am not sure if you were here for Mr Carver's testimony?

Ms Doumany: No. I just came in.

CHAIR: Okay. On your webpage you say:

People who are the victims of a violent crime that occurs in Queensland, but who are resident in another Australian state or territory, or in another country, are eligible for assistance under Victim Assist Queensland.

Residents of Queensland are not eligible to apply for assistance if the crime occurred outside Queensland.

So a Queenslander on a cruise ship from New York to London comes back—let us say they were raped or something like that—and contacts you or your entity. What is the message for them?

Ms Doumany: Firstly, if they are a Queensland resident we would be able to refer them to some government or non-government services unrelated to financial assistance. They would be able to receive some counselling through Relationships Australia through our agreement and contract with them.

CHAIR: So it is a broader brief in support?

Ms Doumany: Yes. So we are not just about financial assistance—

CHAIR: Yes. A Queenslander or a foreigner living in Queensland?

Ms Doumany: A foreigner, yes—that would be fine too. No problem at all. For whether they could apply for financial assistance, that is going to be based on where the act of violence occurred. If the act of violence has not occurred within the Queensland jurisdiction, we would not be able to provide them with financial assistance. But we would still be looking at what other support services they could link in to.

CHAIR: But the government contract with Relationships Australia would cover the counselling and so on?

Ms Doumany: If they were living in Queensland, yes. They could just—

Mr NEUMANN: So it is not a State of Origin, it is a crime of origin?

Ms Doumany: It is a crime of origin.

Dr STONE: If they were cruising the Great Barrier Reef, for example, that would be in Queensland territory—

Ms Doumany: If it is clearly within Queensland territory, that is certainly not an issue for us at all.

CHAIR: And who determines it? Who determines if the crime is committed in Queensland?

Ms Doumany: Obviously, there are some times when it is going to be very obvious for us. If it were not obvious then we would probably have to seek some legal advice from our department.

CHAIR: Has there been one in the last year or two? There were some incidents on the Great Barrier Reef or a bit further down, I seem to recall reading in the paper—in terms of making the decision of where the crime occurred?

Ms Doumany: Probably, with the jurisdiction of the crime, the prosecuting agencies are going to be the ones—if the crime has been reported. They are going to be in a very good place, as experts, to determine jurisdictional issues.

If it is adjacent to the Queensland coast, it is pretty clear to us as well that we would go ahead and be able to deal with it. But there may be, depending on the location of where the act of violence occurred, some complex issues. If we do not think it is clear, we seek some advice.

Dr STONE: You said that you have not assisted any victim of a crime on a ship beyond Queensland. I understand that—it is self-evident. But have you had any people inquiring for support who had to be referred somewhere else—like you said, to Relationships Australia? Do you have that data?

Ms Doumany: We probably do not. We do not keep data specifically on inquiries from an act of violence that occurred on cruise ships. I would not be able to pull that data for you. It is possible that we could have done that; if we receive inquiries we try to find out where the act of violence happened. If we believe it has happened in another jurisdiction we know our counterparts in other states and territories, and all states and territories have some kind of scheme and assistance process. So we would refer to those processes.

If they were living in Queensland and if they are not eligible financial assistance then, as I said, we would look at what other assistance we could give.

CHAIR: I think you mentioned earlier that you might talk to the DPP, just to clarify—

Ms Doumany: The DPP, the police prosecution agency—

CHAIR: But they might have worked out with their counterparts whose brief it is?

Ms Doumany: Yes.

CHAIR: Okay. With Victim Assist Queensland: does money comes from a budget item, or consolidated revenue, or—

Ms Doumany: It comes from the administered fund—

CHAIR: From the solicitor's—

Ms Doumany: No. It is—

Mr NEUMANN: It is legal aid, Graham.

Ms Doumany: government money. But rather than what I would call operational funding, it is called the administered fund. It comes from Treasury.

CHAIR: Okay.

Ms Doumany: It is set at around \$24 million a year at this point, which we find is sufficient to date.

CHAIR: So that is the Queensland taxpayers' money?

Ms Doumany: Yes.

CHAIR: So are cruise companies not contributing to it?

Ms Doumany: No.

CHAIR: Unless they are paying Queensland taxes in some way, shape or form, which would be company tax if they are here. Not company—

Mr NEUMANN: Company is federal, mate.

CHAIR: I am interested in who makes that determination about whether the crime occurred in Queensland, and how you would make that decision in terms of saying, 'Yes we will look after you,' in terms of having a claim. They are normally standing with dirt underneath their feet I assume.

Ms Doumany: They are, normally. I think that although there is no data in our database that shows a crime at sea, I do believe that we may have dealt with one or two acts of violence that have occurred on boats. They have been quite clearly either moored at the marina, or they are just off sea in a prawn trawler. For us—

CHAIR: They are not two hundred miles away.

Ms Doumany: They are not two hundred miles away; they are very easy for us to be able to say, 'Look, you're in'.

Mr NEUMANN: You have talked about word-of-mouth being a basis on which you get clients, if I can put it like that.

Ms Doumany: Yes, sometimes.

Mr NEUMANN: So I presume you talk about Relationships Australia and the police. I take it you also speak to domestic violence and women's groups—

Ms Doumany: Yes, absolutely.

Mr NEUMANN: and a whole host of organisations, industry associations and companies et cetera. Have you ever had any contact with the cruise industry?

Ms Doumany: No, we have not, to date.

Mr NEUMANN: Okay.

CHAIR: Can you talk about the type of assistance you provide. You have touched on counselling, and that is through a contractual arrangement. What about medical expenses or funeral costs, or flying people in for funerals, or the like?

Ms Doumany: That is right. The act sets out components of financial assistance available to different types of victims of crime. So if we talk, for example, about a primary victim of crime—that is, somebody who has themselves been injured due to an act of violence—we can cover their counselling and medical expenses due to the act of violence. Now, with the counselling, I would just point out that people are not obliged to use the free

service provider. They can use whoever they would like as long as they are a qualified counsellor. We do not oblige people applying for assistance to go to Relationships Australia. They would be able to apply for medical and counselling assistance and for incidental travel to and from those medical and counselling appointments if it is greater than 20 kilometres away from their place of residence.

We have what we call a recognition payment—that is, a lump sum payment, which can be as low as \$130 and as high as \$10,000. We do not call it a compensation payment, because we are not a compensation scheme. But it is recognition that a person has been injured because of an act of violence.

Mr NEUMANN: Is that like the schedule you find in WorkCover? WorkCover says: if you lose a hand this is what you get?

Ms Doumany: It is, but the schedule is actually based on the nature of the violence rather than the nature of the injury. I suppose part of that is because of how much medical assistance, counselling and other assistance will be covered under the other provisions there. It is based on the act of violence and they are set in categories. If, however, somebody has suffered a very serious injury we can uplift the category of the act of violence.

CHAIR: Okay. You have a discretion to do so.

Ms Doumany: Yes.

CHAIR: Would they be Australian standards? Are there similar guidelines or thinking?

Ms Doumany: What you will find is that each scheme is a little different. We are loosely based on a scheme from Victoria. Some schemes are still very injury based, some are financial assistance based. But most of us have a lot of similarities, particularly in trying to better coordinate support for victims of crime. Also under the act, you would be able to get assistance for what we call exceptional circumstances. They might be the types of expenses that are not medical or counselling but they will significantly help the victim recover, and they are related to the act of violence. Simple examples would be if the offender is known to the victim and the victim does not feel safe where they are. We can arrange for security upgrades to the premises or fund relocation of the victim. That is an example.

Dr STONE: Ms Brimble had the crime committed against her in Australian waters and the family then had to get back from Noumea. Her insurance covered that. If she had not had insurance, could her family have applied to your agency and had financial support to get back to Australia?

Ms Doumany: If the crime was committed within Queensland jurisdiction—

Dr STONE: Or New South Wales.

Ms Doumany: I would not be able to give you the New South Wales information. Let's say it had been in Queensland, even though that was not the case here, yes, that certainly is something that we would be able to consider. It is a scheme of last resort. If the insurance is there we would want the insurance.

Dr STONE: Sure, the insurance would come first.

Ms Doumany: The other thing that we can assist people with is loss of earnings. So all of these components together make up a package of financial assistance up to a maximum of \$75,000.

CHAIR: Is any part of that in terms of the state seeking funds from the perpetrator? Obviously, there is a criminal element in that the Crown can send them to jail.

Ms Doumany: We have provisions in our act to seek recovery from people who have been convicted of the crime. We do not rely on a conviction to give financial assistance, but if there has been a conviction for that act of violence, then we can seek recovery for that amount from the convicted offender. There is a set process under the act for doing that and that is what we do. We do that through a very small unit, with only two officers, within Victim Assist. We brand it separately from Victim Assist Queensland because it is important for us to not be seen as a debt collection agency. We have set up a small offender debt recovery unit within our office and we get back what we can.

CHAIR: I can imagine.

Ms Doumany: I think at the moment it sits at about six per cent.

CHAIR: More than I thought.

Ms Doumany: It is more than we thought too.

CHAIR: I think you have been in the media a little bit over a particular smoking ceremony or something like that for one victim.

Ms Doumany: There is a matter proceeding through. I suppose that is the other thing. All of our decisions are reviewable. We have a two-step review process, an internal review process and then externally.

CHAIR: Could you make a general comment? I know you are at the financial end of the process and I am not sure where you step in. If the police are there at the first instance, is your support there within a day or a month or a year in terms of helping to support the victim?

Ms Doumany: We aim to get back within the one- to two-day mark to the victim. So the referral is not police saying, 'Hey, you better ring Victim Assist.' We get the victim's details, we are proactive. With the victim's permission through SupportLink we get the details and contact the victim because we know that they are not necessarily going to come to us straightaway. We then start to have a chat with them about financial assistance and other services they may need.

CHAIR: Because there might be no need for financial assistance, it might be all about support.

Ms Doumany: It might be all about support. What we also find is that, sometimes straight after a traumatic event, people just want to get their lives a little bit back in order. They want to have their family around. They may not necessarily want to just jump straight to a counsellor. They may not be ready to make an application for financial assistance. So I think it is more about trying to connect and get a sense of what their needs are, let them know about financial assistance, send the pack out and let them know they will have three years to apply.

CHAIR: Has this experienced, hardened detective who is doing that job made sure that your organisation knows that victim Jones might need a bit of help. Do they say loudly, 'You'd better get onto victim Jones quickly'? Or are they just focusing on catching the crooks? I am just interested.

Ms Doumany: The referral system is an automated one through SupportLink; however, having said that, I think there are a couple of other things that are really important here. One is that, like many of the other states, we have legislated fundamental principles of justice for victims of crime, and part of that is about setting the standard that a victim of an act of violence can expect from a government agency, including police. So we have obligations as government entities and people, and part of that is to make sure—

CHAIR: QPS know that?

Ms Doumany: Yes, QPS are aware that it is part of their obligation to refer a victim to the services they need, to treat them with dignity and respect and be responsive to their needs, to provide them where practicable with information on the investigation of the crime and to provide information where practicable on the prosecution process and their role as a witness. We also work quite closely with the police in training packages around making sure that they understand what those provisions mean for them in practice in their day-to-day work. We develop detective training and we have a police liaison officer embedded within our staff. That person is a senior officer, a senior sergeant. I suppose that is a great way for us to make sure that if we need to connect with a particular investigating officer, sometimes having one of their own do it can be really helpful.

Dr STONE: Would you ever see that extending to your working with security staff employed on a cruise ship which leaves from Brisbane?

Ms Doumany: I am not too sure how that would work in practice. We would certainly be looking at ways of improving coordination and services. We do know, for example, that security staff in other premises outside of ships are sometimes potential perpetrators of some of the acts of violence that we see.

Dr STONE: Sure. So when you were just then talking about making sure that police understand what they need to do, you do not extend that same sensibility and expectation of educating security industry staff based in Queensland?

Ms Doumany: Legislatively, the fundamental principles of justice bind the government and government officers. They do not bind non-government officers. It is interesting to note that New South Wales does for some non-government services. But in Queensland, no. The fundamental principles of justice we promote within government agencies. At the same time, we are very happy to talk to any industry about the needs of victims of crime. There is nothing to stop us doing that and we have a unit that takes on that role in various community settings.

CHAIR: You have touched on security, and I would like to go further on that. Much of our focus has been on an industry where the investigations might be a case of revealing negligence on the part of the industry and, therefore, costs that the industry would have to pay to the victims. The deeper the investigation the more likely that the cruise company would have to pay compensation to the victim. You have touched on security firms where they perhaps felt that investigating the crime would not be in their best interests because they are the perpetrator.

Ms Doumany: From time to time, we get applications from people who believe that they have been the victim of an act violence perpetrated by somebody in a security firm. We deal with that application on the face of it. We do not make a determination about whether the security firm or that individual officer has committed, I suppose, a crime. That is a matter for the police. So we look on the balance of probabilities whether the person has been injured and whether it could be construed on the balance of probabilities as a personal offence under the Queensland Criminal Code. We also then have to look at, maybe, the victim's behaviour.

CHAIR: On the balance of probabilities but not beyond reasonable doubt? You leave that to the police?

Ms Doumany: On the balance of probabilities we make our financial assistance. So, in a sense, whether it was a crime is not our issue. That is the issue for prosecutors and police. Our issue is, on the balance of probabilities, has somebody been injured due to an act of violence?

We also look at any contributing factors obviously. Sometimes in those circumstances we gather up as much information around that act of violence as we can and we consider whether or not the victim might have contributed to their injury.

In relation to negligence and compensation, our financial assistance scheme would not prevent somebody from taking some common law action against the firm or the business premises where the firm worked for compensation. We do say though, 'If you receive compensation further down the track because of the act of violence, you might have to pay us back some money.'

Mr NEUMANN: Are all forms of assistance that you provide available prior to conviction?

Ms Doumany: Yes. The caveat I would put on this is that we started on 1 December 2009 and are not retrospective.

CHAIR: Thank you very much, Ms Doumany, for coming in and providing us with that background information. It is certainly interesting to see when there is a legislated approach to supporting victims how thorough and widespread it can be. Thank you very much for touching on that.

Resolved (on motion by **Dr Stone**):

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 14:42