

# US law's long arm aims to combat crime

Proposed US legislation aims to provide a greater degree of protection, security and justice for American citizens aboard cruise vessels

by Alan Welcome

The cruise industry portrays itself as delivering dream holidays. Customers buy into this concept in droves, and it seems that the majority of them feel that the industry delivers on its promise. Nothing is completely risk free, though, and informed customers will be aware of incidents involving cruise ships, ranging from the total loss of a ship to outbreaks of gastric problems.

They will probably also be aware of a few high profile criminal incidents on cruise vessels. Most cruise customers will, however, have little idea either of the frequency of shipboard criminal activity, or the likelihood of criminal acts being properly reported, investigated and resolved.

Recently the US Senate committee on commerce, science and transportation's subcommittee for surface transportation and merchant marine infrastructure, safety and security conducted a hearing on cruise ship safety. Subtitled 'Examining potential steps for keeping Americans safe at sea', it heard testimony from Kendall Carver of the International Cruise Victims (ICV) Association, Terry Dale of the Cruise Lines International Association (CLIA), Evelyn Fortier for the Rape, Abuse, and Incest National Network (RAINN) and Ross Klein from the Memorial University of Newfoundland.

The subcommittee chair, Frank Lautenberg, said that over the past few years there has been a rising tide of reports about incidents on cruise ships, ranging from claims of sexual assault and rape to passengers who go missing at sea. However, he added that it is difficult to obtain basic data on what types of crimes occur at sea and how often they happen, commenting that even his subcommittee "had great difficulty in obtaining this data from the FBI."

One problem that was highlighted is the fact that, even if it might be based in the US, almost no cruise ship flies the US flag, instead preferring to fly flags of convenience

from other nations. In consequence, the US government cannot investigate certain incidents at sea and cannot require cruise lines to report on some crimes.

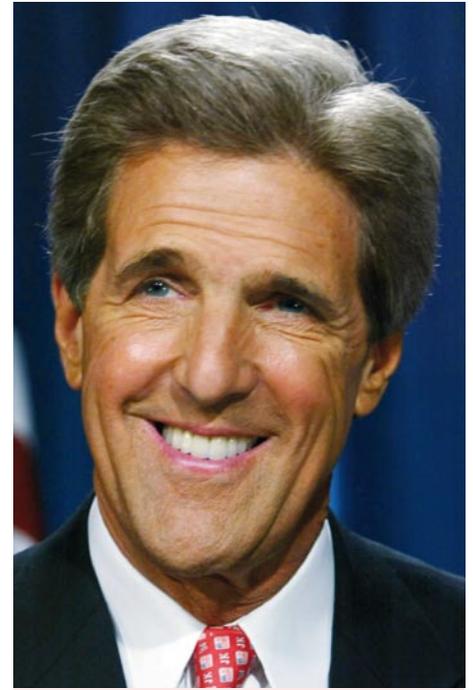
Mr Lautenberg asked senator John F Kerry to chair the hearing, and he noted that, under current law, cruise lines are under no obligation to report crimes that occur outside US territorial waters, even when that crime involves an American citizen. Although recognising that a voluntary agreement has been reached between the FBI, the US Coast Guard and the cruise ship industry, he said he is suspicious of any agreement that has the industry voluntarily reporting on incidents that damage its reputation.

Senator Kerry reported that he had been working with congresswoman Doris Matsui to craft legislation that will seek to improve safety and reporting standards within the industry, and to ensure that cruise ships have the ability and the expertise to preserve evidence correctly when crimes do occur. He said that he is also monitoring current efforts to pass legislation in California that would require independent 'ocean rangers' to be placed on board cruise ships, and he is considering whether such a programme would be appropriately administered at a Federal level.

Kendall Carver was present both as a victim and as president of International Cruise Victims (ICV), an organisation formed in 2006 by people who have experienced tragedies on cruises and who have been treated poorly by cruise lines. He described the pain, not only of losing his daughter, but also having to struggle with an alleged cover-up by a major cruise line of the facts concerning her disappearance.

For RAINN, Evelyn Fortier described the experience of one rape victim on a cruise vessel, and went on to contrast the treatment that might be received by rape victims ashore in the US and at sea on a cruise ship. She outlined various options open to the rape victim at sea, none of which compared very favourably with the service that could be expected ashore. For persons sexually assaulted while on a cruise vacation, any chance of securing justice is extremely remote, perhaps even non-existent, she claimed.

Terry Dale, president and chief executive officer of CLIA, said independent surveys showed that 95 percent of cruise passengers are very satisfied with their cruising experience. More than half of all passengers are repeats,



Senator John Kerry, who has recently introduced legislation that would impose new crime reporting and security requirements on cruise vessels carrying American passengers

and he suggested this would not be the case if safety or security were perceived as a serious problem.

Mr Dale said crimes on board cruise ships are extremely rare, as the US Coast Guard has testified, but that any criminal incident is deeply regretted by the industry. Acknowledging that in some cases the industry had not provided sufficient support to the individuals or families affected, he said that over the past two years the industry has worked closely with those families and their representatives, and has welcomed their recommendations for improving passenger services. Mr Dale also argued that misleading statistics had been employed; these suggested that shipboard crime rates compared unfavourably with rates ashore.

Dr Ross Klein, professor of social work at the Memorial University of Newfoundland, agreed that it could be difficult to make like for like comparisons of the incidence of crime ashore and afloat. He pointed out that the cruise industry's insurance carrier had stated that sexual assault is a 'not uncommon problem', while the industry itself claimed a cruise to be the safest form of commercial transportation.

Dr Klein highlighted an independent set

of statistics for the rate of sexual assaults on cruise ships, based on raw data provided by Royal Caribbean International during a lawsuit in Florida, covering all sex related incidents in a three-year period from 2003 to 2005. According to these statistics, the rate of sexual assault on cruise ships is more than twice the rate of forcible rape in the US.

However, Dr Klein said that the situation might not be so straightforward, since there was a wide variation in data between ships. This may be due to factors such as the length of the cruise and the vessel's itinerary, which might influence the nature of the passengers and their behaviour. For example, those on mini cruises might drink more and take a greater part in nightlife, sometimes to excess. They could risk becoming more vulnerable to crew members or other passengers.

He also noted that a large factor in risk to passengers and to crew is the onboard culture set by management. Some ship captains maintain higher expectations and lower tolerance for misbehaviour by crew members than others.

Following the hearing towards the end of June this year, Senator Kerry introduced legislation intended to improve cruise ship safety and accountability. He said that the obscure legal situation in international waters should no longer be an excuse for failing to report serious crimes. If American passengers were at risk, then US law should hold the industry accountable for their safety.

The Cruise Vessel Security and Safety Act of 2008 would require crimes aboard cruise ships to be reported to the Coast Guard and FBI. (Cruise ships operating under foreign flags are not currently required under US law to report crimes that occur outside US territorial waters.) It is understood that the new Act will apply to all US-flagged vessels, and to those foreign flagged ships which call at US ports to embark, or disembark passengers.

A reporting structure would be established, based on the current voluntary agreement between the cruise industry, the FBI, and the Coast Guard.

Each ship would be required to maintain a logbook to record all deaths, missing individuals, alleged crimes, and passenger/crew member complaints regarding theft, sexual harassment, and assault. Logbooks would be available to the FBI and Coast Guard electronically, as well as to any law enforcement officer upon request. Statistical information would be posted on a public website maintained by the Coast Guard.

The legislation would also require cruise ships to maintain medications used to prevent sexually transmitted diseases after assault, as well as equipment and materials for performing a medical examination to determine if a victim has been raped. A United States licensed

## What can UK nationals expect if they become cruise/crime victims?

*The British Foreign & Commonwealth Office (FCO) website offers the following advice to UK nationals should they become victims of crime aboard cruise ships:*

*"You should report the crime to a crew or staff member. Security personnel should then inform the appropriate authorities. Who these are will depend on where the ship is, when the crime is committed and the nationality of those involved.*

*Significant crimes against British nationals on any ship can, in certain circumstances, be reported to UK police and may be investigated, even though they occurred outside the territory of the UK. A crime may also be reported to the authorities in the port/country in which the ship was docked (or was headed) when the crime was committed with the result that local law enforcement agencies may also be involved in the investigation."*

*While the situation on a UK flagged ship is fairly straightforward, it is not so clear how, and under what circumstances, UK police might become involved in the case of a foreign flagged vessel outside UK waters.*

*A spokesperson for the FCO said that UK police would respond if requested to by the flag state or the vessel's owner. However, police involvement would be limited to advice or assistance, perhaps provided through international police channels. A UK national may also attempt to secure the help of the UK police, but he or she must make their representations through the vessel's flag state police authority or via the FCO.*

*On the face of it, it seems that this provides little chance of a rapid response that might*

*secure the crime scene and instigate effective investigation, particularly if the ship and its owner have no great interest in such actions.*

*Assistant chief constable Steve Watts, maritime planning and operations chief for ACPO (Association of Chief Police Officers) in the UK, believes the incidence of serious crime on UK flagged cruise ships is very low. He says the UK police has an excellent relationship with the cruise industry and recognises the impact on both the victim and their family in the event of an individual being subject of a serious incident.*

*ACPO, in consultation with UK cruise operators, is developing a crime manual for ship security officers. This will provide advice on matters, including responding to incidents, missing persons, taking statements, searches, protection of crime scenes, photographs, and forensic recovery and packaging. It will also offer guidance on legislation relevant to serious offences and matters of jurisdiction.*

*Regarding the investigation of offences against a UK national on a foreign flagged vessel, ACC Watts said responsibility would rest with the police of the flag state, and the levels of response may vary significantly. The UK police would become involved to varying levels, dependant on the requests of the investigating country, the offence and of course victim support to the victim and family.*

*If the manual for UK vessels proves to be a success, then it is hoped it can be adopted internationally. The aim is to ensure there is a common understanding of the need for the cruise industry to assist the victim and the subsequent criminal investigation.*

medical practitioner would be on every ship to perform the examinations and administer treatment. Passengers would be given free, immediate, and confidential access to a national sexual assault hotline and the FBI.

The act also tackles physical aspects of ship safety and security, addressing elements such as guard rail heights, peep holes for crew and passenger cabin doors, security latches and time sensitive key technology. Owners would be required to implement fire safety codes as well as technology to detect when a passenger falls overboard. Procedures would be established to determine which crew members have access to cabins and when.

Appropriate crew members would be trained in crime scene investigation, and each ship would be required to maintain at least one crew member trained and certified accordingly.

The new Act also seeks to enforce various

safety and environmental standards. The Coast Guard would be authorised to dispatch personnel to monitor the discharge of waste, to verify logbook entries related to waste treatment and disposal, and to act as public safety officers by securing and collecting evidence of alleged crimes.

Welcoming senator Kerry's initiative, Mr Carver said, "Over the past year our organisation and other victims of cruise crimes have met numerous times with cruise lines executives in an effort to have them voluntarily take the necessary steps as outlined in our proposals. The cruise line industry has failed to step up to the challenge and make any significant changes to improve safety. That resistance to change is a clear signal to us that the only alternative left is for the United States Congress to move forward with legislation." **PST**