



STATEMENT OF SALVADOR HERNANDEZ
DEPUTY ASSISTANT DIRECTOR, FEDERAL BUREAU OF INVESTIGATION
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COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION
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Good morning Chairman Cummings, Ranking Member LaTourette, and Members of the Subcommittee. I appreciate the opportunity to be here today and address the FBI's role in investigating crimes against American Citizens traveling aboard cruise ships.

Mr. Chairman, the FBI is committed to addressing piracy and serious criminal acts of violence and is dedicated to working with our partners at every level to investigate and prosecute crimes on the high seas. We will do everything in our power to uphold our mission of protecting our fellow citizens from crime and terrorism.

Jurisdiction

First, I would like to briefly discuss where the FBI obtains its jurisdiction over crimes committed on cruise ships. The authority of the FBI to investigate criminal offenses and enforce laws of the United States on cruise ships on the high seas, or territorial waters of the United States, depends on several factors. The location of the vessel, the nationality of the perpetrator or victim, the ownership of the vessel, the points of embarkation and debarkation, and the country in which the vessel is flagged all play a role in determining whether there is federal authority to enforce the laws of the United States. The principal law under which the U.S. exercises its Special Maritime and Territorial Jurisdiction is set forth in Section 7 of Title 18 of the U.S. Code. This statute provides, in relevant part, that the U.S. has jurisdiction over crimes committed on a ship if:

(1) The ship, regardless of flag, is a U.S. - owned vessel, either whole or in part, regardless of the nationality of the victim or the perpetrator, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular state;

(2) The offense by or against a U.S. National was committed outside the jurisdiction of any nation;

(3) The crime occurred in the U.S. territorial sea (within twelve miles of the

coast), regardless of the nationality of the vessel, the victim or the perpetrator; or

(4) The victim or perpetrator is a U.S. National on any vessel during a voyage that departed from or will arrive in a U.S. port.

However, it is important to note, that when an incident occurs outside the territorial waters of the U.S., there are numerous other factors that come into play in determining the FBI's role and ability to investigate. In addition to the laws of the U.S., the laws of other sovereign nations, and international law will determine our legal authority to respond to and/or investigate the crime. As these incidents may involve the citizens or interests of other countries, the FBI's investigative efforts may implicate the sovereignty interests of other involved nations.

Resolution of these questions requires consultation and coordination within the U.S. government.

The FBI has posted a number of senior-level agents in 60 Legat offices and 13 sub-offices throughout the world. Through established liaison with principal law enforcement services in designated foreign countries, the FBI's Legats are able to pursue investigative activities where permissible. The Legat's authority to conduct investigations overseas or to coordinate FBI extraterritorial teams' investigations abroad varies greatly and must be determined by each Legat on a country-by-country, case-by-case basis. The Legats coordinate closely with the

Department of Justice's Office of International Affairs, which provides assistance in international criminal matters to U.S. and foreign investigators, prosecutors and judicial authorities, primarily in the area of international extradition of fugitives and evidence gathering, and with the Department of State.

Extraterritorial Response

When a Legat has made a determination to respond to a crime on the high seas incident involving U.S. citizens and/or interests occurring outside of the U.S. territorial waters, the Legats role in the investigation will vary depending on the host country and the FBI's resources in the area. The United States cannot board a foreign flag vessel on the high seas to enforce U.S. criminal laws without the consent of the flag state, except for a limited number of recognized universal offenses. In cases involving suspected criminal activity directed at or aboard a foreign flag vessel on the high seas, international coordination and cooperation is required to board the vessel at sea, investigate the facts, collect evidence, and sort out the jurisdiction of various States with interests in the matter. Normally, the FBI will attempt to board the vessel before it docks or shortly after, ensuring access to all passengers with an emphasis on protection of life and preservation of evidence, as well as securing the crime scene. In some circumstances, the Legat may request the vessel to dock in the next port of call where relations with a host

country or the availability of U.S. resources will better serve the investigation.

FBI personnel or other regional U.S. government entities may conduct the crime scene investigation or the Legat may coordinate with the host country law enforcement to conduct the crime scene investigation. The Legat will make this decision based on concurrence from the host country, known skill level and resources of local law enforcement and available U.S. resources. When viable, the FBI will examine, note and arrange for the proper care of all evidence associated with the incident.

After all crime scene and witness/victim/suspect interviews have been completed, the FBI will obtain the itinerary of the vessel so, if necessary, the vessel and crew can be located at a later date. Prior to disembarking of passengers/crew notices of contact information for the FBI will be provided for passengers/crew should they have any pertinent information regarding the incident after their departure. In some cases, individual letters may be sent to passenger/crew asking for any information concerning the incident. Throughout the investigation, the United States Attorneys Office is kept apprized of the facts of the investigation to obtain a prosecutive opinion.

Extraterritorial Arrest

If a foreign national is indicted for a crime committed on the high seas in

violation of U.S. law, but is not located in U.S. territory, the FBI will pursue a logical fugitive investigation to locate and apprehend the subject as the FBI would with any FBI fugitive. Working in coordination through the FBI's extensive Legal Attache network and liaison with foreign local law enforcement, attempts will be made to locate the fugitive. If the fugitive is located in a foreign country, the FBI and Department of Justice prosecutors, working in coordination with the Office of International Affairs, and U.S. State Department, will make every effort to secure the fugitive's return to face justice in the United States.

Violations Constituting Crimes on the High Seas

The FBI traditionally focuses its investigative efforts on specified serious crimes for which penalties are provided for under Title 18 when the crimes are committed within the special maritime and territorial jurisdiction of the United States. These specified crimes include: Assault, Murder, Attempt to Commit Murder or Manslaughter, Kidnapping, Sexual Abuse, Robbery and Theft (as defined in Title 18, Sections 113, 1111, 1112, 1113, 1201, 242, 2111, and 661).

Crime Statistics

I would like to provide a brief summary of trends of crimes on the high seas that the FBI has responded to and investigated over the last five years. Incidents on board ships, when investigated by the FBI, are documented by the FBI through

investigative files in the Crimes on the High Seas classification. These case reports would document investigative activities of FBI personnel in the U.S. and FBI Legal Attache personnel stationed abroad. The following trends are based on these statistics.

From FY 2002 through February of 2007, the FBI opened 258 cases of crime on the high seas, or approximately 50 cases being opened annually. Of these 258 cases, 184 or 71% occurred on cruise ships. The remaining cases involved private vessels, commercial ships and oil platforms. Of the 184 cases that occurred aboard a cruise ship, 84 or 46% involved employees as suspects.

Sexual assault and physical assaults on cruise ships were the leading crime reported to and investigated by the FBI on the high seas over the last five years at 55% and 22% respectively.

Most of the sexual assaults on cruise ships took place in private cabins and over half were alcohol-related incidents. Employees were identified as suspects in 37% of the cases, and 65% of those employees (24) were not U.S. citizens. Employee on employee assaults made up approximately 2% or two of the total cases opened. Fifty-nine percent or 60 of the sexual assault cases from FY 2002 to February 2007 were not prosecuted, and the typical reasons for prosecutive declinations were lack of evidence, indications that the act was consensual, and/or

contradictory victim/witness/subject statements.

Physical assaults were the second most frequent crime upon the high seas with 53 cases opened. The majority of physical assault cases were on cruise ships, 40 cases, as compared to other commercial vessels, 13 cases. Physical assaults took place in a myriad of locations, to include bars and casinos, shared cabins, ship decks, and crew member facilities. These cases were predominantly confrontations between adult males. Only one case involved an employee as a subject, and two cases involved employees as victims. The majority of the physical assault cases were domestic disputes and a high percentage were alcohol-related incidents.

Missing persons on cruise ships comprised only 12 or 5% of cases opened during this period. Missing person cases were more sporadic in nature, and did not appear to have any significant pattern. There were slightly more cases opened on cruise ships and private vessels, than fishing vessels and other commercial crafts. It is difficult to draw any conclusions from these cases due to the inability to locate bodies in all of these cases. Using eyewitness testimony, investigators were able to surmise that alcohol was known to be involved in at least 42% or five of these cases. Investigations were typically closed with indications of suicide or accident; however, in about 25% or four cases, foul play was suspected. Missing person cases yielded no prosecutions over this period of time, and none of the

victims were minors.

Thirteen death investigation cases on cruise ships were opened during this five-year period, compared with 14 death investigations involving other vessels such as commercial ships or oil platforms. Two of the 13 cruise ship death investigations appear to be homicides with the subject in one of the cases pleading guilty. The remaining investigation is still active. Of the 14 death investigations involving vessels other than cruise ships, four appear to be homicides. The remaining deaths were either determined to be suicides, accidents or natural causes.

The FBI's field offices in Miami, Los Angeles, Houston, Tampa and New Orleans have the largest volume of crimes on the high seas cases, due to their large and active ports, and the number of ships that arrive in and depart from these ports.

Reporting

In accordance with federal regulations contained in Part 120 of Title 33 of the Code of Federal Regulations (CFR), passenger vessels covered by regulation must report to the FBI each breach of security, unlawful act, or threat of an unlawful act against passenger vessels or any person aboard when such acts or threat occurs in a place subject to the jurisdiction of the United States. Over the past several months, the FBI has been engaged in discussions with the Cruise Lines International Association (CLIA) and the U.S. Coast Guard regarding the

establishment of procedures relating to the reporting of serious violations of U.S. law committed aboard member lines and the FBI response to such violations. This process is in addition to, but not in lieu of mandatory reporting requirements, e.g., the requirements of 46 CFR Part 4, the requirements of 33 CFR Part 120, or those requirements imposed by coastal or flag states. Further, this proposed reporting process will not replace or override any agency responsibilities and coordination requirements mandated by the Maritime Operational Threat Response Plan upon identification of a maritime threat against the United States and its interests in the maritime domain.

Under these proposed procedures, CLIA members will telephonically contact the nearest FBI field office or Legat office as soon as possible to report any of the following incidents involving serious violations of U.S. law: homicide, suspicious death, missing U.S. National, kidnapping, assault with serious bodily injury, sexual assaults (as defined in Title 18 U.S.C. 2241, 2242, 2243, and 2244 (a) (c)), firing or tampering with vessels, and theft greater than \$10,000. If CLIA members are unable to contact the FBI Legat, they will contact the FBI field office located closest to their security office. After telephonic contact, CLIA members will follow-up with a standardized written report. CLIA members will submit reports to the USCG National Command Center either via facsimile or e-mail. The

USCG will then promptly forward the reports to appropriate federal investigative agencies, when not the FBI.

Incidents not falling into one of the above categories, and, therefore, not requiring immediate attention by the FBI, may be e-mailed or faxed to the local FBI field office or FBI Legat; for example, theft greater than \$1,000 but less than \$10,000.

If criminal activity aboard a CLIA member vessel does not meet the above reporting criteria, CLIA members may report the incident to the proper state or local law enforcement authority and/or, if applicable, to foreign law enforcement. The decision to continue and/or conduct additional investigation of crimes within the jurisdiction of state or local law enforcement will be at the sole discretion of the respective state or local agency.

Currently, we only track the number of cases opened. However, we have established a system to compile all reports received by the Cruise Lines.

I spoke about some of the challenges we face when investigating these cases to include jurisdictional and extraterritorial matters. Other challenges we encounter when working these cases include; delay in victim reporting, lack of details surrounding the alleged incident due to alcohol consumption, response time, crime scene preservation and insufficient evidence.

Training

Training has been provided by the FBI's Miami Division Evidence Response Team (ERT) to the Staff Captains and Security Managers, on an annual basis, for approximately three years, to Carnival Cruise Lines and Royal Caribbean. The FBI's Tampa Division recently provided training for the Disney Cruise Lines. It is anticipated that FBI training will be provided to Princess Cruise Lines in the near future. The training consists of crime scene preservation, a general overview of counterterrorism from a maritime perspective and basic interviewing techniques.

The FBI's ERT Unit has recently provided training presentations to numerous cruise lines on ways to best secure and protect crime scene evidence until law enforcement arrives. The FBI is preparing a universal PowerPoint presentation for evidence preservation that will be made available to the cruise line industry in the near future.

Victim/Witness Support

The FBI's Office for Victim Assistance (OVA) may provide assistance to U.S. citizens who are victims of crimes on board cruise ships and other sea vessels when the FBI is reviewing an incident or conducting an investigation. The assistance of the FBI may be the only help provided to these victims if no one is

ever charged with the crime. The OVA may become involved with families when a loved one commits suicide or dies accidentally on board ship. These deaths may not be the result of a crime but the families are still deeply impacted and may have a more difficult time finding help and services since the death occurred outside the United States. The OVA's assistance consists primarily of providing information and locating counseling and other types of assistance in the victim's or family's home communities. In some cases, OVA staff has helped families deal with the legal issues associated with the death of a loved one when the remains are not recovered and the death occurs outside the United States. The OVA staff has participated in meetings between victims of cruise ship crimes and FBI officials. In addition, the OVA worked with the National Transportation Safety Board to provide training and information to an employee hired by Royal Caribbean to develop a guest care program that includes victim and disaster assistance.

Chairman Cummings and members of the Subcommittee, thank you again for the opportunity to testify today. The FBI is committed to working with our partners at every level to investigate and prosecute crimes on the high seas.

I am happy to answer any questions you may have.