

PREPARED TESTIMONY OF EVELYN FORTIER

VICE PRESIDENT OF POLICY, RAINN

**HEARING BEFORE THE SUBCOMMITTEE ON SURFACE TRANSPORTATION
AND MERCHANT MARINE INFRASTRUCTURE, SAFETY, AND SECURITY**

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

**“CRUISE SHIP SAFETY: EXAMINING POTENTIAL STEPS FOR KEEPING
AMERICANS SAFE AT SEA”**

JUNE 19, 2008

Mr. Chairman and members of the Subcommittee, thank you for scheduling today's hearing. This hearing is very timely, because high profile cases in which cruise passengers or crewmembers were raped, sexually assaulted, or disappeared continue to be reported. The safety of the nine or ten million United States citizens who take a cruise each year should be of vital importance to all of us; and the issue of cruise ship safety merits Congress' continued attention.

I want to begin by asking you to imagine how you might feel if you had long saved and planned for a cruise vacation, and then had to abruptly end your voyage because you had been traumatized by a sexual assault while on the cruise. Specifically, imagine that for years you've put a bit of your salary aside each pay period to save up for your dream of a sunny cruise vacation with one of your close childhood friends. You have planned the trip in minute detail, after collaborating with your friend on which destination, what to bring with you on the trip, and which amenities you can afford.

On the trip, a crewmember attired in a cruise security officer's uniform approaches you at the bar and questions you in a way you find unnerving. Hours later, this same crewmember knocks at the door of your cabin, which has no peephole, and, once you open the door to identify the visitor, he physically forces the door of your cabin open. He pushes you onto the bed in your cabin and rapes you. You reach out to other cruise line personnel, who enter your room and sit on the bed in which you were raped (thereby potentially contaminating the crime scene evidence). These cruise personnel suggest you collect any evidence you feel might be relevant and bring it to medical personnel on the ship. While you are coping with the life-shattering effects of having been raped, you later learn that the man who raped you was no security guard, but rather a janitor who filled in for the security guard.

Regrettably, this is how one American cruise line passenger described her experience during testimony before another congressional committee last year. And, unfortunately, hers seems not to be an isolated case. Numerous other United

States citizens who have reported sexual assaults while on cruises described feeling helpless or virtually alone in the hours after they were victimized. If you are sexually assaulted while on a cruise vacation, you, like Laurie Dishman of Sacramento, California (the rape survivor described above) may find that any hope of your securing justice is extremely remote, perhaps even nonexistent.

What Can You Expect If You Are Raped During A Cruise Voyage?

The cruise industry is somewhat unique among businesses that provide services to U.S. consumers in that most cruise vessels sail under foreign flags and do not have to comply with many U.S. labor, environmental, or other regulations. The uniqueness of the cruise industry's situation, compared to many other businesses operated in the United States, becomes even more apparent when you compare the potential experience of an American rape victim at sea to the likely experience of an American rape victim on shore.

First, consider what happens after you are raped on land. You have the option to call the National Sexual Assault Hotline, 800-656-HOPE, toll free, any time of the day or night, or to visit the National Sexual Assault Online Hotline at www.rainn.org, from anywhere in the country, through which you may immediately receive free and confidential online help from trained rape crisis personnel. Those who staff these hotlines are located at rape crisis centers around the country, and the availability of these services means you are not alone. Hotline staff and volunteers will provide you with immediate emotional support, and your local rape crisis center may offer to send their personnel to meet you and personally escort you to the nearest hospital or police station.

At the hospital, medical personnel can be counted on to evaluate you for injuries, take your medical history, and compile a rape kit containing DNA and other evidence. You also can expect that any DNA evidence collected during this examination will be sent to a crime lab for analysis, hopefully to be used later in identifying and prosecuting a potential suspect. The collection of DNA at this point in time preserves evidence for the future, for use in any later legal case. Protocols govern how this DNA is to be collected, analyzed, stored, and used in the criminal case.

If you immediately reported the assault to the local authorities, you can also expect that someone from a nearby police department will interview you and perhaps a suspect as well as any other witnesses. Your experience dealing with the criminal justice system ultimately may not be pleasant or result in your hoped for outcome, but along the way you can be fairly confident of certain things: that the police investigating the crime have the necessary jurisdiction to do so, that the police will preserve physical evidence for a possible trial, that certain local or state criminal laws will govern in your case, and that certain protocols will be followed in the

police investigation. It's also within the realm of possibility that a local prosecutor will find your case deserving of prosecution and your predator is brought to justice. A victim advocate may be assigned to offer guidance and support to you along the way; also, you and your family members or close friends have the option of seeking counseling at your local rape crisis center, to assist in your long-term recovery.

If you, a U.S. citizen, are raped during a cruise, by contrast, your situation is potentially quite different, and you can be far less certain of what will happen next. Because most cruise ships are foreign-flagged vessels, because the perpetrator may be a foreign national, and because you may be in international waters when the assault occurs, you face a host of legal uncertainties. For example, you cannot automatically assume that certain laws will cover the incident, due to messy jurisdictional issues that arise in some of these cases.

Such uncertainties are in addition to your having to cope (far from home and absent your usual support network) with the emotional and physical consequences of having been assaulted. In the immediate aftermath of the assault, for example, you might not have a friend or family member traveling with you on board. You probably will not find any rape crisis personnel onboard to support you, let alone law enforcement officials to come to your aid on the ship.

If traveling alone, you might turn to cruise ship employees for help, only to later find that the cruise line has a vested interest in shielding themselves against negative publicity or legal jeopardy (and protecting such interests may come at the expense of your own interest in securing justice and getting appropriate medical care). If you were assaulted by a crewmember, and you are a passenger on the ship, you might have good reason to wonder how any security personnel hired by the cruise line will react if presented with any situation giving rise to a potential conflict of interest between their employer's legal situation and your safety.

You may encounter someone onboard who can competently and sympathetically explain to you what needs to happen in order for you to report the crime to the proper authorities and have the crime investigated. At this point in time, you probably have three options, each of which has certain drawbacks:

Option #1: Your first option is to disembark at the next port and report the crime to the local authorities on shore. There is a good chance you will not speak the same language as the local police and are unfamiliar with local customs. Perhaps no one told you that you should approach your nearest U.S. embassy or consulate for assistance, and you did not initially seek their help. You might learn later that, due to jurisdictional uncertainties, the authorities you approached do not have sole jurisdiction over your case, and that perhaps you should have reported the crime to authorities in an entirely different jurisdiction. (Alternatively, the local authorities may not want to assume responsibility for the criminal investigation if they perceive that the sexual assault occurred in international waters.)

If local authorities do decide to investigate, key evidence may have dissipated by the time you contact them. That's because, unless someone onboard assumed responsibility for immediately securing the crime scene, evidence may already have been contaminated or cleaned by others by the time the local police arrive. Also, before local authorities show up, the offender may already have either collaborated with others, or been dismissed by the cruise line and escorted off the ship. (If the offender then travels to another country, it will be difficult, if not impossible, to find them again).

Finally, even assuming the local investigation proceeds, and charges are brought against the perpetrator, you may face significant personal obstacles to cooperating with the prosecution. You may have to take time off from work and leave behind your friends or family in the United States to return again, perhaps more than once or for an extended period, to the foreign jurisdiction that is prosecuting the case. You may find, too, that you are completely unfamiliar with the legal system of that particular jurisdiction.

Option #2: The obstacles presented above may seem overwhelming, and so perhaps you are inclined to pursue a different course of action. Your second option as a victim of sexual assault would involve reporting the crime to the Federal Bureau of Investigation (FBI), in cooperation with the cruise line. But this option, too, has drawbacks for you, as the FBI can investigate crimes reported to it by the cruise lines, but typically would not be in a position to act as an onboard police force immediately after your assault.

The FBI typically will not board a ship to interview the victim or other potential witnesses to the crime until after the ship docks. In the meantime, here again, there is the risk that no one will assume responsibility for securing the crime scene or ensuring that potential witnesses do not collaborate or disperse. Once again, if the cruise line escorts the offender off the ship at the next port of call, or if the offender leaves, it may be difficult, if not impossible, to find them again.

It also is not certain that a cruise victim will receive adequate medical care or that trained personnel will be available to collect DNA or other evidence immediately following an assault. (Laurie Dishman, who reported being raped by a crew member while on a cruise in 2006, testified last year that ship personnel expected her to do the job of collecting any crime scene evidence herself. She also was asked to pay for her own rape kit, which would not have been the case had she gone to a hospital in the United States.)

Also, certain thresholds must be met for an FBI investigation to proceed and for federal prosecutors to bring charges. In the case of a sexual assault, for example, where the victim's consent is an issue, the case might not move beyond the initial phase of information gathering. The victim may find, after the FBI collects such

information, that the chances of a federal prosecutor pursuing rape charges are extremely remote. The decision whether or not to prosecute the case lies with federal prosecutors; and these decisions are often made based on the severity of the crime, the likelihood of successful prosecution leading to conviction and, of course, available federal resources.

Option #3: For a victim of sexual assault, a third option is to disembark at the ship's next port of call, and take the next flight home. In the immediate aftermath of the crime, the victim may find this option the most appealing of the three, because it allows the victim to quickly escape the surroundings in which the assault occurred as well as the perpetrator, who may still be lurking somewhere nearby.

The victim may, however, later find -- maybe years later -- that the repercussions of having been raped continue to haunt him or her. Like many of rape's survivors, in the weeks, months, or years after the assault, a cruise victim of sexual assault may experience flashbacks, depression, nightmares, employment difficulties, or other negative effects and in some cases, even be suicidal. Any hope of securing justice -- which is often important to victims in their recovery -- may have disappeared if the victim did not formally report the rape while onboard and the cruise line declines to record the complaint once the cruise has ended. Meanwhile, the offender gets a free pass to prey on additional victims.

What Is Your Risk of Being Assaulted Aboard a Cruise?

According to FBI testimony at another congressional hearing in March 2007, sexual "[s]exual 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 percent and 22 percent respectively." The FBI also noted, at a different hearing last September, that the cruise lines reported 41 instances of sexual assault¹ during a six-month period in 2007:

"Since April 1, the cruise lines have reported 41 instances of sexual assault. Of these 41 incidents, 19 represented allegations of sexual activity generally categorized as rape, three of which occurred on shore, and, thus, outside the jurisdiction of the FBI. Based on the 41 reports, the FBI opened 13 investigative

¹ The FBI has stated that it investigates cruise sexual assaults as defined in Title 18 of the United States Code (USC), Sections 2241 through 2243 and 2244 (a) and (c), and that the principal law giving the U.S. jurisdiction over crimes committed on a ship is set forth in Sec. 7 of Title 18 of the U.S. Code.

cases. Five of these cases have been closed for reasons of victim reluctance to pursue prosecution or prosecutive declination from the United States Attorney's Office. Eight investigations are ongoing."

The cruise industry maintains that the rate of sexual assault at sea is significantly lower than the on shore rate of sexual assault. According to the cruise industry, during the three-year period from 2003 to 2005, when roughly 31 million North Americans sailed on cruise ships, there were 178 complaints of sexual assaults. But because data on rates of sexual assault during cruise voyages is not easily accessible to the public, it is difficult for us to evaluate the accuracy of such statistics.

We note that the industry's position is directly contradicted by the 2007 congressional testimony of Dr. Ross Klein, who suggested that the rate of sexual assault on board ships could be as much as 50 percent higher than the on shore rate of sexual assault.

I believe that it is certainly possible that the true rate of onboard sexual assault might be higher than what is currently being reported to federal authorities by the cruise industry:

* First, there is no way to reliably assess whether the cruise lines are fully and accurately reporting all onboard sexual assaults to federal authorities. The industry already is expected to report such information, but what's reported is not made public. Thus, it's hard for passengers (or independent third-parties) to confirm whether each incident of sexual assault, including their own, has been fully and properly recorded.

* Second, sexual assault is one of the least reported violent crimes. According to the U.S. Department of Justice, as many as 60% of onshore sexual assault victims decline to report the crime against them. We believe it is likely that many cruise passengers who experience sexual assault on the cruise also will not report the crime (and that such crimes thus will not become part of industry cruise safety statistics). RAINN last week communicated with over 200 rape crisis centers in various states to determine whether any of their clients/hotline callers had been sexually assaulted during a cruise. About 9% of these 200 centers reported being contacted by a cruise victim.

* Third, in today's competitive business climate, cruise lines may have an economic incentive to underreport or misclassify sexual assault crimes. Even if we assume that they are doing their best and would not consciously underreport, cruise personnel may lack the legal knowledge required to properly classify and report sexual crimes to federal authorities. (U.S. college administrators – who also often lack law enforcement experience -- sometimes encounter similar difficulties in interpreting the federal Clery Act's requirements for reporting on-campus crimes at the nation's college and universities.)

In summary, for those on a cruise, it is easy to forget that the risk of being assaulted onboard a cruise ship is real. It is easy, too, for the vacationing public to forget that, while a cruise ship may resemble a small city in population size, the public on the cruise ship has no law enforcement officials to keep would-be criminals in check or to immediately secure a crime scene and investigate a crime once it occurs.

RECOMMENDATIONS FOR THE 110th CONGRESS

Impose stricter requirements for reporting onboard incidents of sexual assault (and authorize federal officials to impose penalties for noncompliance with this requirement).

The FBI and the U.S. Coast Guard in 2007 entered into an agreement with the cruise industry, which calls for the industry to voluntarily report certain crimes. This agreement seems to mainly deal with crimes that are voluntarily reported by the industry and might not address crimes that should be, but are not, reported to the FBI. Congress should review this agreement carefully to ensure that the FBI can and will exercise meaningful oversight of cruise industry reporting methods, and to ensure that someone other than the cruise officials has a say in whether or not an incident reported by a passenger meets the threshold for disclosure. If this agreement does not give the FBI the ability to take action against cruise ships (most of which are foreign-flagged vessels) for underreporting or misclassifying sexual crimes, Congress should tighten requirements for the cruise lines. Enhancing the reliability of data on the frequency and nature of crimes on cruises should be the goal.

Provide victims who report sexual assaults during cruises with immediate access (via a telephone or the Web) to rape crisis personnel who are trained to meet the unique needs of Americans traveling overseas, so that cruise victims know they are not alone.

RAINN, the nation's largest anti-sexual assault organization, created and operates the National Sexual Assault Hotline, 800-656-HOPE (in partnership with 1,105 affiliated rape crisis centers, located in every state and the District of Columbia). The Telephone Hotline has helped 1.2 million callers since its inception in 1994. RAINN also recently launched the National Sexual Assault Online Hotline (the nation's first secure, Web-based hotline for rape victims), at www.rainn.org. Finally, RAINN also conducts education and outreach programs to help prevent sexual assault and ensure that perpetrators are brought to justice.

Close to a year ago, RAINN approached one of the largest cruise line companies,

Royal Caribbean, to suggest that they establish access from their ships to our Online Hotline and to our 24-hour Telephone Hotline for those instances where a guest or crewmember becomes the victim of a sexual assault while traveling onboard a ship. Our goal is to facilitate both immediate and continuing professional counseling services should a cruise passenger desire and need such services. We are currently engaged in discussions with Royal Caribbean about our proposal to link cruise ship victims with rape crisis hotline personnel while the victims are at sea. We believe that it would be appropriate for the entire industry to provide access to these (or similar hotline) services to any cruise passengers or crew members who are victimized while traveling in international waters.

RAINN also believes that it will be important to equip those hotline personnel who assist cruise victims at sea with certain resources that are uniquely tailored to meet the unique needs of such victims. For example, while the typical (on shore) caller to our Telephone Hotline is seeking information about victim resources in their local community, a caller from a cruise ship at sea typically would need contact information for the consulate or U.S. embassy at the nearest port of call, contact information for the FBI, and information about how to report a sexual assault to cruise line personnel, plus advice on how to seek medical attention and related support services. Cruise victims also may get help from rape crisis centers in their local communities upon their return home.

Of the roughly 200 rape crisis centers, located in various states around the nation, from whom we heard last week, 90% said they do not currently train their personnel to meet the unique needs of victims of cruise ships. Although over half said that they feel fully prepared, and an additional one-third reported that they feel somewhat prepared, to assist cruise victims, 60% said they would find it helpful to receive materials to assist in counseling clients or responding to hotline calls. At least 40% said they would find it helpful to receive contact information for federal agencies that deal with cruise victims; about one-quarter said that they would find it useful to receive a list of international resources that provide assistance to cruise victims; and about one-quarter also said they would appreciate receiving specialized training to help them better meet the unique needs of rape victims on cruises.

Ensure greater oversight of training and conduct of crew members on ships.

The cruise industry needs to take additional steps to ensure that their crewmembers are adequately supervised and that better protocols are instituted and followed to protect victims (crewmembers and passengers alike) in the event that sexual assaults occur on cruises in the future. Royal Caribbean advised us that they recently hired a sexual assault forensic nurse to assist the company in the development of improved evidence collection procedures on their cruises; we encourage the rest of the industry to take similar steps, where appropriate, to

ensure that their onboard medical personnel are adequately trained in proper forensic evidence collection methods.

Ensure that cruise lines are accountable to the public to fully report all incidents of sexual assault.

We applaud U.S. Reps. Matsui, Shays, Poe, and Maloney for recently introducing an amendment that would require certain cruise crimes to be publicly disclosed online by the U.S. Coast Guard as well as the cruise industry. This measure recently passed the U.S. House of Representatives as an amendment to a U.S. Coast Guard bill, and we encourage the Senate to pass a similar measure.

Improve the screening and training of crew members who work with passengers.

Many cruise lines serving U.S. passengers employ citizens of a variety of other countries as crewmembers. The screening of crewmembers who work with passengers may not be adequate to fully protect those on cruises against the risks posed by sexual predators. Because crewmembers have been involved in some recent reported sexual assaults, finding a solution to this issue should be a priority for Congress and the industry.

Encourage cruise lines to educate their passengers, before the ship departs, about the onboard risk of sexual assault and what to do if they, or a friend or relative, is assaulted during the voyage.

The cruise industry's advertising materials foster an image of cruise ships as safe and fun havens for vacationing Americans to relax. Parents of children who were assaulted on a cruise occasionally tell us that they let their guard down more while onboard than they would have at home (e.g., by allowing their child to move freely about the ship without adult supervision). Ideally, the entire cruise industry should provide passengers, at the outset of a voyage, with safety information that notes the specific risks to children and youths while traveling on the cruise, gives safety tips for crewmembers and passengers, and explains what to do if you or a friend or family member is assaulted while on a cruise.

CONCLUSION

In closing, thank you for your time and for inviting me to testify. I look forward to continuing to work with you, Mr. Chairman, the Ranking Member, and the other members of this subcommittee on solutions to the important issues discussed at today's hearing.