



Pacific Islands  
Chiefs of Police

Guidelines

For

The

Pacific Island Chiefs of Police

And

Carnival Australia

Concerning

Crimes that are alleged to have been committed onboard a cruise  
ship at sea

## ***Part 1 Scope and Understanding***

### **1.1 Scope**

1. These guidelines provide a high-level good practice guide for reporting and responding to allegations of crimes committed onboard cruise ships at sea to members of the Pacific Island Police Chiefs (PICP).

### **1.2 Understanding**

2. The PICP member police agencies and Carnival Australia (the Participants) have reached the following understanding:
  - a) These guidelines do not bind States or agencies, alter law, bi or multi lateral arrangements or States' understanding of, or claims, to territory.
  - b) No PICP member police agency shall be obliged by these guidelines to investigate and/or prosecute an alleged crime committed at sea if to do so would be beyond its capacity and/or contrary to local practice.
  - c) Where a State has jurisdiction in relation to a crime allegedly committed on board a ship within its territorial sea, that State will continue to have jurisdiction. In these cases where territorial jurisdiction is claimed, crimes should be reported to the State of nationality of people involved as per local practice.
  - d) Incidents that should be reported to other agencies such as border agencies should be dealt with by existing mechanisms.

## ***Part 2 Definitions and Jurisdiction***

### **2.1 Definitions**

#### *Serious crime*

3. For the purpose of these guidelines, serious crime means a crime that is punishable by imprisonment for two years or more. Another crime may be treated as a serious crime if the circumstances of the case warrant.

#### *Cruise line*

4. The cruise line is the company which operates the cruise ship.

#### *State of nationality*

5. State of nationality is the state to which an individual (victim, suspect or witness) has nationality or citizenship.

#### *The receiving jurisdiction*

6. The receiving jurisdiction is the jurisdiction of the State that will receive the ship at its next port of call after the report of the alleged crime.

#### *Flag State*

7. The flag State is the State in which the cruise ship is registered.

*Relevant jurisdiction*

8. A relevant jurisdiction is any of the above States/jurisdictions which may have a claim to enforce jurisdiction by investigating and/or prosecuting the alleged offence.

## **2.2 Types of Jurisdiction**

9. Each of the following jurisdictions is a relevant jurisdiction for the purposes of these guidelines, and ideally should be informed of the alleged crime:

- a. *Jurisdiction of the flag State of the ship.* The flag State of a cruise ship has primacy of enforcement jurisdiction for crimes committed on that ship while at sea.

However, given that cruise ships are generally flagged in distant States, flag States' ability to play an active role in investigations and/or prosecutions in the Pacific is expected to be limited in most cases.

Nonetheless, consent of the flag state should be sought by Pacific jurisdictions that decide to investigate and/or prosecute an alleged crime committed on a cruise ship while at sea. Should the flag State consent not be immediately forthcoming, or should the flag State's authorities not be contactable, Pacific jurisdictions should act in good faith to investigate as they deem appropriate given the circumstances of the case.

- b. *The receiving jurisdiction at the next port of call.* This interest is reflected in the application of the principle of territorial jurisdiction. Depending on local law, States may exercise enforcement jurisdiction in relation to crimes committed at sea onboard ships travelling into their territory.

Given the practical limitations of jurisdictions to conduct investigations in another country, the receiving jurisdiction may have the strongest practical claim to jurisdiction over the case. In other cases, the jurisdiction that takes the lead in investigating and/or prosecuting the case may rely on preliminary protection of evidence, assessments or investigation by the receiving jurisdiction.

- c. *Jurisdiction of the suspect's State of nationality.* This interest derives from the application of the nationality/personality principle. Depending on the individual State's laws, any person who commits a crime at sea may be subject to the law of their State of nationality. States of nationality should be informed of alleged crimes so that they have an opportunity to investigate the activities of their national in accordance with their extra-territorial laws.

Where the flag State and receiving jurisdiction do not have the capacity to investigate and there is an obvious suspect, the suspect's State of nationality may also be best placed to investigate and/or prosecute.

- d. *Jurisdiction of the victim's State of nationality.* This interest derives from the application of the passive personality and protective principles. Where there is a distant flag State, a suspect is not identified and the case is serious but outside of the capacity or legal authority of the receiving jurisdiction, the victim's State of nationality may need to take the lead in the investigation.

Victims' home jurisdictions may also need to provide victim support.

## ***Part 3 Reporting Process***

### **3.1 Initial Reports for Serious Crimes**

10. In the case of a serious crime, the ship or the ship's line should contact the nominated point of contact in the jurisdiction at the next port of call (the receiving jurisdiction) [refer to the points of contact attached at Appendix V] as soon as possible.
11. The ship/ship's line should ensure that all available information is reported to the receiving jurisdiction including:
- full details of the alleged criminal activity, including the exact location on the ship and the time it occurred,
  - the ship's current location and location at the time of the alleged crime, time of arrival and scheduled time of departure
  - whether medical help is required
  - what action the ship has taken
  - identity/description of the suspect (including nationality)
  - the suspect's demeanour
  - victim's details (including nationality)
  - travelling companions of the suspect/victim
  - details of witnesses
  - other jurisdictions that need to be notified (see *Part 2.2 Types of Jurisdiction* above)
  - any other relevant information
12. The point of contact in the receiving jurisdiction should then contact other relevant jurisdictions and make arrangements for an operational response in accordance with receiving jurisdictions' domestic laws, policies and procedures.
13. Jurisdictions will need to decide who has the lead for any investigation on a case by case basis (see *Part 4.2 Deciding Jurisdiction* below).
14. Where the receiving jurisdiction does not consider the alleged crime to be a crime, the ship's line should make a subsequent initial report to another relevant jurisdiction (such as the victim's State of nationality).

### **3.2 Reports for Non-Serious Crimes**

15. In the case of a non-serious crime, reporting to the receiving jurisdiction is not required unless the ship's captain or security officer considers that the circumstances warrant a report. For those non-serious cases that are deemed suitable for reporting only the standard incident reporting form and any written statements (refer *Part 3.3 Written Reports* below) need to be provided to police at the receiving jurisdiction.
16. In these cases the receiving jurisdiction should make the decision as to whether the report warrants further action. In these cases the victim's wishes should be considered and the ship's captain or security officer consulted or informed.
17. In non-serious cases, jurisdictions may decide that whatever action has or can be taken by the ship's crew is sufficient in comparison to the seriousness of the crime.
18. In determining whether a non-serious case should be reported, the ship's captain or security officer will take into consideration whether the report is of intelligence value to the receiving jurisdiction; or the ship's line considers it desirable or appropriate.

### **3.3 Written Reports**

19. Attached at Appendices II and III are the Standard Incident Reporting Form and the Written Statement Form. Together these two forms constitute the written report and should be filled out by the ship's security, victims and any witnesses for every alleged crime reported.
20. Where a serious crime is reported, the written report should be provided to receiving jurisdictions in addition to the initial report. The ship's line should make copies available to other interested jurisdictions at the same time.
21. For non-serious crimes, written reports may be provided to the receiving jurisdiction when the ship arrives in port if deemed appropriate by the ship's captain, security officer or ship's line. The ship's line should pass written reports for non-serious crimes on to other relevant jurisdictions for their information as soon as practical.
22. Statistics from the written reports should be provided to the Pacific Transnational Crime Coordination Centre by the lead jurisdiction including:
  - type of crime
  - location of ship at the time of the alleged crime (ie high seas, territorial waters, in port)
  - nationality, gender, age of victims, suspects and witnesses
  - resolution
23. No personal information should be included with these statistics.

## **Part 4 Response**

### **4.1 Action by Ships' Crew and the Ship's Line**

24. In all cases the ship's captain and/or security crew should follow the cruise line's own policies to ensure:
- crime scenes are preserved and kept preserved for as long as possible or until the lead jurisdiction is able to complete an examination
  - statement forms are filled out
  - evidence is protected and preserved (including sexual assault kits if available)
  - any available assistance or resources are offered to the lead jurisdiction and other relevant jurisdictions.
25. The ship's line should follow their own policy and procedures to:
- offer victim support
  - facilitate travel home or to another appropriate country for victims, witnesses or suspects (with regard to jurisdictions' requirements)
  - offer any counselling services available
  - assist jurisdictions' investigations
  - provide any other service available.
26. Depending on the circumstances and the urgency of the need for a statement, all relevant participants will endeavour to consult with, and consider the interests of other affected participants before making press releases and statements were practicable.
27. Ship lines' should make copies of their security and any other relevant policies and procedures available to jurisdictions upon request.

### **4.2 Deciding the Lead Jurisdiction**

28. Relevant jurisdictions should make a joint decision of who will have the lead for the investigation of the case. The decisions as to who should have the lead, what role each participant will have, how to ensure proper evidence handling and mutual assistance needs should be made as quickly as possible so that timely action can be taken.
29. Although distant flag States may have limited ability to investigate or prosecute alleged crimes, primacy of jurisdiction remains with the flag State for alleged crimes at sea.
30. Upon receiving a report of an alleged crime, the receiving jurisdiction should respond to the report to the extent possible. Other relevant PICP jurisdictions should be informed immediately.
31. Once contact is established between relevant PICP jurisdictions, a joint decision between receiving and other relevant jurisdictions should be made on who will be the lead jurisdiction based on:
- the principles noted in *Part 2.2 Types of Jurisdiction* above
  - each jurisdiction's laws and policies

- the seriousness and nature of alleged crime
  - capacity of each jurisdiction to respond
  - timeframes
32. The flag State should be informed by the lead jurisdiction as soon as possible so that a request can be made for consent to investigate and/or prosecute. Until consent is obtained the lead jurisdiction should proceed in good faith with any appropriate assistance from the other relevant jurisdictions.
33. The lead in the investigation and/or prosecution may be handed over to the flag State if the flag State requests the lead or does not grant consent for the PICP jurisdiction to investigate and/or prosecute.
34. In each case decisions will need to be made with reference to relevant jurisdictions' domestic law and applicable international law.
35. Timeframes and other factors impacting on jurisdiction's ability to investigate should be considered by jurisdictions.
36. If possible jurisdictions should consider seeking legal opinion on their powers to investigate and/or prosecute.

#### **4.3 Actions by the Receiving Jurisdiction (if not Lead)**

37. Where the receiving jurisdiction is not the lead jurisdiction, they should:
- take whatever action is appropriate to ensure that the crime scene is preserved as soon as possible after the ship arrives in port
  - ensure that there is communication with the lead jurisdiction
  - ensure that border procedures are complied with and consider assistance that may be available from border agencies as per local practice
  - offer any assistance that is available in accordance with domestic mutual assistance in criminal matters provisions and other international arrangements or relevant treaties.
38. Where appropriate, further assistance may be offered to support the lead jurisdiction's investigation, such as:
- preservation of evidence taken by the ship's security team
  - gathering further evidence
  - ensuring that perishable evidence is not lost
  - ensuring that exhibits are properly collected and stored and that an exhibit schedule is created
  - ensuring that the crime scene is recorded (using notebooks, sketches and photographs as appropriate)
  - considering the prevention of suspects return to the ship - unless other relevant jurisdictions and cruise line agree to the suspect remaining on board and it is appropriate in all the circumstances (consideration must be given to the victim, witnesses and other passengers)

- seeking voluntary restriction of movement or arrest if requested by the lead jurisdiction
- protection of victims and witnesses and provision of any available services (such as support, medical or consular). This could include considering the availability of support from the State of nationality
- making staff available to give evidence in any prosecution.

39. Ensure that the lead jurisdiction is given regular updates until they are able to provide investigators.

#### **4.4 Expectation of Lead Jurisdiction**

40. Where police in the receiving jurisdiction will lead the investigation they should:

- take over the crime scene on the ship and assume responsibility for the victim and/or suspect
- conduct the investigation in accordance with domestic laws, policies and procedures, cooperating with other relevant jurisdictions as required
- ensure that other relevant jurisdictions are informed and copies of the written reports are provided

41. In all cases, the lead jurisdiction should:

- ensure coordination between relevant jurisdictions, the ship and the ship's line
- ensure it receives written reports, statements and any other relevant information from ships' security
- communicate needs to other jurisdictions, the ship's crew and the ship's line
- consider time and resource needs
- ensure that other participants agree to any media releases

42. The lead jurisdiction should ensure decisions about investigations and prosecutions are made on a case by case taking account of:

- views and expectations of the flag state
- legal provisions and jurisdictional issues
- victim's needs and preferences
- seriousness of the crime
- resources
- strength of the case
- other relevant matters

43. Relevant jurisdictions should seek legal opinion on their powers to investigate and/or prosecute alleged crimes covered by these guidelines as necessary.

#### **4.5 Responsibility of Relevant Non-Lead Jurisdictions**

44. Relevant jurisdictions that are not the lead or receiving jurisdiction should:

- carry out response to the report of the alleged crime at sea in accordance with domestic law, policies and procedures as determined by the lead jurisdiction
- ensure timely communication with the lead jurisdiction and/or the receiving jurisdiction
- consider the provision and coordination of ongoing victim support, where relevant
- brief relevant consular staff
- gather information for their own purposes
- ensure that other participants agree to any media releases.

#### ***Part 5 Promotion of these Guidelines***

45. Each participant should promote these guidelines within their own agency or company.

#### ***Part 6 Commencement***

46. These guidelines should be followed from the date of signing.

#### ***Part 7 Termination***

47. As these guidelines do not bind participants, participants may discontinue their use at any time. Participants should inform other participants in written prior to discontinuing use of these guidelines.

#### ***Part 8 Review of Arrangement***

48. These guidelines may be reviewed or cancelled at any time by mutual consent, and will be reviewed at the 39th PICP Conference in 2010.

#### ***Part 9 Appendices***

|              |   |
|--------------|---|
| Appendix I   | High Level Guideline Procedures for Receiving a Report          |
| Appendix II  | Standard Incident Report Form                                   |
| Appendix III | Incident Statement Report                                       |
| Appendix IV  | Recommended Considerations for Protecting the Chain of Evidence |
| Appendix V   | Nominated Points of Contact                                     |

We the undersigned have approved the adoption of the PICP and Carnival Australia Guidelines Concerning Crimes that are Alleged to have been Committed Onboard a Cruise Ship at Sea; and

Agree to work together to assist and support each other to implement them.



American Samoa

---



Australia

---



Commonwealth of Northern Mariana Islands

---



Cook Islands

---



Federated States of Micronesia

---



French Polynesia

---



Guam

---



Kiribati

---



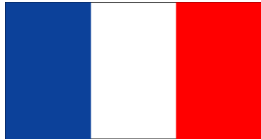
Marshall Islands

---



Nauru

---



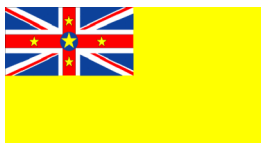
New Caledonia

---



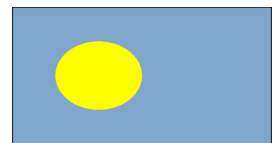
New Zealand

---



Niue

---



Palau

---



Papua New Guinea

---



Samoa

---



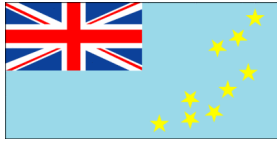
Solomon Islands

---



Tonga

---



Tuvalu



Vanuatu



PICP Chairperson

