United States General Accounting Office

GAO

Report to the Honorable
Mike Lowry, House of Representatives

December 1988

COAST GUARD

Information Needed to Assess the Extent of Sexual Assaults on Ships

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Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-232911

December 29, 1988

The Honorable Mike Lowry
House of Representatives

Dear Mr. Lowry:

This report responds to your November 4, 1987, request for information regarding sexual assaults on women working in the U.S. merchant marine. In subsequent discussions with your office, we agreed to (1) determine the number of women documented, licensed, and working in the U.S. merchant marine and selected other occupations; (2) determine, to the extent possible, the number of shipboard sexual assaults on women reported to government agencies in the Pacific Northwest states of Washington, Oregon, and Alaska; and (3) examine whether changes are needed in laws and regulations relating to sexual assaults on women working aboard ships at sea.

Results in Brief

The Coast Guard's data base of documented mariners is incomplete and not currently maintained. Of the 88,482 documented individuals who are listed in the data base, 4,670 or 5.3 percent are women. The agency's data base of licensed officers, which is more complete, shows that of the 131,934 licensed officers listed, 4,554 or 3.5 percent are women. The number of documented or licensed merchant mariners actively working on U.S. merchant ships in 1985, the last year for which complete activity data are available, totaled 34,550. Of these, at least 1,083 or about 3 percent were women. In addition, a total of 116 women were employed as National Oceanic and Atmospheric Administration (NOAA) fisheries observers in 1987, and a total of 191 women were employed on Washington State Ferries as crew members and food service personnel in 1988—26 percent and 20 percent, respectively, of the total shipboard employment of these organizations.

According to federal, state, and local officials in the states of Washington, Oregon, and Alaska, only four cases of sexual assaults aboard ships had come to their attention since 1981. Neither the Coast Guard nor the Federal Bureau of Investigation (FBI) compile nationwide statistics on sexual offenses committed aboard ships; however, the Coast Guard through a search of its national data base of disciplinary proceedings was able to identify two additional cases, both of which occurred in Hawaiian waters.

Others we talked with, including women documented and licensed in the merchant marine, believe that more sexual assaults actually take place than are reported to authorities. Their assertions were lent credibility by the testimony of women who learned of our study and voluntarily contacted us to share their own experiences or knowledge of sexual assaults at sea. According to two of these women, they had been raped aboard ship and did not report the offenses out of shame or fear of repercussions.

During our review, several suggestions were made for changing the legal and regulatory framework dealing with shipboard sexual assaults. The one that appears to have greatest merit at this time aims at encouraging greater reporting of such offenses, thus providing a better idea of the dimensions of the problem and a better basis for determining what additional measures, if any, may be needed to deal with it.

Background

For this study, the merchant marine is defined as consisting of persons documented as mariners or licensed as officers by the U.S. Coast Guard.[1] Such individuals are employed principally aboard passenger and other commercial ships. Individuals employed aboard fishing vessels of less than 200 tons and in other maritime occupations, such as NOAA's fisheries observer program, are not required to have Coast Guard issued credentials and, thus, would not be included as part of the merchant marine.

As agreed with your office, we focused on sexual assaults against women, including rape and nonconsensual sexual contact. These offenses are defined by the Sexual Abuse Act of 1986.[2] The act provides criminal penalties for covered offenses when they are committed at sea aboard a U.S. registered vessel or one owned in whole or part by U.S. citizens. (See app. I for a detailed discussion of the act.) Within the U.S. territorial waters, that is within 3 miles of U.S. shores, such offenses are subject to penalty under state laws as well. Coast Guard regulations also include rape and assault among shipboard offenses and prescribe penalties for these acts in the form of suspension or revocation of licenses and documents.

[1]The term merchant marine can have several meanings, often encompassing both the vessels and the personnel employed in U.S. merchant shipping. Its use in this report is limited to the personnel sense, specifically to individuals documented or licensed by the Coast Guard.

[2]The act also defines as an offense nonconsensual sexual contact under circumstances in which threat or intimidation are absent. Our study excluded this category of offenses as well as words and actions that would generally fall under the heading of sexual harassment.

Foreign vessels operating outside U.S. territorial waters are not subject to U.S. jurisdiction, and thus are not covered by the criminal code, including the Sexual Abuse Act or Coast Guard regulations. Under the Magnuson Fishery Conservation and Management Act (hereafter referred to as the Magnuson Act) the United States has asserted jurisdiction over a zone extending 200 miles from U.S. shores in order to conserve and manage fishery reserves. Foreign vessels fishing within this zone subject themselves to the provisions of the Magnuson Act, which prohibits assault and harassment of U.S. observers monitoring their fishing activities.

Employment Information

The Coast Guard's data base relating to individuals documented as mariners is incomplete for a variety of reasons. For example, we found that little data prior to 1977 was entered into the system. Additionally, a Coast Guard official told us that the data base has not been regularly maintained since 1984. Because merchant mariner documentation remains valid for the life of the bearer or until his or her seaman's status is upgraded, individuals who received or last upgraded their mariner's documents before 1977 or after 1984 may not be included in the data base.

On the other hand, the Coast Guard's data base relating to individuals licensed as officers appears to be reasonably complete. As of April 1988, we found that nearly all the information in this data base is for the period 1982-87, which is appropriate because licenses are valid for only 5 years and then must be renewed. Anyone licensed as an officer before 1982 would since have had to apply for renewal of that license, if he or she wished to continue to hold the status of officer in the merchant marine.

Table 1 provides information on documentation and licensing as of March 1988 and April 1988, respectively. Given the aforementioned limitations on documentation data, figures for this category must be considered as minimums only.

Table 1: Number of Persons Documented (Minimum) **and Licensed in the U.S. Merchant Marine as of March 1988 and April 1988[a], respectively**

	Total	Women	Women as percent of total
Documented	**88,482**	4,670	5.3
Licensed	**131,934**	4,554	3.5

[a]There are actually more documented mariners than shown in the table due to the incompleteness of the Coast Guard's data base. Also, figures in the table do not include 5,216 licensed and 2,209 documented mariners for whom gender could not be determined.

Not all individuals documented as mariners or licensed as officers are necessarily employed aboard U.S. merchant vessels in any given year. Some may be involuntarily unemployed; others may have died, retired, or left the profession; and still others may be working in related occupations such as fishing, shipbuilding, or ship repair. We identified those who are active, that is, actually working in the merchant marine, on the basis of shipping and discharge papers that are required to be filed with the Coast Guard by employers as mariners are hired aboard or discharged from regulated U.S. merchant ships.

Table 2 provides information on those who were actually employed aboard U.S. merchant vessels at some point during 1985, the last year for which complete activity data are available. Information is not separately available for documented and licensed categories. Moreover, these figures do not include activity on ferries, vessels on inland waters, or fishing vessels, since shipping and discharge papers are not required to be filed for these categories of vessels. Also not included are mariners sailing on "coastwise" voyages, for example, voyages between points on the same coast of the United States. Finally, Coast Guard records do not contain reliable gender designations. A cross check of social security records provided gender designations for most, but we still could not definitely determine the gender of 17 percent of the active documented mariners/licensed officers listed in Coast Guard records. As a result, these individuals were excluded from consideration, and figures relating to active women must be considered as minimums only.

Table 2: Documented and Licensed Persons (Minimum)**Working Aboard U.S. Merchant Ships in 1985[a]**

	Total	Women	Women as percent of total
Active documented and licensed	34,550	1,083	3.1

[a]Figures in table do not include 7,152 mariners for whom gender could not be determined nor do they include mariners working aboard certain classes of vessels discussed above.

Because of the exclusion of smaller vessels and inland ferries and tugs as well as coastwise voyages from the activity data, and because we were unable to definitely determine the gender of a portion of the active mariners listed in Coast Guard records, we used Census data as a cross check and supplement. According to data from the 1980 Census of Population, 1,391 women out of a total employment of 63,013 (slightly over 2 percent) were working in "water transportation" occupations in that year. This category most closely corresponds to the merchant marine. Moreover, the percentage of women employed in this category also corresponds fairly closely to that calculated on the basis of 1985 Coast Guard activity records.

In some other maritime occupations, however, women represent a substantially greater proportion of employment. Two of these are fisheries observers of NOAA's National Marine Fisheries Service (NMFS) and Washington State Ferries (WSF). During calendar year 1987, NMFS deployed 116 women as observers aboard fishing vessels, or 26 percent of its total of 448 observers. As of March 1988, WSF employed 7 licensed women officers and 59 documented women mariners, slightly over 8 percent of its total crew strength of 800.[3] In addition, 125 women worked for the food concession on these ferries, 90 percent of all WSF food concession workers. (See app. III for details on employment in maritime occupations.)

Reported Sexual Assaults

Our inquiries to federal, state, and local officials in the Pacific Northwest produced a total of four cases of shipboard sexual assaults against women employed in maritime occupations since 1981. Because so few cases were reported, we attempted to obtain nationwide data by contacting officials at the headquarters of the FBI and the Coast Guard. The FBI informed us that its records and reporting systems do not distinguish among sexual assaults on the basis of whether they occurred on land or aboard ships. Thus, it had no way of readily identifying or retrieving cases involving sexual assaults at sea. Similarly, the Coast Guard, lacking a requirement or procedure for systematically reporting and centrally compiling information relating to sexual assaults committed aboard merchant ships, was unable to provide us with information concerning cases not already known to us.

[3]These documented and licensed individuals would not be reflected in Coast Guard activity records since their employer, WSF, falls into the category of vessel operators who are not required to file shipping and discharge papers.

Late in our review, however, as a result of a search of its automated national data base of disciplinary cases before administrative law judges, the Coast Guard identified two additional cases that met the definition of "sexual assault" used in this study. Both of these cases occurred in Hawaiian waters. Of the six cases of sexual assault identified by these various means, two occurred aboard foreign fishing vessels fishing within the U.S. fishery conservation zone and four occurred aboard U.S. vessels. (These cases are discussed in detail in app. IV.)

Unreported Incidents and Explanations for Failure to Report

According to the FBI, which compiles and reports statistics on sexual assaults and other crimes in its Uniform Crime Reports for the United States, rape is one of the most underreported criminal offenses. Among the reasons cited for nonreporting by victims of these offenses are (1) concerns about retaliation or other negative repercussions, (2) feelings of embarrassment, shame and even guilt, and (3) a belief that reporting would be pointless because it is unlikely that anything would be done to remedy the situation. Aboard ship these factors may operate to an even greater degree to discourage victims from reporting sexual assaults.

According to a retired senior Coast Guard investigator, a psychologist, attorneys in private practice, and several women who had worked at sea, conditions of work aboard ship impose particular pressures on victims to refrain from reporting sexual assaults and related offenses. Specifically, they said that the shipboard setting constitutes a self-contained, confined, and isolated work environment characterized by a special set of social relationships and interpersonal dynamics. With crew members highly dependent on one another, living and working at close quarters and predominantly male, women crew may experience an atmosphere of resentment, sexual innuendo, harassment, and even intimidation. Under such conditions, they may fear incurring the animosity of male crew members by reporting instances of sexual assault and related offenses. They are also fearful of doing anything that might cause them to lose their jobs, which pay considerably better than jobs on land for which they might be qualified.

During our review several women who had learned of our study through press accounts or other sources contacted us independently to tell us of their experience or knowledge of sexual harassment and abuse at sea. Two of these women, self-described victims of rape, provided us detailed accounts of their ordeals, neither of which had ever been reported to authorities. (See app. IV for a discussion of these cases.) One of the victims (see case 8, app. IV) told us that of the approximately 12 women

she knew of who had worked at sea all but two had some experience of harassment involving force or threats. Most, she said, tended to view this with a certain resignation as something that goes with "the territory."

In view of the apparent reluctance of many victims of rape and other sexual offenses to report these incidents to authorities, we have no way of determining how many offenses of this nature may actually be taking place within the merchant marine or in other at sea occupations.

Suggested Changes to the Legal and Regulatory Framework

A variety of suggestions were made by those we spoke with for changing the legal and regulatory framework dealing with sexual assaults and related offenses committed at sea. These suggestions included government and privately sponsored educational campaigns, filling a gap in statutory protections, and establishing new requirements for the reporting of shipboard sexual assaults. With the exception of new regulatory reporting requirements, these suggestions are discussed in appendix V.

Currently, the Coast Guard has no specific requirements for the reporting of shipboard sexual assaults and other offenses covered by the Sexual Abuse Act. In this respect, sexual assault is treated no differently by the Coast Guard than any other crime. While the Coast Guard maintains a marine casualty reporting system that requires ships' masters and other responsible officers to report various shipboard occurrences, including any death or injury that involves incapacitation for over 72 hours, these regulations have been viewed within the Coast Guard as relating primarily to the safe operation of the vessel itself rather than to the welfare and well-being of individual crew members.

Coast Guard officials could not identify any provision of the marine casualty reporting regulations that would require ships' officers to report injuries (defined by us to include both physical and emotional traumas) that do not result in 72-hour incapacitation of the victim. By the same token, these officials were unable to cite any other statutory or regulatory provisions that would require that incidents of sexual assault and related offenses committed aboard ship be reported to the Coast Guard. Our work revealed no instances of sexual assaults or related sexual offenses reported to the Coast Guard through the marine casualty reporting system. Moreover, information obtained from women mariners tended to confirm that such incidents are rarely reported to the Coast Guard or other law enforcement authorities.

In one maritime sexual assault case, involving crew members of a U.S. tanker, subpoenaed information from the accused's personnel file and other company records indicated that as many as eight women mariners had earlier filed complaints with their employer about various sexual offenses allegedly committed by him. (See case 3, app. IV.) We could find no evidence, however, that any of the complaints was ever reported by ships' officers or other company representatives to the Coast Guard. Furthermore, according to a Coast Guard official the alleged rape at issue in the hearing had also not been reported by the ship's master or other responsible officials. It was only brought to the Coast Guard's attention, sometime after the incident, by the alleged victim herself.

A regulatory provision requiring that masters of vessels or other responsible officials promptly report to the Coast Guard any complaint of a criminal sexual offense covered by the Sexual Abuse Act would seem to be clearly within the scope of the Coast Guard's legislative authority. The Coast Guard has broad law enforcement authority to prevent, detect, or suppress violations of U.S. laws upon the high seas or in U.S. waters through inquiries, inspections, seizures, and other activities.[4] Also, it may conduct any investigations or studies that may help in performing any of its powers.[5] To carry out these responsibilities, the Secretary of Transportation may issue such regulations and orders as deemed appropriate.[6] Requiring masters to report complaints made to them would be an initial step in detecting violations of the Sexual Abuse Act and should aid in preventing and suppressing violations of the act.

Conclusions

We are not in a position to assess the merits or likely benefits of most suggestions that we received for dealing with the problem of shipboard sexual assaults, since many of these are directed at changing attitudes and dealing with broad concerns about gender discrimination and sexual harassment that are beyond the scope of this review. However, we do see merit in a Coast Guard regulation that would require the reporting of all incidents involving violations of the Sexual Abuse Act that come to the attention of ships' captains or other responsible officers. A regulatory reporting requirement of this type appears to be within the scope of the broad law enforcement authority granted to the Coast Guard by federal statute.

[4] 14 U.S.C. section 89.

[5] 14 U.S.C. section 93 (e).

[6] 14 U.S.C. section 633.

Establishing a requirement for the reporting of sexual offenses, at least within that portion of the maritime industry that is currently regulated by the Coast Guard, could, in our view, accomplish several worthwhile purposes. First, such a regulation would serve to publicize the act and increase awareness of its provisions and the penalties it provides for those who commit specific sexual offenses within the special maritime and territorial jurisdiction of the United States.[7] Second, it would provide information on the circumstances and extent of such offenses, and a basis for determining if additional actions are necessary. Third, it could well serve to increase the willingness of victims to come forward. Aware of the captain's obligation to investigate and report their charges, victims might have greater confidence that their accusations would be taken seriously and that their safety and welfare would be adequately safeguarded for the duration of their voyage or service aboard ship.

Recommendation

In order to (1) promote greater awareness and understanding of the Sexual Abuse Act of 1986 within the U.S. maritime industry, (2) obtain more complete information on and understanding of the extent of sexual assaults and related offenses in the industry, and (3) foster a climate conducive both to deterring sexual offenses and reporting their occurrence to appropriate authorities, we recommend that the Secretary of Transportation direct the Commandant of the Coast Guard to require that masters of vessels or other responsible officials promptly report to the Coast Guard any complaint of a criminal sexual offense covered by the Sexual Abuse Act of 1986 as soon as possible following its occurrence or report of its occurrence.

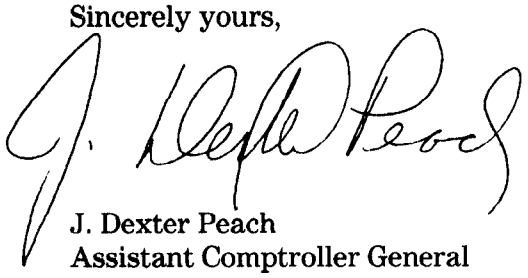
We performed our review from February 1988 to November 1988 in accordance with generally accepted government auditing standards. Appendix II contains a discussion of our objectives, scope, and methodology. We discussed the report's contents with Coast Guard headquarters officials; however, as requested by your office, we did not obtain written agency comments.

Unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time we will send copies to the Secretary of Transportation, the Commandant of the Coast Guard, and other interested parties.

[7]See appendix I for definition of the special maritime and territorial jurisdiction.

This work was performed under the direction of Kenneth M. Mead, Associate Director. Other major contributors are listed in appendix VI.

Sincerely yours,



J. Dexter Peach
Assistant Comptroller General

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Abbreviations

EEOC	Equal Employment Opportunity Commission
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
WSF	Washington State Ferries

The Sexual Abuse Act of 1986[1]

The Sexual Abuse Act provides penalties for the following sexually related crimes when committed within the "special maritime and territorial jurisdiction"[2] of the United States:

- Aggravated sexual abuse: causing another person to engage in a sexual act by (1) using force against that person; (2) threatening the other person with the death, serious bodily injury, or kidnaping of that, or any other, person; (3) rendering that person unconscious; or (4) administering to the other person by force or threat of force, or without the knowledge or permission of that person, a drug or an intoxicant so as to impair substantially the ability of that person to appraise or control conduct. Persons found to have perpetrated such activity are subject to fines (the amount of which is not stated in the act) and/or imprisonment for any term of years, including life. Attempts to engage in a sexual act by using these means are subject to the same penalties.
- Sexual abuse: causing another person to engage in a sexual act (1) by threatening or placing that person in fear, other than fear of death, serious bodily injury, or kidnaping, or (2) whenever that person is incapable of judging the nature of the conduct, or physically incapable of declining to participate in the act or communicating unwillingness to participate, regardless of whether the perpetrator acted to render the other person so incapable. The penalties for sexual abuse, and attempted sexual abuse, include fines and/or imprisonment for terms up to 20 years.
- Abusive sexual contact: the intentional touching, either directly or through clothing, of intimate body parts of another person, without that person's permission, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.[3] The penalties for such activity include fines up to $5,000 and/or imprisonment for terms up to 6 months.

[1]Public Law No. 99-654, 18 U.S.C. Section 2241.

[2]For purposes of the criminal code, United States' law defines "special maritime and territorial jurisdiction" as including the high seas, any waters within United States' jurisdiction and out of the jurisdiction of a particular state, and any vessel belonging in whole or in part to the United States, any citizen of the United States, any United States' corporation, or any state, territory, or district of the United States. The criminal code does not define "high seas." Courts, as a general matter, have defined "high seas" as waters seaward of the United States' territorial sea, which extends 3 miles out from the coast. See, e.g., United States v. Romero-Galue, 757 F.2d 1147 (11th Cir. 1985). The Magnuson Act defines "high seas" as "all waters beyond the territorial sea of the United States and beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States," 16 U.S.C. Section 1802(13).

[3]For purposes of our report, we defined "sexual assault" as including abusive sexual contact only in intimidating circumstances.

Other federal law provides penalties for assaults occurring in the special maritime and territorial jurisdiction that are not sexual in nature.[4]

[4]See 18 U.S.C. Sections 113, 114.

Objectives, Scope, and Methodology

Objectives

In a November 4, 1987, letter, Representative Mike Lowry expressed concern about actual and potential problems of sexual harassment and sexual abuse of women working aboard ships at sea and the paucity of information available concerning the extent of the problem. As agreed with the Representative's office, we sought to obtain answers to the following questions:

1. How many women have been documented as mariners (merchant seamen) and licensed as officers in the U.S. Merchant Marine? How many women are actually working aboard U.S. merchant ships in these capacities?

2. How widespread and serious is the problem of sexual assaults against women working at sea? Specifically, how many instances of sexual assaults against women working at sea have been reported in recent years to authorities in the Pacific Northwest states of Washington, Oregon, and Alaska?

3. Are changes needed in the laws and regulations pertaining to sexual assaults against women working in maritime occupations at sea?

Scope

Our original agreement with the requester's staff was to initially focus our study on information about women mariners in the Seattle, Washington area. However, because of data limitations, the requester's staff agreed that it was more appropriate in some instances for us to obtain data on a regional or national basis. We contacted federal, state, and local government officials and company and union representatives for employment data and for information on incidents of sexual assaults aboard ships. In addition, we received information from 30 women with experience working aboard merchant ships or in other segments of the maritime industry. Because this was not a statistically representative sample, however, their remarks cannot be taken as necessarily representative of the views and experiences of all women in these occupations. We focused on the reporting of sexual assaults. The reporting of other offenses may well be appropriate also but was not within the scope of our review. Following is a listing of the organizations and individuals contacted:

Shipping Unions

- ARCO Unlicensed Crew Union Representative (Long Beach, Calif.);
- ARCO Licensed Crew Union Representative (Long Beach, Calif.);
- EXXON Seamen's Union, East Coast Representative (Bayonne, N.J.);

- EXXON Seamen's Union, West Coast Representative (Venetia, Calif.);
- Inland Boatman's Union of the Pacific (Seattle, Wash.);
- International Organization of Masters, Mates, and Pilots (Seattle);
- Marine Firemen's Union (Seattle);
- National Maritime Union of America (Seattle); and
- Seafarers International Union of North America (Seattle).

Past and Present Maritime Employees

- Thirty Women.

Other Organizations and Persons

- Mental Health/Organization Development Consultant;
- Women's Maritime Association (Seattle);
- Seattle Attorneys (Three attorneys who have represented women in the maritime industry); and
- Anchorage Attorneys (Three attorneys who have represented women in the maritime industry).

Law Enforcement Agencies

- FBI (Washington, D.C.; Seattle, Wash.; Portland, Oreg.; Anchorage, Alaska; San Francisco, Calif.; and Sacramento, Calif.);
- U.S. Coast Guard (Washington, D.C.; Seattle, Portland, Juneau, Alaska; San Francisco; St. Louis; Houston, Texas);
- Washington State Patrol (Olympia, Wash.);
- Oregon State Police (Salem, Oreg.);
- Oregon State Law Enforcement Data System (Salem);
- Alaska State Patrol (Anchorage, Juneau, Kodiak, and Soldotna, Alaska);
- Seattle Police Department (Seattle);
- Port of Seattle Police (Seattle);
- Tacoma Police Department (Tacoma, Wash.);
- Port of Tacoma Security (Tacoma);
- Portland Police Department (Portland);
- Astoria Police Department (Astoria, Oreg.);
- Anchorage Police Department (Anchorage);
- Sitka Police Department (Sitka, Alaska);
- Ketchikan Police Department (Ketchikan, Alaska); and
- Seward Police Department (Seward, Alaska).

Other Public Agencies

- U.S. Department of State (Washington, D.C.);
- U.S. Department of Justice (Washington, D.C.);
- U.S. Attorney's Office (Seattle, Anchorage, Los Angeles);
- U.S. Maritime Administration (Washington, D.C.);
- National Oceanic and Atmospheric Administration, Office of General Counsel (Juneau);
- U.S. Coast Guard Administrative Law Judge (Houston);
- Social Security Administration (Baltimore, Md.);
- Bureau of the Census (Washington, D.C.);
- Bureau of Justice Statistics Clearing House (Rockville, Md.);
- Bureau of Labor Statistics (San Francisco);
- Office of Federal Contract Compliance (Seattle);
- Equal Employment Opportunity Commission (Washington, D.C.; Seattle);
- Washington State Human Rights Commission (Seattle, Olympia);
- Oregon State Office of Civil Rights (Portland);
- Alaska State Commission for Human Rights (Anchorage);
- Alaska Office of Equal Employment Opportunity (Juneau); and
- Alaska Ombudsman's Office (Anchorage, Juneau).

Maritime Employers

- ARCO Marine, Inc. (Long Beach, Calif.);
- Arctic Alaska Fisheries Corporation (Seattle);
- EXXON Shipping Company (Houston);
- Crowley Maritime Corporation (Seattle);
- Foss Maritime Company (Seattle);
- Golden Alaska Seafoods (Seattle);
- National Oceanic and Atmospheric Administration, National Marine Fisheries Service Observer Program (Seattle, Gloucester, Maine; Terminal Island, Calif.; Pascagoula, Miss.);
- Restaura Division, Greyhound Corporation (Seattle); and
- State of Washington, Department of Transportation, Marine Division, Washington State Ferries (Seattle).

Methodology

The requester asked us to obtain information about women in the merchant marine, that is, women documented as mariners and licensed as officers by the U.S. Coast Guard and employed aboard U.S. merchant vessels.

Employment Data

In order to develop a breakdown of documented mariners and licensed officers by gender, we obtained computerized Coast Guard records, to the extent available, and matched the social security numbers in the

Coast Guard data base with Social Security Administration information. This was necessary because gender designations in the Coast Guard's data base, to the extent they exist, represent Coast Guard judgments based on the seamen's first names, many of which are foreign or otherwise ambiguous as to gender. Because names of uncertain gender were designated as male by default, the Coast Guard data probably understate the actual number of women mariners holding documents or licenses in the merchant marine.

In addition, Coast Guard data on the number of documented and licensed mariners may overstate the number actively employed in the merchant marine because seamen's documents are issued for life and officers' licenses for only 5 years. Coast Guard records in all probability, therefore, include some documented and licensed mariners who are no longer working at all or who may be working in fishing or some other nonmerchant marine occupations.

Coast Guard regulations require masters of specified merchant vessels over 100 gross tons to record and report to the Coast Guard all "shipments" and "discharges" of seamen. These shipment and discharge reports document whether a mariner or licensed officer has been employed aboard a merchant ship within any given year. To more precisely estimate the number of documented and licensed mariners actually working in the merchant marine, we analyzed data on recorded shipments and discharges for the year 1985—the last year for which complete records are available from the Coast Guard.

Shipping and discharge papers are not required to be completed and sent to the Coast Guard for vessels such as ferries and tugs on inland waters, fishing vessels or for vessels of under 100 gross tons. Thus, the figures we were able to obtain on merchant mariners employed during 1985 understate the number actually working. Moreover, in checking seamen's names and social security numbers with those in the Social Security Administration's data base, we found that approximately 17 percent did not have a match and had to be excluded. Therefore, these figures understate active merchant mariners not only to the extent that certain types of employment are not included, but also by the 17 percent whose social security numbers we were unable to match. As a cross check on the Coast Guard supplied activity data, we obtained data on employment in maritime occupations from the 1980 Census of Population (see app. III).

Sexual Assault Data

In our attempt to identify incidents of sexual assault occurring aboard U.S. merchant vessels, we interviewed representatives of law enforcement agencies in Washington, Oregon, and Alaska in addition to officials of the FBI and Coast Guard. We also contacted several maritime unions and several merchant vessel operators. We found that information on sexual assaults in the maritime industry, even when reported, is not readily available in any federal, state, or local reporting system. The only data base we found that can be accessed for maritime offenses is one maintained by the Coast Guard which consists of disciplinary cases heard by administrative law judges. Using information provided from this source, we found only two additional cases dating from between 1981 and 1986 of which we were not already aware. This data base, however, only contains cases heard by Coast Guard administrative law judges.

Legal Framework Data

For information regarding the legal framework governing shipboard sexual assaults, we examined provisions of the federal criminal code, civil rights laws, Coast Guard statutes and regulations, and fishery conservation statutes and regulations. Principal among agencies whose officials we interviewed were the Coast Guard, U.S. Attorneys' offices and NOAA's National Marine Fisheries Service. Extensive communications with women mariners, attorneys in private practice, a women's maritime association, and a mental health consultant provided an important perspective on the maritime working environment.

Persons Working at Sea

Table III.1: Summary of Women Working in the Merchant Marine, the NMFS Fisheries Observer Program, and the WSF[a]

Type of employment	Total employed	Females employed	Females as percent of total
Merchant marine (active)			
Documented and Licensed[b]	**34,550**	1,083	3.1
NMFS Observer Program[c]			
Foreign vessels	**303**	103	
Domestic vessels	**145**	13	
Total	**448**	**116**	**26.0**
Washington State Ferries			
Crew	**800**	66	8.3
Food concessions[d]	**139**	125	90.0
Total	**939**	**191**	**20.0**

[a]Merchant marine data are for 1985; NMFS, 1987; and WSF as of March 1988.

[b]Includes only those mariners in the Coast Guard data base for whom we could determine gender by matching social security numbers in the Social Security Administration data base.

[c]Source: Interviews with directors of observer programs in Seattle, Wash.; Gloucester, Mass.; Terminal Island, Calif.; and Pascagoula, Miss.

[d]Contract personnel from Restaura Division, Greyhound Corporation, data as of July 1988.

Table III.2: Breakdown of the Number of Persons Who Worked as Observers in the NMFS Foreign and Domestic Observer Programs in 1987[a]

	Aboard foreign vessels			Aboard domestic vessels		
Location	Male	Female	Female (percent)	Male	Female	Female (percent)
Northwest and Alaska Regions	180	93	34	3	5	63
Northeast Region	20	10	33	5	6	55
Southwest Region	0	0	0	121	2	2
Southeast Region	0	0	0	3	0	0
Total	**200**	**103**	**34**	**132**	**13**	**9**

[a]Based on interviews with spokesmen for the observer program's four locations.

Table III.3: Breakdown of the Number of Coast Guard Documented/Licensed Persons Working Aboard WSF as of March 1988[a]

Type of position	Total	Females	Females as percent of total
Licensed deck	**120**	6	5.0
Documented deck	**369**	53	14.4
Licensed engine	**175**	1	0.6
Documented engine	**136**	6	4.4
Total	**800**	**66**	**8.3**
Food Concession Personnel[b]	**139**	125	90.0
Total	**939**	**191**	**20.3**

[a]Based on interviews with spokesmen for WSF and Restaura Division, Greyhound Corporation.

[b]Contract personnel from Restaura Division, Greyhound Corporation working on WSF as of July 1988.

Table III.4: Data From 1980 Census Concerning Employment in Maritime Occupations

All maritime occupations (water transportation and fishing)

Population	Total	Male	Female	Females as percent of total
United States	**116,731**	111,965	4,766	4.1
Washington	**6,733**	6,420	313	4.7
Oregon	**2,643**	2,487	156	5.9
Alaska	**2,859**	2,656	203	7.1

Non-fishing maritime occupations (water transportation)

Population	Total	Male	Female	Females as percent of total
United States	**63,013**	61,622	1,391	2.2
Washington	**3,352**	3,198	154	4.6
Oregon	**862**	851	11	1.3
Alaska	**458**	429	29	6.3

Fishing maritime occupations

Population	Total	Male	Female	Females as percent of total
United States	**53,718**	50,343	3,375	6.3
Washington	**3,381**	3,222	159	4.7
Oregon	**1,781**	1,636	145	8.1
Alaska	**2,401**	2,227	174	7.2

Shipboard Sexual Assaults Reported to GAO by Government Agencies and Alleged Victims

Case 1: Alleged Rape Aboard a Russian Fish Processing Vessel

This incident, the alleged rape of an American female representative of a U.S. company in a joint venture with a Soviet concern, reportedly occurred March 25, 1988, aboard a Soviet fish processing ship. The alleged victim was aboard the vessel to monitor the transfer of fish from U.S. fishing boats to the processing ship. The incident occurred while the vessel was outside U.S. territorial waters, but within the U.S. fishery conservation zone, off the Coast of Alaska. The alleged offender was a Soviet crewman aboard the ship.

A NOAA fisheries observer, also aboard the ship and occupying a cabin adjacent to the victim's, came to her aid when he heard sounds of a struggle and calls for help. He also was injured slightly as the alleged assailant fled the scene.

Following the incident the NOAA observer reported the matter by radio to the lead NOAA observer for that cluster of Soviet ships. He also advised NOAA authorities in Juneau, Alaska, of the incident and requested that the Coast Guard be informed and asked to board the processing ship. The lead NOAA observer and another female observer aboard one of the other Soviet ships subsequently visited and assisted the victim. Because the alleged assailant had been released following only a brief shipboard confinement, the victim felt threatened and chose to be taken ashore. She had left the vessel by the time the Coast Guard boarded it to investigate and take testimony.

According to an Assistant U.S. Attorney familiar with this case, no U.S. law applies because the victim was a private citizen working aboard a foreign vessel in international waters. Further, according to officials of the Department of State, no international convention or treaty applies to such an incident. The U.S. government can only seek through diplomatic channels to encourage the Soviet government to take action against the alleged assailant.

Evidence taken in this case has been forwarded to the Litigation and Legal Advice Section of the Department of Justice's Criminal Division in Washington. The alleged victim has reportedly engaged legal counsel to explore the possibility of seeking damages from her employer.

Case 2: Alleged Sexual Assault Against a NOAA Fisheries Observer Aboard a Korean Fishing Vessel

This alleged sexual assault of a female NOAA fisheries observer occurred in October 1986 aboard a Korean fishing vessel operating within the U.S. fishery conservation zone. A radio message sent by the victim to the Coast Guard resulted in the seizure of the vessel and the arrest of its Korean captain, the alleged offender. The captain was jailed for 3 weeks pretrial detention and then released into the custody of a third party in Anchorage, Alaska. The vessel was released on $250,000 bond.

A central issue in the trial of the alleged offender was the applicability of laws intended to protect U.S. employees and authorized officers. Because most fisheries observers, including the alleged victim in this case, work for private firms that contract with NOAA's NMFS, the defense challenged the characterization of the victim as an employee of the United States or an officer performing investigative, inspection, or law enforcement functions. The government responded that for the purposes of federal law intended to protect fisheries observers, all U.S. fisheries observers, including the alleged victim, are employees of the federal government engaged in the furtherance of an essential governmental function.[1] According to court records, the judge in the case ruled in favor of the prosecution on these questions; however, the case resulted in a mistrial due to a hung jury, with no decision and, therefore, no precedent established. Subsequently, the accused pleaded guilty to the less serious charge of sexual harassment.

In subsequent civil litigation against the vessel's owner and captain, the victim was awarded monetary damages. According to the U.S. Attorney's Office in Anchorage, Alaska, the United States is also seeking damages against the Korean fishing company for violating the conditions of its fishing permit, specifically the captain's alleged assault on and sexual harassment of the fisheries observer, ransacking of her room, and refusal to allow her access to the ship's radio to call for help. The Korean company, in turn, has filed a counterclaim against the U.S. government for alleged negligence in failing to train the NMFS observer in the Korean language and customs.

Case 3: Alleged Rape Aboard a U.S. Tanker

This alleged sexual assault occurred on Christmas Eve 1981 aboard a U.S. tanker off the coast of California. The victim, a documented female mariner, alleged that she was attacked and raped while asleep by another seaman aboard the tanker. She managed to escape her assailant and reported the incident to the ship's officers. She then insisted on

[1] 18 U.S.C. sections 111 and 1114.

leaving the vessel to visit a doctor ashore. In investigating the alleged incident, the ship's captain discovered that the victim and another crew member, the ship's third mate, had been drinking prior to the incident and that the victim was in the third mate's bed at the time of the alleged rape (the latter was away from his room on duty at that time). For drinking aboard ship in violation of ship's rules, the master fired both the alleged victim and the third mate.

According to a Coast Guard official, the ship's captain did not report the alleged crime. Once ashore, the victim herself reported the assault to the Coast Guard and later to the FBI. We were told by one knowledgeable retired Coast Guard official that three Coast Guard district offices declined to investigate the incident until the victim finally prevailed upon one of them to initiate an investigation. The investigation eventually resulted in a formal hearing before a Coast Guard administrative law judge. The accused was found guilty of misconduct and the ruling was upheld on appeal, resulting in revocation of his seaman's documents.

An important piece of evidence in the Coast Guard administrative hearing and later in a separate civil suit brought by the victim was the tanker company's personnel record on the accused. This record showed that as many as eight women employees had previously complained to employer representatives of some type of offensive sexually related behavior by him. One woman who had previously worked with the accused testified at the hearing that he had repeatedly offered her money if she would sleep with him and had promised her overtime if she would grant him sexual favors.

According to the victim's attorney, the civil suit brought by his client against her former employer awarded her substantial monetary damages. She was also offered reinstatement in the job from which she had been fired.

Case 4: Alleged Abusive Sexual Contact Aboard a U.S. Freighter

This 1986 incident came to our attention through contacts with a field office of the Equal Employment Opportunity Commission (EEOC). It is included here because, while not an instance of rape or attempted rape, it fits the Sexual Abuse Act's definition of abusive sexual contact under intimidating circumstances and also illustrates the difficult and intimidating working conditions which, we were told, are often experienced by women working at sea.

The victim, a 1982 graduate of the Merchant Marine Academy, was employed as relief third mate aboard a grain ship bound for Bangladesh from the East Coast. She was dismissed by the ship's captain in Portland, Oregon, allegedly for job misconduct. She disputed the charge, claiming that the captain, opposed to having a woman on his ship, had been trying to have her removed from the moment she came aboard. Because of his blatant hostility, she alleged, including the making of derogatory remarks and references to her in sexually degrading terms, she lived and worked in an atmosphere of constant intimidation and had no support or recourse against the sexual advances of the chief mate, who repeatedly propositioned her and touched parts of her body.

After her dismissal the alleged victim lodged a grievance through her union representative and a complaint of sexual harassment and other charges with the EEOC. Her case was settled without going to hearing or arbitration under an arrangement in which she received a financial settlement in the amount of wages that would have been due for the uncompleted portion of the voyage and the expunging of all adverse comments from her personnel record.

Case 5: Sexual Assault Aboard a U.S. Passenger Vessel

This case, also involving abusive sexual contact as defined by the Sexual Abuse Act, was one of two such cases reported to us by U.S. Coast Guard headquarters as a result of a search of its automated data base of administrative law judge decisions and orders. The incident in question occurred on December 11, 1985, aboard a U.S. passenger liner moored in Hilo, Hawaii. An intoxicated male crew member of the ship, after verbally abusing a female crew member in a bar ashore, including making lewd and obscene statements to her in a loud and threatening manner, resumed this behavior some minutes later aboard ship. Pursuing two female crew members in a threatening manner, speaking vulgarities, and touching the body of one of them, the assailant followed them into the ship's galley and in front of several witnesses threatened them.

As a result of his behavior aboard ship, the assailant was fired from his job and served with a charge of misconduct[2] at the Coast Guard's Marine Safety Office in Honolulu. He was found guilty at an administrative

[2]The Coast Guard regulations quoted in the hearing officer's decision define "misconduct" as follows:

"... human behavior which violates some formal, duly established rule. Such rules are found in, among other places, statutes, regulations, the common law, the general maritime law, a ship's regulation or order, or shipping articles and similar sources. It is an act which is forbidden or a failure to do that which is required." (46 C.F.R. 5.27.)

hearing, and his merchant mariner's document was suspended for 3 months with an additional suspension of 6 months remitted on 12 months probation.

Case 6: Sexual Assault Aboard a U.S. Passenger Vessel

This case, like case number 5, involves an incident aboard a U.S. passenger vessel operating an inter-island cruise service in Hawaii. As in that case, this incident took place while the ship was docked at Hilo, Hawaii. The assailant, in this instance, was a merchant seaman serving in the capacity of third steward aboard ship. The victim, his subordinate, was also documented as a merchant mariner and was serving aboard ship in the capacity of "messman" for the deck crew. The misconduct with which the assailant was charged and later found guilty took place in the crew mess on January 2, 1984. The assailant, who had been drinking, playfully threw a laundry bag at the victim who had occasionally engaged in joking and playful activity with him in the past. He then grabbed the victim and lost his balance, both of them falling to the deck. After a struggle, the victim was able to get away and left to change into her uniform for work. When she returned, shortly thereafter, the assailant called her over to him at which time he touched parts of her body. The victim at that point became very upset and angry and told him not to attempt such behavior again and that the horseplay was over. The assailant then picked her up and placed her in a trash can partly full of garbage. Shortly afterwards he apologized to her but again touched her body and kissed her. At this point the victim reported the matter to the ship's hotel manager. The case was then referred to the Coast Guard Marine Safety Office in Honolulu where, after investigation of the facts, a charge of misconduct was brought against the offending seaman.

In the hearing the respondent readily admitted committing the alleged acts and acknowledged that he was clearly in the wrong. The administrative law judge suspended the seaman's documents for a period of 6 months but stayed the order provided no further charge of misconduct was proved against him within 12 months of the service of the order.

Case 7: Unreported Case of Rape Aboard a U.S. Fishing Vessel

This case, involving charges of rape and other sexual abuse that allegedly occurred in 1982, was reported to us in an anonymous letter by the alleged victim who had learned of our study through contacts in the Women's Maritime Association.

In her early twenties at the time of the alleged incident, living independently and in need of employment, the victim told us that she accepted

an offer of a job aboard a fishing vessel made by the ship's owner and captain, who had earlier befriended her. The captain also offered to pay all of her expenses for travel to Alaska to fish with him on his boat.

Despite what she thought was an agreement with the captain that there would be no sexual intimacy and no expectation of sexual favors, the victim claimed that by the second night the captain began to sexually harass her. During 3 weeks at sea, far from the home port, she claimed that the captain repeatedly raped her. Being unable to fend off his attacks and desperately needing the money she had already earned (but had not yet been paid), she simply endured this ordeal and waited for it to end with the end of the voyage.

Looking back at the experience, the victim said that for a long time afterwards she felt shame, guilt, and self-blame for being so "stupid" and "naive" as to put herself in a position to be victimized in this manner. Nearly 6 years after the alleged incident, she told us that she was seeing a psychologist and rape counselor and was finally beginning to deal with the painful experience she had kept hidden at great cost to her mental health and self-esteem.

Case 8: Unreported Case of Rape Aboard a U.S. Tanker

This incident, an alleged unreported rape of a female mariner aboard a U.S. oil tanker, was recounted to us directly by the victim who contacted us in response to an account of our study in the newsletter of the Women's Maritime Association. Requesting that she not be publicly identified, this woman told us that she had experienced several incidents of sexual assault and harassment in her career in the merchant marine. The alleged rape occurred on New Year's Eve of 1982, a year after the widely publicized rape aboard another tanker described in case 3 above. The incident occurred after the victim, the assailant, and several other crew members had returned to their ship after drinking and dancing ashore. The alleged victim had returned alone and gone to her room to sleep. Her assailant came into the unlocked room (company safety regulations, she said, required that rooms be kept unlocked), and because of his greater strength was able to overcome her attempts at resistance and raped her. The alleged victim claimed that she did not cry out for help—or report the incident later—because she feared that she would suffer repercussions if she did. She believed then, and remains convinced, that the burden of proof would have been on her to establish that she had not instigated the affair. It seemed easier, she told us, to live with the secret of being raped, than to expose herself to public embarrassment and censure.

Suggestions for Dealing With the Problem of Sexual Assaults at Sea

Following are some of the suggestions we received for combatting the problem of sexual assaults at sea. They include suggestions for publicizing the Sexual Abuse Act of 1986 and the penalties it provides as well as a proposal to amend legislation designed to protect U.S. fisheries observers working at sea.

Educational/Informational Initiatives

Several suggestions dealt with ways to heighten awareness and understanding of sexual abuse and harassment problems in the maritime environment and of the need to combat them. It was suggested that the Coast Guard use its documenting/licensing process to publicize the provisions of the Sexual Abuse Act and distribute information on how to deter and respond to shipboard sexual assaults. Our review revealed widespread unfamiliarity with provisions of the act throughout the maritime industry, even among Coast Guard officials in headquarters and in the field.[1]

Another suggestion was that the Coast Guard require maritime employers to promulgate clear policies regarding sexual assaults and require that their vessels prominently display a Coast Guard telephone number to which instances of sexual assault might be reported. A shortcoming of these suggestions, however, is that crew members on vessels of less than 100 gross tons are not required to be documented and licensed by the Coast Guard. Thus a portion of the seagoing work force would not be reached by these measures.

As an alternative, it was suggested that the Coast Guard might develop educational materials intended for distribution to all classes of shipowners and operators, including owners of commercial fishing vessels. Such materials could also be made available to merchant mariners as part of the process of documenting and licensing. Such an approach, it was argued, would provide the broadest possible coverage for educational/informational efforts within the maritime industry.

[1] As a result of our review, the Coast Guard has taken or plans to take various actions to increase awareness of the act. These include providing information on the act to instructors at its investigators' school and copies of the act to each investigator and plans to incorporate references to the act and a description of the penalties it provides in the next revision to the Maritime Law Enforcement Manual.

Amendment of the Magnuson Act to Extend Coverage

Pursuant to the Magnuson Act, NOAA has established a program under which an observer is placed aboard each foreign fishing vessel operating within 200 miles of U.S. shores. The observer, among other things, monitors the vessel's catch. The act authorizes NOAA to employ observers through contract.

The act makes it unlawful to assault or intimidate an officer of the United States authorized to enforce its provisions. Criminal penalties are provided for such offenses. In recent litigation in Alaska (see case 2, app. IV), an issue arose as to whether the protections of this provision extend to observers who are not NOAA employees but are employees of firms under contract to NOAA. The U.S. attorney prosecuting this case maintained in a brief filed with the court that for the purposes of the law all U.S. fisheries observers are considered employees of the federal government engaged in the furtherance of an essential government function and entitled to the protections provided by law. While the court ruled in favor of the government's position on the law, the case ended in a hung jury and, as a result, no legal precedent was established.

If this provision does not cover NOAA contract employees working as fisheries observers, penalties for sexual and related offenses against such observers may be limited to revocation of the permit to fish within the U.S. fishery conservation zone. NOAA, recognizing a possible gap in the act's coverage, plans to propose an amendment that would prohibit any person on a fishing vessel from assaulting, sexually harassing, or intimidating a contract fisheries observer. The amendment would make the proscribed actions subject to the same criminal sanctions that now apply when the victim is clearly an authorized officer, that is, a fine of $50,000 and 6 months imprisonment or, in cases involving bodily harm, $100,000 and a maximum prison sentence of 10 years.

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