



Maritime Security Handbook

Stowaways by Sea and Rescue of Migrants

Second edition

by

Steven Jones MA MSc BSc (Hons) MNI FRSA

Maritime Security Handbook

Stowaways by Sea and Rescue of Migrants

Second edition

by
Steven Jones MA MSc BSc (Hons) MNI FRSA

Steven Jones has asserted his right under the Copyright, Designs and Patents Act 1988 to be identified as the author of this book

Published by The Nautical Institute

202 Lambeth Road, London SE1 7LQ, England

Tel: +44 (0)20 7928 1351 Fax: +44 (0)20 7401 2817 Web: www.nautinst.org

First published 2014. Second edition © The Nautical Institute 2020

This handbook is a companion volume to *Maritime security: a practical guide* (2nd edition, The Nautical Institute, 2012) and *Maritime security handbook: coping with piracy* (NI, 2013), both by the same author.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form, by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior written permission of the publisher, except for quotation of brief passages in reviews.

Although great care has been taken with the writing of the book and the production of the volume, neither The Nautical Institute nor the author can accept any responsibility for errors and omissions or their consequences.

This book has been prepared to address the subject of stowaways by sea and the rescue of migrants. This should not, however, be taken to mean that this document deals comprehensively with all of the concerns that will need to be addressed, or even, when a particular need is addressed, that this document sets out the only definitive view for all situations. The opinions expressed are those of the author only and are not necessarily to be taken as the policies or views of any organisation with which he has any connection.

Book editors: Margaret Freeth (1st edition) and Stephen Spark (2nd edition)

Cover image: Alamy

Design and typesetting: Phil McAllister Design Ltd

Printed and bound in the UK by Cambrian

ISBN 978 1 906915 69 8

Foreword to the second edition

Yves Vandeborn

Director of Loss Prevention
The Standard Club Ltd

The problem of stowaways has always been an emotive one in shipping. It involves people so desperate to escape poverty, persecution or conflict that they commit the criminal act of smuggling themselves across the sea. Yet finding stowaways on your ship after leaving port can really ruin your week.

It is difficult to overstate the problems stowaways cause to ships and crews: from the mutually stressful moment stowaways are first discovered to the final protracted stages of disembarkation and repatriation. Almost everything on board must change – including navigation, security, safety, welfare and reporting – and the risks of fines and detentions remain.

But despite better ship security and pre-departure searches over the past decade, the numbers of stowaways show no sign of abating. The growing and sometimes tragic use of ro-ro containers by people smugglers, and continuing migrant and refugee flows worldwide, mean the problem is here to stay.

The International Maritime Organization published revised guidance in June 2018 on how to stop stowaways coming aboard and what to do if they succeed. That was welcome, but even more so is the second edition of this excellent and comprehensive handbook on the subject – which also now covers rescuing migrants.

As is made clear throughout this guide, the ship's protection and indemnity (P&I) insurer is best placed to resolve stowaway incidents swiftly and smoothly. This is because P&I clubs and their global networks of correspondents have done it thousands of times before – and because they pay most of the \$10 million annual cost.

There are two important caveats: the ship needs to prove it took adequate steps to stop stowaways boarding in the first place, and it needs to tell the club as soon as they are found. All Masters and shore staff should have a copy of this book.

Dedication

*For my family and friends, without whom every success
would seem a failure.*

Acknowledgements

Numerous people and organisations helped in the production of this book, providing well-considered advice, guidance, expertise and peer review. I would like to thank them all – the book would not have been possible without their efforts, support and assistance.

Contents

Foreword By Yves Vandeborn	iii
Abbreviations	vi
Introduction	1
Chapter 1 The stowaway problem	3
Chapter 2 Dealing with the problem and assessing risk	17
Chapter 3 Security basics	29
Chapter 4 Managing stowaways	43
Chapter 5 Migrants and rescue at sea	61
Chapter 6 Reporting and closing out	73
Index	76
About the author	80

Abbreviations

AID	automated intruder detection (system)
CSO	company security officer
CVSSA	(US) Cruise Vessel Security and Safety Act 2010
FAL	Convention on Facilitation of International Marine Traffic, 1965, as amended
GISIS	(IMO) Global Integrated Shipping Information System
ICAO	(UN) International Civil Aviation Organization
ICS	International Chamber of Shipping
IG	International Group of P&I Clubs
IMO	(UN) International Maritime Organization
ISM	(IMO) International Safety Management (Code)
ISPS	(IMO) International Ship and Port Facility Security (Code)
ITF	International Transport Workers Federation
MARS	(NI) Mariners' Alerting and Reporting Scheme
NI	The Nautical Institute
PPE	personal protective equipment
SAR	search and rescue
SMS	safety management system
SOLAS	International Convention for the Safety of Life at Sea, 1974, as amended
SSA	ship security assessment
SSO	ship security officer
SSP	ship security plan
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978
SUA	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988, as amended
UNCLOS	United Nations Convention on the Law of the Sea, 1982
UNHCR	United Nations High Commissioner for Refugees

Introduction

It is a sad fact that many people, more often than not young men, feel compelled to stow away on ships in search of a new life of perceived opportunity overseas. This book is not an attempt to fix the ills of the world which drive such desperate acts, merely to help seafarers and shipowners to manage difficult security challenges and the logistics of dealing with both stowaways and migrants..

Those of us engaged in shipping cannot do anything about this wider picture, but can understand how it affects us and look at how the risks can be mitigated or minimised.

It is too simplistic to paint stowaways as the enemy. In the past this attitude has caused awful and catastrophic decisions by Masters and crews, such as stowaways thrown overboard – whether through panic, uncertainty, fear or malicious intent.

Stowaways and migrants rescued at sea need to be handled with care, while being processed and documented swiftly and methodically, because they pose a security threat. This threat has to be managed properly and effectively, which calls for skill, knowledge and resources.

In doing the right thing with confidence and with the support of those ashore, shipboard personnel can keep themselves and the stowaways (or rescued migrants) safe and free from harm. They can then take steps to get these individuals off the ship as quickly as possible and into the care of third parties or the authorities.

This book is intended to provide information, best practice and encouragement, enabling crews and companies to develop their own ways of managing stowaways found on board and migrants who have been brought on board after being rescued at sea. It is also intended to help seafarers react to a difficult problem with understanding, compassion and authority.

The first aim is to keep stowaways off the vessel; if that fails, life becomes much more complicated and it is vital to know how to deal with this. If stowaways do get on board, they need to be found, contained safely with due regard to their rights, and as much information as possible obtained from them to speed up the repatriation process.

The imposition by the International Ship & Port Facility Security (ISPS) Code of a formal security management system and framework for ships and ports to follow

has established a more structured approach to dealing with the problem of stowaways. It is one of the threats that must be assessed and provided for in the ship security plan (SSP) to ensure that crew members can protect themselves and their vessel and take the necessary action.

Steven Jones

This handbook forms part of The Nautical Institute's Maritime Security Suite and should be used in conjunction with the following books, also by Steven Jones:

Maritime security: a practical guide, second edition (published 2012), which covers general principles and practice

Maritime security handbook: coping with piracy (2013)

Crime at sea (in preparation).

In addition, readers are recommended to consult *Guidelines for collecting maritime evidence*, fourth edition, various authors, Volume 1 (2017) and Volume 2 (2019), also published by The Nautical Institute.

For more information about the books mentioned above, or to order copies, please see the NI's website, www.nautinst.org/shop, or email: pubs.admin@nautinst.org.

Chapter 1

The stowaway problem

KEY ADVICE

- Who stows away and why
- Where they travel from and to
- Mariners' responsibilities when dealing with stowaways

The first indications that stowing away could no longer be considered just a harmless adventure came in 1957 with the adoption of the Brussels Stowaway Convention. This attempted to establish an international regime for dealing with stowaways, but it never entered into force and is now considered unlikely to do so. Nevertheless, it indicated clearly that the days of stowaways being accepted were over.

With attitudes hardening and security becoming an ever more important part of shipping, the problems associated with stowaways have increased in recent years. The formal security management system and framework for ships and ports established by the ISPS Code means there is now a more structured approach to dealing with the problem, as stowaways are not acceptable from an operational perspective and are forbidden under international regulations.

It is generally recognised by all sides of the shipping industry that there is an urgent need for international agreement on the allocation of responsibilities to enable the successful resolution of cases involving stowaways.

In its most basic sense, the term refers to any person found on board a ship without authorisation and with intent to travel with the vessel.

The initial status of stowaways is usually unclear. They may be refugees attempting to escape war or religious persecution, migrants looking to raise their standard of living, political asylum seekers in search of relief from oppression, illegal immigrants hoping to enter a country undetected or criminals who may be involved with drug

trafficking or other illegal activities. Whatever their motivation, stowaways pose significant security, safety, commercial and liability issues for shipping. The problem is a serious one and shows no sign of abating.

There are large inequalities between different parts of the world and migration from less developed, disadvantaged or troubled areas to more stable and affluent countries is a well-known global phenomenon. For centuries people have sought prosperity and safety in countries far from their own.

The factors that compel people to leave their homes are widely recognised and include poor living standards, lack of jobs and opportunities, overpopulation and oppressive regimes, regional conflict, political instability and natural disasters.

They see opportunities in developed industrialised countries and believe that life will be better there. Many go through danger and discomfort and will take life-threatening risks to pursue this dream of a better life. The movement of people is a globalised industry – stowaways are no longer the domestic problem of a single underdeveloped country or region.

Vessels should be particularly vigilant when calling at ports in Africa. Currently, the most problematic ports on the continent are reported to be Durban, Lagos, Cape Town, Abidjan, Dakar, Mombasa, Tema, Takoradi and Djibouti. Stowaways also board vessels in Central America, the equatorial regions of South America, the Caribbean, Europe and elsewhere. However, the situation is fluid – in 2011 the top stowaway port was Abidjan, but by 2017 numbers of illegal boarders there had dropped considerably, whereas Durban saw a big increase in the same period. It is important, therefore, always to seek the latest information on stowaway risks in particular ports and regions. See also the list on page 19.

Bear in mind, too, that a stowaway may already have travelled far to reach the port of embarkation. IMO figures indicate that the following were the main nationalities of stowaways in 2017:

- | | |
|---------------|----------------|
| 1. Nigerian | 2. Tanzanian |
| 3. Albanian | 4. Syrian |
| 5. Moroccan | 6. Ghanaian |
| 7. Senegalese | 8. Cameroonian |
| 9. Algerian | 10. Tunisian |

Source: IMO FAL 43/13

With the exception of Nigerians and Tanzanians, who regularly top the list of stowaways, the figures are highly variable from year to year – Indians were strongly represented in 2011 but scarcely featured six years later. In 2019 a significant increase in numbers of stowaways was reported on shortsea routes between north-west European ports and the UK and Ireland. In that year, 1,480 individuals were caught by police and port security in Dutch ports, trying to hide in trucks, trailers and containers bound for Britain. Most of the would-be stowaways were from Albania and Afghanistan.

Common stowaway hiding places

- Cargo hold
- Deck crane
- Container
- Cargo hold ventilator
- Trailer (including refrigerated trailer)
- Void spaces between holds
- Aft rope store
- Rudder trunk void space
- Car deck ventilator
- Engine room
- Funnel
- Lifeboat
- Steering flat

West P&I Club points out that most stowaway hiding places are not disclosed. Stowaways often only reveal themselves after time, so there is no way of knowing how and where they originally hid themselves. Some specialist vessels, such as those carrying log cargoes on deck, are particularly vulnerable.

Bear in mind that the port of embarkation of a high proportion of stowaways is unknown. Many stowaway incidents are not reported.

Whatever the source of the information, Masters should ensure they are aware of the potential threat posed within the ports and waters to be visited.

Different types of stowaway

The problems faced by a ship's staff will vary according to the type of stowaway, and the action required may also vary. Considerable costs for investigation, identification and repatriation can be incurred, which are usually passed on to the shipowner.

When stowaways are found on board and contained, they are likely to try to break free and make for shore once the vessel arrives in port. Security personnel should be made aware of this so they can assess any extra measures that should be employed when alongside.

It is useful to understand the motivation and background of the various groups as this will help in dealing with the situation.

IMO defines a **stowaway** as: *a person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the shipowner or the Master or any other responsible person and who is detected on board after the ship has departed from a port, or in the cargo while unloading it in the port of arrival, and is reported as a stowaway by the Master to the appropriate authorities.* (Convention on Facilitation of International Maritime Traffic, 1965 – the FAL Convention)

An **attempted stowaway** is *a person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the shipowner or the Master or any other responsible person, and who is detected on board the ship before it has departed from the port.* (IMO Resolution MSC.312(88))

Refugees are attempting to escape war, civil unrest, or political or religious persecution. They are often without documentation and may attempt to enter another country undetected.

According to the 1951 Convention relating to the Status of Refugees, a refugee is *a person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country.*

Asylum seekers are refugees trying to reach a country where asylum may be granted, or they may be economic migrants claiming asylum so as not to be repatriated.

Persons seeking political asylum frequently attempt to conceal their identity and national origin or attempt to adopt the nationality of an area where there is

significant conflict or social unrest. Stowaways seeking asylum generally try to reach ports and jurisdictions where asylum is more likely to be granted.

Economic migrants are moving in an attempt to obtain a better standard of living. As with refugees, such people are often illegal immigrants attempting to enter another country undetected.

Unlike asylum seekers, **illegal immigrants** usually have no intention of making their presence known to the authorities and hope to enter a country undetected. Stowaways are generally treated as illegal immigrants at the port of disembarkation in accordance with the legislation of the country concerned.

However, some migrants are legally entitled to residence in another country and others may be granted asylum or refugee status. Stowaways who request asylum should be treated in accordance with the UN Convention Relating to the Status of Refugees 1951 and the updating protocol of 1967, and relevant national legislation. They may only be declared to be illegal immigrants at a later date if the immigration authorities reject an application for asylum.

Whatever their ultimate status, most migrants are unable to make the journey to the destination country unaided and organised crime groups see this as an opportunity to make money by exploiting desperate people. There is a lucrative business in people trafficking, as those wishing to be moved are willing to pay substantial amounts of money. One 2019 estimate valued the global people trafficking trade at more than \$150 billion/year.

Some stowaways are themselves **criminals** who may be involved in drug transportation or other illegal activities. It is important to be aware that they may be violent and refuse to co-operate. These stowaways often travel in groups and can present a serious threat to the ship's crew. They sometimes seek to profit by demanding money from the Master or shipowner in return for leaving the vessel. Finding one, two or maybe even a handful of stowaways is not necessarily a sign of a deeper, more sinister involvement. However, increasingly there are instances in which organised crime networks make use of shipping for the movement of people.

Organised immigration crime comprises **people smuggling** and **human trafficking**. In people smuggling, the migrants are essentially willing participants and the criminals profit mainly from facilitating their migration.

These organised crime gangs often bring the migrants to locations on the North African coast, particularly in Libya, where the rule of law is absent. The migrants are

then sent out in small and unseaworthy craft in the expectation that commercial ships, migrant rescue charities or naval or coastguard patrols will pick them up before their boats sink. Chapter 5 covers the subject of migrants and rescue at sea in more detail.

Human trafficking has the intention of exploiting the migrants when they reach their destination – in essence, the modern-day slave trade. **Modern slavery** is internationally recognised as a serious and widespread abuse of the fundamental rights of up to 40 million people worldwide. It includes forced labour, bonded labour, child slavery, forced marriage, prostitution and domestic servitude. In many cases, ships are the preferred method for trafficking people, who are secreted in cargo or containers. Inconsistent use of the terms smuggling and trafficking continues to cause confusion. The UN Trafficking Protocol provides an internationally agreed distinction between the two, highlighting the importance of exploitation:

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The vast majority of illegal immigrants appear to be willing participants rather than victims of human trafficking and all the indications are that human trafficking takes place on a much smaller scale than people smuggling. However, the nature of human trafficking is such that it is harder to identify and quantify. The exploitation involved, along with the frequent use of intimidation and violence, arguably make it the more acute threat.

Whatever the status of people found on board, it is likely that they are acutely aware of the best means of getting to their proposed destination. They may withhold information, employ deceit or try to intimidate crew members.

The security regime must take seriously the threat posed to a vessel from stowaways and from criminals wishing to place immigrants on board. There may be a temptation to allow such stowaways to slip free, seeing this as a solution to the problem. This can have serious repercussions if the authorities later learn of the vessel's role. Advice from shore management and the vessel's P&I club should always be followed.

Where vessels are engaged in activities that could attract the attention and opposition of groups such as environmental or ecological groups, there is a chance **protestors** may board the vessel. Carriage of politically or environmentally sensitive cargoes or engagement in controversial activities can all contribute to a vessel becoming a target for demonstrations and attacks by protestors.

Such incidents have led to protestors attempting to gain access to vessels. In some cases they have succeeded and then refused to depart.

When a vessel is engaged in activities likely to attract protests, the security risk assessment should view ways to safeguard the vessel and deal with unlawful boarders.

Responsibilities

In June 2018, the IMO adopted *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases* (FAL.13(42)). Much of the work within this revised approach has been to align the security approaches with those laid down within the International Ship and Port Facility Security (ISPS) Code.

The *Guidelines* set out 10 basic principles:

- Humanitarian treatment of stowaways
- Co-operation to prevent stowaway incidents
- Security measures to prevent stowaways boarding and to detect them once on board
- Appropriate searches
- Co-operation to repatriate stowaways
- State of entry responsible for decisions on stowaways without the required documents
- International protection principles for dealing with asylum seekers
- Co-operation to disembark stowaways
- State acceptance of return of its nationals/citizens
- Acceptance by embarkation port state of return of stowaways when nationality, citizenship or right of residence cannot be established.

The responsibility to protect the vessel from stowaways obliges port authorities, national administrations and other bodies, including security operators, to co-operate with those directly concerned with the vessel to prevent illegal access to the vessel while it is in port.

The IMO recognises that no matter how effective routine port and ship security may be, stowaways are inevitable. Once they are aboard the responsibilities extend outward across a range of stakeholders. It may appear that much responsibility lies with the Master and shipowner (including any persons or party acting on behalf of the owner of the vessel). In fact, once stowaways are found, responsibility for remedying the situation is often swiftly handed over to P&I correspondents, lawyers, agents and shore personnel.

Successful resolution of stowaway cases can be difficult. Several countries may be involved, each with its own national legislation. These might include the country of embarkation, country of disembarkation, flag state of the vessel, country of apparent, claimed or actual nationality or citizenship of the stowaway and countries of transit during repatriation.

Disembarking stowaways is often complicated, as many ports and states simply refuse to allow the entry of stowaways or impose complex and time-consuming legal and administrative requirements concerning detention and repatriation. The state receiving the stowaways may impose heavy fines on the ship for breaching immigration laws. On occasions, the authorities have refused a vessel port clearance to leave until fines have been paid.

To help ensure the guidelines are carried out, the IMO has suggested the following responsibilities in dealing with stowaways.

Shipowners and Masters should:

- Ensure that adequate security arrangements are in place. If these fail, ensure stowaways are detected before the ship leaves port or, at the latest, before it arrives at the next port of call
- Where there is risk of stowaway embarkation, security arrangements should ensure:
 - All doors, hatches and means of access to holds or stores that do not need to be used during the ship's stay in port are locked
 - Access points to the ship are kept to a minimum and adequately secured
 - Areas seaward of the ship are adequately secured
 - Adequate deck watch is kept
 - Boardings and disembarkations are tallied by the ship's crew or, after agreement with the Master, by others
 - Good communication is maintained
 - At night, adequate lighting is maintained both inside and along the hull

- Ensure that a thorough search is carried out when departing from a port where there is risk of stowaway embarkation, giving priority to places where stowaways might hide. Search methods that are likely to harm secreted stowaways must not be used
- Not carry out fumigation or sealing until a thorough search of the areas to be fumigated or sealed has taken place to ensure that no stowaways are present.

If stowaways are found, the **Master** should:

- Determine the port of embarkation
- Establish the identity of stowaways, including nationality/citizenship and right of residence
- Prepare a statement containing all relevant information
- Notify the existence of stowaways and any relevant details to the shipowner and appropriate authorities at the port of embarkation, the next port of call and the flag state
- Treat the matter as confidential as far as necessary for the security of stowaways if refugee status is declared
- Not depart from the planned voyage to seek the disembarkation of stowaways unless repatriation has been arranged with sufficient documentation and permission for disembarkation, or unless there are extenuating safety, security, health or compassionate reasons
- Ensure that stowaways are presented to the appropriate authorities at the next port of call
- Take appropriate measures to ensure the security, general health, welfare and safety of stowaways. Welfare includes adequate provisioning, accommodation, medical attention and sanitary facilities
- Ensure stowaways are not made to work on board the ship, except in emergency situations or in relation to their accommodation on board
- Ensure that stowaways are treated humanely, consistent with the basic principles laid down in the guidelines contained within FAL.13(42).

Records and documentation are a key element of the guidance – see Chapter 6.

The shipowner or operator should:

- Ensure that the existence of, and any relevant information on, the stowaway has been notified to the appropriate authorities at the port of embarkation, the next port of call and the flag state
- Comply with any removal directions made by the competent national authorities at the port of disembarkation

- Cover costs relating to the removal, detention, care and disembarkation of stowaways in accordance with national legislation.

The guidelines for dealing with stowaways in FAL.37/17 and MSC.312(88) provide more clarity, but a stowaway incident is still likely to be time-consuming, arduous and expensive.

The responsibilities of the various states involved have been clarified.

Next port of call should:

- Accept stowaways for examination
- Allow shipowners and P&I correspondents access to the stowaways
- Favourably consider allowing disembarkation
- Provide secure accommodation (which may be at the expense of the shipowner if a case is unresolved at the time of sailing) if stowaways are in possession of valid documents for return or if their presence on board could endanger the safe and secure operation of the ship, the health of the crew or the stowaways
- Co-operate in the identification of stowaways and establishment of nationality, citizenship or right of residence
- Co-operate in establishing the validity and authenticity of a stowaway's documents
- When a stowaway has inadequate documents, issue a covering letter with a photograph of the stowaway and any other important information
- Inform the shipowner, if covering costs, of the level of cost of detention and return of the stowaway, while keeping time and costs to a minimum
- Consider mitigation of charges when shipowners have co-operated with the control authorities
- Issue, if necessary, a document attesting to the circumstances of embarkation and arrival to facilitate the return of stowaways
- Provide the document to the transport operator carrying out the removal
- Consider the interests of, and implications for, the shipowner when directing detention and setting removal directions
- Report stowaway incidents to the IMO
- Co-operate with the flag state of the ship
- If disembarkation is refused, notify the flag state of the reasons.

Subsequent ports of call should:

- Follow the guidance for the first port. Where a case is not resolved the responsibility shifts as the ship and stowaways move.

State of embarkation should:

- Accept any returned stowaway having nationality, citizenship or right of residence
- Accept a stowaway back for examination where the receiving state is satisfied of the embarkation port
- Apprehend and detain attempted stowaways if discovered before sailing either on the ship or in cargo due to be loaded
- Refer attempted stowaways to local authorities for prosecution and/or to the immigration authorities for examination and possible removal (at no charge or penalty to the shipowner)
- Apprehend and detain stowaways if discovered while the ship is still in the territorial waters of the state of the port of embarkation, or in another port in the same state, if it has not called elsewhere outside (at no charge or penalty to the shipowner)
- Report stowaway or attempted stowaway incidents to the IMO
- Reassess preventative arrangements and measures in place and verify the implementation and effectiveness of any corrective actions.

The apparent or claimed state of nationality, citizenship or right of residence should:

- Assist in determining the identity and nationality, citizenship or rights of residence of stowaways and document them
- Accept stowaways where nationality, citizenship or right of residence is established
- Report stowaway incidents to the IMO.

The flag state of the vessel should:

- Assist the Master, shipowner or the appropriate authority at the port of disembarkation in identifying stowaways and determining nationality, citizenship or right of residence
- Be prepared to make representations to the relevant authority to assist in the removal of stowaways from vessels
- Be prepared to assist the Master, shipowner or the authority at the port of disembarkation in making arrangements for the removal or repatriation of stowaways
- Report stowaway incidents to the IMO.

States of transit during repatriation should:

- Allow, subject to normal visa requirements and national security concerns, stowaways to transit through their ports and airports under the removal instructions or directions of the state of the port of disembarkation.

Most observers consider such an allocation of responsibilities to be both fair and useful, although some countries claim to be unable to comply. The IMO guidelines were developed, and the FAL Convention amended, to reflect the realities of working within the requirements of the ISPS Code.

Even with such guidelines in place, however, many Masters and ship operators encounter considerable difficulties when trying to disembark stowaways from ships into the care of the appropriate authorities.

Facilitation issues

A number of IMO member states had long raised concerns about the difficulty of complying with the standards laid down in the FAL Convention. In response, the IMO Facilitation Committee in 2018 adopted Resolution FAL.13(42) *Revised guidelines on the prevention of access by stowaways and the allocation of responsibilities to seek the successful resolution of stowaway cases*. It is an attempt to ensure that all countries tackle the stowaway problem and do not place the whole of the burden on shipping. The resolution is largely aimed at member governments that are not contracting governments of the FAL Convention and those member states that find it impracticable to comply with the convention's recommended practices.

IMO member states and international organisations with consultative status should provide and update data on the stowaway module of the Global Integrated Shipping Information System (**GISIS**). This new module should make it easier to submit enquiries and information about stowaways. Good communication between all parts of the shipping chain can bring swift and positive results.

Information sharing leads to arrests

Five Nigerians were found hidden on an outbound vessel concealed in the compartment directly above the rudder head. The Master contacted the relevant authorities – the Regional Maritime Rescue Coordination Centre of the Nigerian Maritime Administration and Safety Agency (NIMASA).

A team of officials was despatched out to the Lagos Fairway Buoy, where they boarded the vessel. The stowaways were arrested and handed over to the Immigration Service for interrogation and prosecution.

The authorities praised the response of all involved, and the “responsive and diligent” approach demonstrated.

The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (**SUA Convention**), as amended by protocols that entered into force in 2010, complements the ISPS Code. It provides a legal basis for the arrest, detention and extradition of terrorists in the event of an attack against shipping. For details, see *Maritime security: a practical guide* (2nd edition, 2012).

While SUA is primarily aimed at terrorists, stowaways may also fall within the ambit of the convention, especially if they are violent or are in possession of illegal goods or weapons.

Where stowaways are involved in activities covered by the SUA Convention, such as seizing a vessel by force, committing an act of violence against a person on board, destroying a ship or causing damage which will endanger the safe navigation of that ship, the Master may deliver such persons to a receiving state. However, there may well be significant complications where an investigation or forensic examination is needed.

The US **Cruise Vessel Security and Safety Act 2010** imposes substantial requirements on cruise ships with capacity for more than 250 passengers on international voyages that embark or disembark passengers in any US port. Any non-compliance with the CVSSA can result in the ship being denied entry into US ports. Civil penalties up to \$50,000 can be imposed for each violation plus criminal penalties up to \$250,000 and/or one year's imprisonment.

While the rules do not have a direct impact on stowaways and the management of such situations, the fact remains that unlawful boarders have an obvious impact on security. Owners and personnel operating under this act should closely monitor its ramifications.

Lessons from aviation

The aviation industry is governed by the International Civil Aviation Organization (ICAO), a United Nations agency headquartered in Montreal, Canada. The industry is bound by the Convention on International Civil Aviation (the Chicago Convention).

Security is a major concern for airlines, although stowaways are likely to be less of a concern than the smuggling of weapons on board by legitimate passengers and stand-off threats (where aircraft are fired on from outside the airport). Inside the majority of the world's airports, and around the perimeter of those airports, security is very visible – in stark contrast to many ports, whatever their ISPS statements of compliance may state.

This is just one way in which the aviation and maritime industries differ. The aviation industry is less fragmented, has a more evolved and easier-to-apply international regime, and has tighter security and immigration controls.

From a purely operational security perspective, there is not much to transfer between the two modes. However, there is much to learn from aviation's overarching control, management and response. The modern pattern of maritime security risk management and reporting already owes much to the aviation industry, and there is more to gain from the flow of information, the sanctions applied and the more open dialogue that takes place between airlines, the countries whose flags they fly under and the airport authorities.

Chapter 2

Dealing with the problem and assessing risk

KEY ADVICE

- Understanding how trading patterns affect risk
- Assessing the risks of stowaways in particular areas and ports
- The need for additional training and familiarisation

The primary goal should be to ensure that stowaways cannot get on board. That risk must be managed by using intelligence and data and by having robust systems in place.

The next stage is the ability to locate people who may have managed to get aboard. Then, having found stowaways, it is essential to know what to do with them and how to bring about a swift and effective end to the incident.

Trading patterns

The high-risk threat is from ports and terminals where the ISPS Code is not being implemented fully. This includes certain African ports, South American countries and Caribbean islands.

An ISPS Code statement of compliance from the port's government may not paint a complete picture of security within the port. It is in such ports that Masters and shipowners must focus their anti-stowaway efforts. Nevertheless, breaches of security are not limited to these areas, and some ports in Europe have also experienced serious stowaway problems, particularly as migrant smugglers increasingly make use of sealed refrigerated trailers to bring large groups of migrants through the port and on to the ship. Being sealed and insulated, these trailers protect the would-be stowaways from detection by sniffer dogs, CO₂

detectors and heat scanners. However, heartbeat/movement detectors have sometimes proved effective.

Shipowners should train their crews and issue the correct instructions and procedures to ensure they offer a determined deterrent to stowaways.

A vessel's trading pattern dictates the ports visited and thus the degree of risk. The more frequently a ship visits potential stowaway hotspots, the more likely it is to be boarded. In these stowaway-targeted ports it is vital that the Master and company security officer (CSO) take security decisions based on intelligence. If it is known how stowaways have been getting on to ships, effective security measures can be put in place to mitigate the risks.

P&I club data show that many stowaway incidents arise in West Africa, North Africa, South Africa, Colombia and the Caribbean region. Other significant areas include the west coast of South America (Chile, Ecuador and Peru), Red Sea ports (Djibouti, Yemen and Port Sudan) and East Africa (Mombasa and Dar es Salaam).

Stowaways may well not be nationals of the country where they board. Le Havre in northern France and Zeebrugge in Belgium were formerly stowaway embarkation ports used by individuals originating from Pakistan, the Indian Subcontinent and West Africa. Korean ports such as Busan have been targeted by stowaways coming from China.

Ports of embarkation of stowaways

Data for the period 2007 to 2014 showed that the ports most frequently used by stowaways were in Africa. While this has remained the case, insurers believe that political instability has resulted in European ports beginning to feature in the statistics. These European stowaway cases may be under-reported in data from the International Group of P&I Clubs (IG), as they are typically less costly to resolve and so may fall below the shipowners' deductible.

Following the seminars on stowaways organised by IMO in Abidjan and Durban in 2014 and in Yaoundé in 2017, some progress has been noted and substantial reductions in numbers of incidents have been reported at some West African ports.

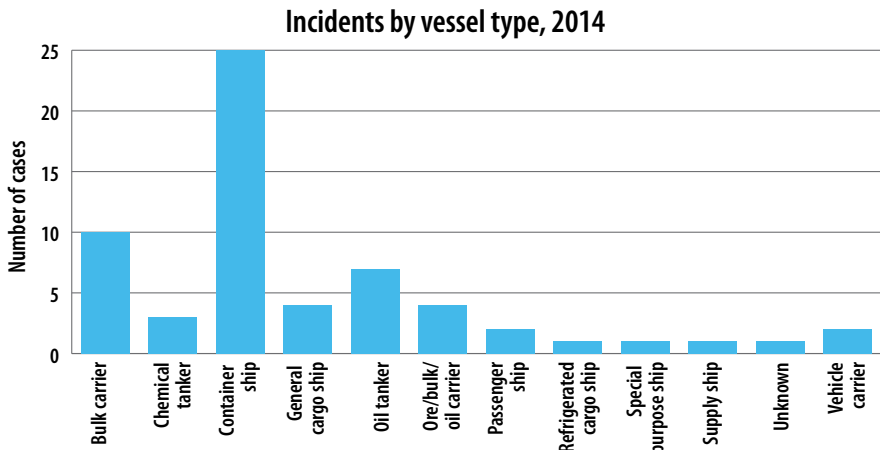
According to the IG, the most problematic ports for stowaway embarkations in 2019 were:

Durban, South Africa
 Lagos, Nigeria
 Casablanca, Morocco
 Bilbao, Spain
 Dakar, Senegal
 Cape Town, South Africa
 Takoradi, Ghana
 Mombasa, Kenya
 Rotterdam, The Netherlands
 Tema, Ghana

Ship types

Some ship types are more attractive to stowaways than others. This is due in part to the ports at which they call, but also to the cargo they carry and the layout and design of their decks and access.

Analysis of historical IMO data by vessel type shows clearly that stowaways are more easily able to gain access through concealment in certain cargoes. Ro-ro vessels and container ships are the most attractive to stowaways.

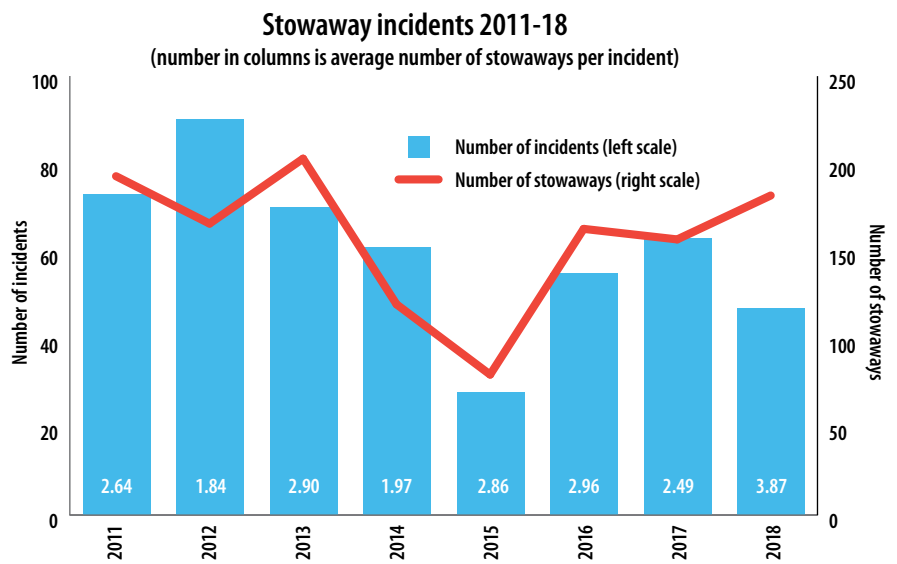


Source: IMO, 2014

According to data submitted by P&I clubs to the IMO (published in FAL 43/13), the following stowaway figures were recorded in 2017:

Number of incidents	432
Number of stowaways	1,420
Stowaways per incident	3.3
Total cost	\$9.5 million
Cost per incident	\$22,000
Cost per stowaway	\$6,700

IMO’s own figures, shown in the graph below, are rather more modest. However, IMO admits that it is receiving fewer notifications of stowaway incidents through GISIS, “and therefore the statistics were not very reliable”.



Source: IMO FAL 43/20

Ro-ro vessels

These have large access ramps and wheeled cargoes are moving on and off at a rapid pace. Any stowaway who has gained access to a vehicle heading on board



Ro-ro vessels, especially those operating on European shortsea routes, have been extensively targeted by organised people-smuggling groups and also by migrants travelling independently

can be extremely difficult to detect. The ramps and vehicles make it especially difficult to ensure that stowaways are kept at bay.

High-profile stowaway incidents have featured persons gaining access to vehicles such as coaches being shipped across the Atlantic. They have managed to remain on board in relative comfort before leaving the vessel on arrival in the discharge port. However, others, placed in sealed, refrigerated trailers, are put at extreme risk.

Ro-ro vessels must maintain extremely tight security, especially when operating in ports that are known stowaway boarding points.

Ro-ro risks

In 2019 several high-profile stowaway incidents affected shortsea crossings from European ports to the UK and Ireland. On 23 October, a sealed, insulated, refrigerated road trailer was unloaded from Cobelfret's freight ro-ro *Clementine* at

Purfleet on the River Thames. The trailer was driven a short distance, the doors opened and the bodies of 39 Vietnamese men and women discovered inside. They are believed to have suffocated.

Clementine's crossing from Zeebrugge to Purfleet was the last link in the 'CO2' smuggling chain from Vietnam and China through Russia and central Europe to the UK. The trailer was fitted with a remote temperature-monitoring device and a GPS-enabled tracker, so investigators were able to trace its movements around France and Belgium prior to the crossing. A Chinese 'snakehead' gang and Irish criminals were implicated in the smuggling operation.

A month later tragedy was averted when 25 stowaways were found in a refrigerated trailer on DFDS Seaways' freight ro-ro *Britannia Seaways* sailing between Vlaardingen and Felixstowe. The migrants had made holes in the trailer and were unharmed when they were discovered.

These and similar incidents highlight the need for vigilance by ro-ro crews when checking vehicle decks. Damage to vehicles and trailers such as air holes and broken seals or unusual noises coming from inside trailers may indicate that stowaways are present.

Containers

There has long been concern that the growth of containerisation has contributed to a boom in the number of stowaways. Specific measures are needed to detect stowaways in containers.

P&I clubs have developed instructions for the various stages of the movement of containers, which could be usefully followed for good practice.

Before containers arrive at the terminal, further enquiries and extra precautions should be taken when shipments are booked.

Particular attention should be paid to:

- Trades where there have been problems in the past
- Previously unknown shippers; company searches may be appropriate
- New trading areas
- Requests for empty containers to be delivered to insecure areas
- Loaded containers collected from insecure areas
- Open-top containers, which should be inspected before acceptance
- Lightweight shipments

- Shipments in reefer containers set at relatively high temperatures.

At the terminal (**before loading**)

- In appropriate areas, co-operation should be sought from local immigration authorities whose experience may be an essential asset
- Carriers should emphasise to terminal operators the need for co-operation to make it harder for stowaways to access containers due for shipment
- Any containers presented for loading without seals, or seals that are faulty or have been tampered with, should be opened and checked before being resealed
- All reefer containers with settings above 10°C should be opened and checked for stowaways
- All open-top containers should be inspected. Particular attention should be given to any containers with signs of recent repair or repainting
- Particular attention should be paid to containers that arrive in the terminal late, after the cut-off period and shortly before vessel loading starts. Smugglers sometimes use this tactic to reduce the opportunity for detection and to minimise stowaways' length of confinement
- Consider deployment of CO₂ detectors, heat detectors, sniffer dogs and/or heartbeat detectors. Methods of detection will vary from terminal to terminal. Agreements should be sought with each operator
- Pay particular attention to any containers received from outside locations, especially from insecure or uncontrolled areas
- Containers for which obvious weight discrepancies exist should be identified and, if necessary, searched.

Concealed in containers

The Nautical Institute highlighted the use of containers as a means of concealment for stowaways in a report entitled *Stowaways behind false panel in container* (MARS report 201037).

As the Master of a container feeder vessel on the North African trade, my crew and I are ever vigilant against stowaways who make desperate attempts to enter the European Union illegally. Accordingly, at all African ports, our onboard procedures ensure that my highly reliable and competent crew open, inspect and seal every empty container on the quay before being loaded. Hence I was particularly shocked and embarrassed when, in an African port, some policemen suddenly boarded my vessel, claiming that 10 persons

had stowed away on my vessel in an empty container which had been loaded the previous day. Soon, the suspect container was discharged ashore, the ship's seal cut, the doors opened and 10 stowaways were discovered and taken into custody.

It was then observed that a false rear panel (identical to the original one) was built inside the container, about one foot away from the actual rear panel, and the stowaways who concealed themselves within the gap remained undetected during the internal inspection by the ship's crew. Once the container had been stowed on board, the stowaways dismantled the panel and settled down inside the unit. However by the next day, with the vessel still alongside, the air inside got very stuffy. Fearing suffocation, the stowaways called the local police on their mobile phones, giving them the container number and asked to be rescued.

It is a matter of concern that stowaways in this region are getting increasingly innovative in defeating the security measures being followed by terminals and ships, among which container vessels are especially vulnerable.

The following corrective/preventative actions were established:

The incident was reported to the company security officer (CSO)

As an additional security measure, it was decided to verify every empty container's interior dimensions during the pre-loading searching process. This can be achieved by two simple methods – through a laser distance measuring device or by confirming the internal dimensions with a tape or rope, with the lengths and widths of standard marine freight containers suitably marked.

Container vessels

- After loading, but before departure, undertake searches of empty spaces and deck vigilance before departure. When appropriate, consider adding time into the vessel's schedule to ensure this takes place
- It may be prudent to have personnel in the hatch when hatch covers are replaced as stowaways have been known to conceal themselves in the hatch cover structure when stowed ashore
- Routine crew security and safety tours of the vessel should be undertaken and noted regularly in the vessel deck log.



Containers are favoured hiding places for stowaways, so consider using sniffer dogs, CO₂ detectors and heartbeat or heat detectors

Risk management and planning

To ensure the most effective access controls it is important to consider the geographical area or place, port or anchorage that the vessel will be visiting or transiting.

The IMO advises that shipowners should consider enhancing security watches if their ship is in a port or at anchor off ports where stowaways can be expected. Shipowners will wish to consider providing appropriate surveillance and detection equipment to aid their crews and protect their ships.

However, there is no point in having security assets and resources tailored for non-existent or unlikely threats. Equally, failure to plan properly for known threats undermines the shipboard security regime and can waste the time and efforts of all involved.

Therefore, the Master, CSO and ship security officer (SSO) should be aware of the threats most likely to be encountered and should set the vessel's formal security level (1, 2 or 3) and specific security measures accordingly.

In order to secure access to the vessel, personnel should be fully briefed on the threats facing them and the vessel and be given support and instruction on how

best to guard against unauthorised boarding and the best allocation of resources.

A single type of criminal activity rarely exists in isolation. A port or anchorage with known criminal activity is likely to challenge the security of the vessel. Even if stowaways are rarely encountered there, the presence of criminal elements suggests there is an increased risk of unlawful boarding.

In the case of a port, consider whether it has a history of:

- Pilferage
- Piracy
- Drug smuggling
- Terrorism
- Prostitution
- Kidnappings
- Vandalism
- Protests
- Fraud
- Racketeering.

While such problems may not indicate there will inevitably also be a problem with stowaways, if there is known criminal activity then it is likely that this may also extend to persons seeking to gain access to the vessel.

Knowledge of the threats posed is invaluable, but it is also important to know who might pose the threat. Those with access control duties should be made aware of the techniques used to circumvent security. Has there been a history of people pretending to be officials, stevedores or agents in order to gain unauthorised access? Intelligence can ensure that ship's personnel are fully prepared for the hazards facing them.

Measures to protect the vessel against stowaways may require sea staff to undertake duties for which they have no previous training or experience.

Crew safety

Operations such as entering enclosed spaces, working with mooring ropes and working aloft are familiar to an experienced deck crew, who are trained in the work and who also should have knowledge of the personal protective equipment to be used.

However, these may be alien surroundings to other staff members, such as those in

the catering or engineering departments. They may need to be utilised to assist as the Master and departmental managers try to make best use of their resources.

It is important for management, both ashore and on board, to appreciate that accidents may occur if personnel are placed under difficult and unfamiliar circumstances without adequate training or familiarisation. It is vital that each crew member is adequately briefed and trained to perform the tasks that may be allocated.

All crew, especially those with specific security duties and responsibilities, should be encouraged to ask questions and to keep themselves up to date on the threats to which they are most likely to be exposed.



Chapter 3

Security basics

KEY ADVICE

- Basic approaches to security
- Monitoring and controlling access
- Effective search procedures

Mitigating and managing the risk of stowaways getting on board is an important part of shipboard operations and of fulfilling obligations under the ISPS Code. The requirement, actions and tools for this key security task should be clearly stated within the ship security plan (SSP) and include access control and onboard searching. These are covered in detail in *Maritime security: a practical guide* (2nd edn, Chapter 8, pp97–123).

That chapter highlights the basic techniques for managing the risk of stowaways getting aboard and is intended for guidance only. They do not take precedence over the precise security requirements and procedures laid down in the SSP or the orders given by the Master, CSO or SSO.

A ship security assessment (SSA) will have been made before the SSP is drawn up and the risk of unauthorised access, including by stowaways, will have been assessed.

Controlling access

Access control is a vital part of preventing stowaways from getting aboard. All shipboard personnel need to know when to control access and how to do it. There must be procedures covering embarkation, disembarkation, communication (internal and ship-to-shore) and for logging information.

It is also important to monitor deck areas, areas surrounding the ship and restricted areas on board. Handling of cargo and ship's stores has an effect on

security so there needs to be a reporting and communication system in place to deal with anything that goes wrong. Once rules have been drawn up they should be applied with the normal common sense of good seamanship to make the vessel secure.

The **gangway** is the easiest and most obvious point of access to a vessel when it is moored or at anchor. It is vital the gangway watch is given clear guidance on boarding procedures and instructions on when to call for assistance.

Potential means of access include:

- Access ladders
- Access gangways
- Access ramps
- Access doors, side scuttles, windows and ports
- Mooring lines and anchor chains
- Cranes and hoisting gear: one person should be posted outside the crane while another searches inside to ensure that a stowaway cannot exit the crane unseen and escape
- Rudder housings.

It is also vital to assess the effect of the tide. For example, a vessel with a low freeboard may become more susceptible to unauthorised entry when the tide drops to a certain level. It is important that the OOW and all those with security duties are aware of the implications of such changes. The state of a vessel can change throughout operations and the threats posed can also change.

Personnel with security duties should do as instructed at all times. All other personnel as a minimum must:

- Maintain security vigilance
- Challenge and question any unescorted person on board who is not a crew member
- Help to carry out vessel searches
- Report deficiencies such as broken or missing locks and lights
- Ask questions if they are unsure.

Options for access control and monitoring

Access can be controlled in four ways – physical, electronic, human and procedural. A layered mix of these usually works best.

Physical barriers, such as gangway gates or barriers, seals, doors with locks and keys, signage and fences are the most basic and common-sense measures to deter, slow or stop unauthorised access on to or around the vessel.

Monitoring can be achieved through electronic and human means. Again, a mixed approach is likely to bring the best results.

Electronic systems include access control systems, CCTV, automated intruder detection (AID) and alarm systems and lighting. Advanced electronic systems can boost any security regime but, as with physical measures, they need to be used correctly.

CCTV systems make it far easier for personnel to monitor and protect large areas. However, it is important that cameras are sited correctly, that they work in harmony with other security measures (particularly lighting) and are monitored effectively.

Lighting can be a strong deterrent to potential boarders, but again must be used and fitted correctly. Avoid creating areas of shadow that can provide boarders with places to hide. Also avoid blinding or dazzling security personnel and CCTV systems.

Over-reliance on a single system can be detrimental and should be guarded against. All means available should be used to monitor security. Cross-referencing of systems should be routine.

When used, AID devices should activate an audible and/or visual alarm at a location that is continuously attended or monitored.

Human control and monitoring is usually organised into surveillance, patrolling and gangway, overside and deck watch. Shipboard personnel are vital to security, and they need to be:

- Fully briefed
- Knowledgeable about their instructions
- Confident
- Trained and practised
- Supported by their seniors
- Familiar with security measures in place.

Procedures for access control should include clear rules for checking people, the type of ID that is acceptable, when to deny access and when to call the SSO or OOW. Such procedures will harness the physical, electronic and human elements of security and demonstrate that the vessel is doing as required by the ISPS Code. They will also ensure that security assets are used properly and to their best effect.

It is also important to document what was done so that procedures feed back into the vital record-keeping requirements for the vessel.

Main access point

The SSP should designate a proper means of access. This is usually a gangway or accommodation ladder. Whatever the security level in force, this should be the designated means of access to the vessel and the focal point of access control measures.

If access is not properly controlled, stowaways will take the easiest option to try to sneak on board. That could well be the main access point if security is lax. Everyone boarding the vessel should be required to pass through a formal reception area.

There should be clear external signs directing all visitors to the access point. All other doors should carry signs stating: 'No admittance to unauthorised personnel'.

The gangway watch will report to the SSO or the OOW and be responsible for deterring unauthorised entry and detecting unauthorised persons. Unauthorised access routes should be guarded, for example, by fitting guards to mooring ropes or anchor cables and ensuring that the deck and overside areas are well lit. The deck areas should be patrolled regularly and the patrols should observe the approaches to the ship.

As a second line of defence, and in addition to strict access control, there should be monitoring of deck areas, areas surrounding the ship and restricted areas. Such monitoring is the minimum required by the ISPS Code at Security Level 1.

In some ports, ships are routinely required to use additional shore-based security. In this case, it is vital that the SSO understands the exact security role these external guards will perform, particularly if they are there to prevent access to the vessel.

Third-party stowaway security specialists are often present in problem ports. It may be advisable for the CSO and SSO to discuss whether to engage such specialists before arrival in a high-risk port.

Shipboard searching

An important element of any security regime, and particularly the anti-stowaway effort, is being able to locate stowaways if any have managed to get aboard. The types of search can be summed up as precautionary, deterrent and preventative.

A **precautionary** search can be employed even when there is no information about a specific threat and as a response to the general security risk or the perceived need for increased security measures. This is recommended in a port at which stowaways are known to be a problem. It can be instigated either randomly or as part of a general security procedure.

Being in a hotspot of stowaway activity should be enough to prompt such a search method and this would usually take the form of a pre-departure search. Unfortunately, because this is the most common type of search and is carried out at a time of high activity on the vessel, shortcuts are sometimes taken. The officer and crew given responsibility for carrying out the search will perhaps have other competing duties – they may be on their way to mooring stations, for instance.

It is vital that even in this busy period, the search is given the priority and emphasis it deserves. In high-risk ports, consideration should be given to anchoring in some convenient position outside the port and making a final stowaway search after the tugs and pilots depart.

Any stowaways found in this final search can then be discharged directly to the shore authorities, potentially minimising the costs that might otherwise be incurred if stowaways were to be discovered later. This is particularly important, as there are significant advantages to fixing the problem in the stowaway's port of embarkation.

A **deterrent** search can be used to demonstrate visible security measures, with the aim of displaying an effective and working security regime. It can be instigated whenever the security threat warrants pre-emptive action.

Seeing physical security measures being carried out may deter those seeking to compromise the ship's security. Stowaways, terrorists or smugglers viewing the vessel and witnessing continuous searches may simply move on to the next, less security-aware vessel.

A **preventative** search is employed whenever a security threat is confirmed. There may be some strong information or intelligence on which to base the search action. An example would be from third-party experts who have experience of local stowaways concealing themselves in a particular part of the ship. Such searches often employ dog teams.

Searches should be conducted tailored to the size and construction of the ship and the resources available. Some ships will have a limited number of people available to carry out searches and in this case it is important to prioritise the

activity within clearly defined limits and, on some occasions, disregard areas that do not require searching.

Searches can be carried by area or cargo. Searches of persons are described in Chapter 4.

Area searches include compartments and facilities forming part of, or fixed to, the ship's structure and which are permanently on board and integral to the vessel's operations. Ship's stores and storage areas are included.

Cargo searches cover all items being legally transported by the ship for legitimate business purposes, including vehicles on ro-ro vessels.

Search plans should be available on all vessels and incorporated into the SSP.

There are, however, a number of considerations common to planning all categories of search. Everyone aboard should be familiar with the areas of the vessel they are responsible for searching. The plans also need to be understood and familiar to all those charged with such duties.

Initial questions include:

- What is the security level set at, or should be set at, for the search to be carried out? This will determine search criteria in accordance with ISPS
- What is the category of the search? Is it precautionary, deterrent or preventative?
- Is the search an area or cargo search? In some cases it will be both
- Are there witnesses to question? Was something seen or heard or has something been found?

It is important to clearly define the scope of the search, the search limits and timeframe.

Planning the search

The **object of the search** will determine the way it is conducted. Searching for stowaways may expose the search team to potential confrontation and they should be briefed and equipped to deal with this.

People can work for long periods of time under normal conditions, but under stressful conditions – when searching, for example – concentration can lapse and focus can diminish rapidly. This should be borne in mind when applying manpower to search tasks and in setting the scope, limitations and timeframe of the search.

Carrying out an area search

1. Establish the search team. Teams should be allocated well in advance and should be:

- Trained
- Available for the entire search operation
- Familiar with the search area – possibly working there
- Made up of at least two persons
- Equipped as required. A list of appropriate equipment is listed later in this chapter (see pages 39-40)
- Headed by a search supervisor.

2. Establish the reporting chain and search control point:

- Designate the search control point. The bridge is a logical location but may not be the most practical
- Decide who will control the search operation
- Decide how information will be passed along the command chain
- Create a search log.

3. Create a search plan based on the SSP and the information available:

- Define the scope of the search – where to look and what to look for
- Prioritise areas to search according to the threat or information received
- Allocate teams to the areas and state their responsibilities clearly
- Decide on actions to be taken on discovering stowaways. Knowing what to do next is vital
- Establish procedures for searching hazardous areas.

4. Brief the search team:

- Personnel designated to search should be thoroughly briefed on all the points given at 3, including any applicable safety information
- Brief search teams on actions to be taken if something of interest is found
- Two-phased briefing: a) general briefing applicable to all searchers, including any background information and the object of the search; b) individual briefings as applicable
- The search controller should ensure searchers understand the briefing and their own responsibilities.

Searches can be divided into areas for ease of management and to ensure that thorough searches are carried out.

- External surfaces: all open areas above deck, including the hull down to the waterline
- Internal areas: all areas below deck, including enclosed areas, rooms and compartments.

Search procedures are simple but require practice and a degree of patience. Searches should be carried out in a methodical and logical fashion. Subdividing areas into zones is one way to accomplish this; another way is to divide the area by contents.

Searching an enclosed area, room or compartment using the division method involves identifying logical sections or zones, eg the deck and everything on it; bulkhead and any openings; deckhead and any openings.

Further subdivision depends on the complexity and size of the area. For example, decks can be searched to specified points or bulkheads to waist height. Where existing fittings are used as templates, search teams will look under all freestanding furniture or inside any integral fittings. The surroundings should guide decisions on dividing the area.

It is important to complete the search in a logical manner (eg side to side, front to back). Before starting the search, all items not usually found in the area and items that appear out of place or suspicious should be identified and reported. Search team members who are not familiar with the area should be replaced by those who are.

Two people searching together should divide the area up and then, if time allows, swap over and search each other's areas to ensure thoroughness. It may be worthwhile considering a non-permanent method of marking those areas that have been searched and subsequently confirmed as not being a security risk.

Once the search is complete, the findings should be reported to the search supervisor or controller.

Dividing areas

This is a general guide to the areas to search. It is not exhaustive and common sense and knowledge of the problem areas of the specific vessel are essential tools of searching. It is important to listen as well as to look while searching. Stowaways secreted in sealed trailers, for example, may be running short of air and may try to attract attention by banging from inside or calling for help.

Using this guide, it should be possible to generate a more extensive and specific list for individual purposes.

Area search checklist

Accommodation

Under bunks – on the deck or attached to the bunk frame
 Bedding – inside mattresses
 Behind drawers or in closets – all surfaces of the carcass. Check for false backs and bottoms
 Above the deckhead space and behind bulkhead panels or mouldings
 Ventilator grilles and ducts
 Heating and air conditioning units
 Behind any protruding bulkheads and boxes

Galleys and mess areas

Food bins and dry goods
 Among fresh vegetables and fruit sacks and bags
 On shelves behind tinned and packaged goods, bottles and cartons
 Inside galley units, fridges, freezers and extraction units
 Inside storage rooms and bonded lockers
 Dining areas – inside or under furniture and fittings

Showers and toilets

Behind ventilator grilles and ducts
 Behind panelling and access plates in the decks, bulkheads or deckheads
 Behind exposed and blocked-in piping

Engine rooms

Machinery – shrouds, cofferdams, control boxes, sumps, pedestals and bilges
 Ventilation shafts, piping and ducts
 Inside tanks
 Under deck plating
 Equipment boxes and tool storage
 Control rooms, emergency steering
 Storage lockers and spaces
 Personal lockers
 Areas concealed by waste materials

Deck and external areas

Coiled ropes
 Deck storage rooms and lockers
 Behind deck profiles and ledges
 Inside lockers and behind contents
 Battery rooms
 Switch rooms
 Chain lockers
 Lifeboats and internal storage lockers
 Cargo holds
 Bilges
 Winches and cranes
 Equipment and environmental clothing stores
 Covered cargo
 Between shipping containers and storage vessels
 Rudder area including rudder trunk, housing or compartment

Companionways

Ducting
 Railings
 Compartments
 Behind access panels in decks, bulkheads or deckheads

Bridge, offices and control rooms

Consoles, cupboards and lockers
 Behind instrumentation panels and boxes
 Computer arrays
 Underneath furniture

Cargo search

Many of the procedures for an area search also apply to a cargo search.

Shipping containers, loose and packaged cargo, including vehicles, can present an opportunity for stowaways to hide.

Containers are popular hiding places and can be adapted for stowaways. Indications can include:

- Small air holes cut or drilled into the container for venting
- Lightly or spot-welded panels and trap doors

- Strange odours and noises
- Security seals tampered with
- Inner dimensions of empty containers not matching external. False walls are often used to conceal people within a container.

Safety of searches

Search procedures must be carried out with proper regard for the health and safety of those conducting them. Any risk assessment tools that make up part of the vessel's SMS may be used before such activities.

Especially important are the requirements for working aloft and entering into confined spaces. It is likely that thorough searches may include such areas, so the risks should be considered as part of the planning process.

Personnel detailed for search should be equipped appropriately. The search supervisor is responsible for ensuring that the correct equipment is supplied. The items used should be intrinsically safe and approved according to company requirements.

Restrictive clothing should be avoided, unless required for foul weather protection or safety. Nothing should be carried unless it is part of the search or safety equipment.

PPE suitable for the search environment and location

- Hard hat
- Non-slip footwear
- Reflective vest
- Goggles
- Protective suits
- Gloves
- Masks

The search should not be stopped when a single stowaway is found, because there may be more individuals on board, particularly in the area where the first one was found. The full search process should be completed to pinpoint additional stowaways and their belongings. The stowaways should then be searched for any papers, personal items and objects that could be used as weapons (see pages 44-45).

Items needed for a search

- Flashlight/torches
- Safety lamp for illumination in hazardous atmospheres
- Mirrors for inspecting underneath objects, over and on top of out-of-reach objects. Mirrors can be used with flashlights, either in conjunction with them or as an integral fitting
- Tapes to mark searched areas or to temporarily restrict access
- Tools: screwdrivers, wrenches, bolt-croppers and crowbar
- Chemical lights to mark searched areas
- Evidence bags (plastic and paper)
- Radio or telephone
- Digital camera
- Camcorder. Video content can bolster any report
- Voice recorder for witness interviews and statements
- Mobile phone to capture photographic evidence, video footage and also voice notes or recordings
- General arrangement or deck plan, to give locations, mark search areas and for navigation of searchers around the vessel
- Notebook to record information.

External searchers

Ships arriving in port are frequently boarded by officials who have authority to search for stowaways. Often they are unaware of the dangers of entering an enclosed space or the particular hazards involved with the cargo being carried at the time. There are also dangers of crew being more engrossed in the task of searching for stowaways than the threats posed by the spaces in which they are searching. All parties engaged in searching should be made aware of the dangers.

Specialist third-party stowaway security companies may be able to provide expert stowaway searches, using equipment designed to locate stowaways and possibly dog teams. They may have experience of where local stowaways could be hiding. This can save time and resources and may ensure a greater chance of locating stowaways than a crew search alone. The vessel's P&I club should also be able to assist and advise and will probably be able to recommend local specialists.

Lack of security in a port and the prevalence of stowaways there are directly linked. No vessel operator should rely on the port authorities to keep its fleet secure and

should always remember that keeping free of stowaways is the responsibility of the ship. However, vessel security measures need to be complemented by the efforts of the port authority and terminal operator to:

- Guard the perimeter of the terminal
- Ensure access for legitimate traffic only
- Monitor internal movement
- Carry out surveillance of water-borne boundaries
- Control and monitor stevedores and others working inside the port
- Hold regular drills for bomb threats, hostage-taking and intruders and practise security measures in all terminal employees' routines.



Chapter 4

Managing stowaways

KEY ADVICE

- What to do when stowaways are discovered
- Collecting evidence
- The ship's duty of care towards stowaways
- Potential liability issues
- Reporting to owners, authorities and P&I clubs
- Repatriation of stowaways

When stowaways are found they should be taken to a secure and safe area. An unused cabin is sufficient. If trading into areas with known stowaway problems it would be good practice to have an area prepared for stowaways.

The area should be clean and comfortable but cleared of any implements that could aid escape or be used as makeshift weapons. A mirror, for instance, can be smashed and a shard used as a makeshift blade.

There can be violent flashpoints within the first minutes of finding stowaways – or possibly longer, depending on the circumstances. Ship's personnel can sometimes react with violence. More often the stowaways can become violent if they fear that their efforts have been for nothing.

It is important that ship's personnel are briefed and made fully aware of what is expected of them in such circumstances. They need to try to control their emotions and the rush of adrenaline that can lead to conflict. It is important to train for such events. Stowaway training should include how to apprehend and move the stowaways safely to the secure accommodation area prepared for them.

It is important that the crew communicate as calmly and clearly as possible to the stowaways so as not to inflame an already tense situation. When a stowaway is discovered:

- Do not approach the stowaway too closely; keep at least three paces away from them if possible
- Identify yourself
- Maintain visual contact
- Demand to see their hands if not clearly visible
- Call for assistance as necessary – searches should always be conducted by at least two people
- Ask for their identification papers or travel documents.

Rules of engagement for **apprehending** stowaways will be set out in company procedures and under guidance from the flag state.

Some may recommend the use of restraint, usually in the form of 'flex cuffs', while others may state that such equipment may not be used. It is important that plans reflect the equipment available on board and the level of training given to personnel.

Whatever the exact details of the apprehension procedures allowed, shipboard personnel should never employ excessive force.

It is important that immediate back-up is available for anyone searching for stowaways. The searcher must be able to call for further support in the event of stowaways being located.

Searching stowaways

It is important to establish quickly and effectively whether stowaways are carrying anything that could harm themselves, shipboard personnel or the vessel, or if they are in possession of any illegal substances or contraband.

Basic guidelines for a personal stowaway search

- Clearly state, either verbally or by gestures, that you are about to search the individual
- Always search in pairs, with one as searcher and one as observer and witness
- Hand-held metal detectors can be used to identify potential threats before a person search

Suggested general person search procedure

1. Have the stowaway remove any outer clothing such as jacket and coat
2. Have the stowaway empty all pockets
3. Have the stowaway remove belt and shoes
4. Have the stowaway extend their arms straight out with palms up
5. Have the stowaway turn until facing away from you
6. Move towards the stowaway on the right or left side
7. Mentally divide the body into quarters down the middle and across the waist
8. Check one half of the torso front and back by crush and feel
9. Check pockets without putting your hand inside
10. Check the belt area without putting your fingers behind the waistband
11. Apply pressure and feel one leg front and back; advise the stowaway that you will check the groin area. Do not forget the feet
12. Move your position to the other side of the stowaway and repeat steps 8 to 11.

If a suspicious item is felt or located, it is up to the search supervisor's discretion how this will be removed for inspection (eg by the person being searched or under control by a searcher). A system should be developed and search techniques should be practised.

Removing stowaways into a safe area

- Order the person to turn and face away from you. If several stowaways are found, process them one at a time while monitoring and containing the others
- Visually check for weapons and other hazards
- Order the person to place hands on head
- Order the person to walk backwards under your guidance (eg towards your voice)
- Remember that the stowaway is your responsibility and all safety considerations should be met
- Bring the person into an area where you can maintain your distance and await assistance or complete your enquiries
- All stowaways and unauthorised individuals should be subjected to search, including the area where they were found and any baggage or belongings found with them
- To relocate or move the stowaway a minimum of two crew members should be used as an escort.

Dealing with violence

If the vessel calls regularly into ports where there is a history of violence from stowaways, personnel may need to be issued with more than the standard PPE.

Vests that provide for storage of search equipment while also offering some rigid resistance to punches, missiles or stabbing may provide some reassurance to crew and also act as protection. Such decisions should not be made lightly, but failing to provide additional protection in problem areas could leave crews at risk of injury and the shipowner liable for negligence in any subsequent legal action.

Violent stowaways use filthy tactics

Some days after multipurpose ro-ro *Grande Tema* had left Lagos, Nigeria, bound for Tilbury, Essex, stowaways were discovered on the lower deck and placed into secure accommodation. Five days later, the four men, from Nigeria and Liberia, broke free. The violent gang armed themselves with poles, threw urine and faeces at crew, then cut themselves and threatened to infect crew members with diseased blood as they demanded to be released ashore in the UK in order to claim asylum.

With the ship now in UK waters, the crew locked themselves inside the bridge and contacted the Maritime and Coastguard Agency, which alerted the Ministry of Defence. As *Grande Tema* made its way into the Thames estuary, the stowaways tried to break into the bridge, threatening to seize control of the ship and kill the Master if their demands were not met. The Captain feared they might be Boko Haram terrorists.

In the early hours of 22 December 2018, members of the Special Boat Service stormed the ship from helicopters and captured the gang, who were arrested on arrival in Tilbury. Although acquitted of attempted hijack, all four were found guilty of the lesser charge of affray. Two were found to have made previous stowaway attempts. In January 2020 the four were sentenced to jail terms of between 16 and 32 months.

Processing stowaways

Before they are found on board, stowaways are very much a security issue. Once they have been located and secured, it soon turns into an administrative exercise where every piece of evidence has value and the information obtained from the

stowaways can make the difference between getting them off the vessel swiftly or the problem turning into an extended – and far more expensive – saga.

Some authorities are skilled in the art of dealing with stowaways; others appear to be less willing or able to process the evidence and information. This can cause a great deal of frustration and even delays for vessels.

The successful repatriation of a stowaway largely depends on obtaining an emergency travel document. Getting one of these will depend on the quality of information provided to the relevant embassies or consuls. Evidence gathering is a vital tool in dealing with stowaways – good-quality photographs, statements and supporting information are vital.

Provided the information is in order, emergency travel documents can usually be obtained within one to two weeks in most instances. This will vary according to the nationality of the stowaway. Expert guidance can be provided by third parties or through the P&I club. Company management ashore should keep the vessel informed of developments and work in tandem with those on board to ensure the data captured is correct and usable.

Questionnaires

The most effective means of getting information from stowaways is the questionnaire. These are issued by most P&I clubs and are available in a wide selection of languages. The questionnaire should be completed by the stowaway and used in conjunction with full details of the circumstances compiled on board.

It is important to have as much evidence as possible on how the stowaways got on board and how the ship made every effort to prevent stowaways boarding and to find any stowaways who succeeded in hiding on board. A suggested evidence list is reproduced below.

Stowaway evidence

Details of company stowaway procedures and advice such as fleet notices
Details of all preventative measures taken to prevent stowaways boarding, including:

- Watch arrangements
- Access restrictions
- Lighting

- Areas that were sealed off – such as the accommodation block or holds not in use – and by what means

Details of stowaway searches

Record of completed stowaway checklists

Details of stowaways found, including:

- Number of stowaways
- When stowaways were found
- Where stowaways were found
- Possessions – whether these were on the stowaway's person or found after a further search
- Any documentation belonging to stowaways

Details of efforts made to establish their identities

Details of arrangements for stowaway's treatment while on board, including:

- Record of food, water and clothing provided to the stowaways
- Any medical treatment given to the stowaways
- Record of where the stowaways were kept and the security arrangements in place
- Any additional security arrangements put in place, for example employment of shore security guards

Record of relevant log book entries

Witness statements – including statements from those who discovered the stowaways and any further information offered by the stowaways

Details of the state of health of stowaways and details of any urgent medical assistance required

Personal details of each stowaway:

- Full name
- Passport type photograph
- Place of birth
- Date of birth
- Nationality
- Gender
- Description:
 - Age
 - Height

- ☐ Weight
- ☐ Complexion
- ☐ Hair
- ☐ Eyes
- ☐ Form of face
- ☐ Marks/characteristics
- ☒ Religion
- ☒ Language(s) spoken
- ☒ Home address
- ☒ Father's name
- ☒ Father's birthplace
- ☒ Mother's name
- ☒ Mother's birthplace
- ☒ Parents' address
- ☒ Marital status
- ☒ Name of spouse
- ☒ Nationality of spouse
- ☒ Spouse's address
- ☒ Occupation
- ☒ Employer's name
- ☒ Employer's address
- ☒ Date and time found
- ☒ Place of hiding
- ☒ Port of boarding
- ☒ Date and time of boarding
- ☒ Method of boarding
- ☒ Reasons for boarding
- ☒ Identity document:
 - ☐ Type
 - ☐ Number
 - ☐ Place of issue
 - ☐ Date of issue
 - ☐ Date of expiry

While the theory behind the questionnaire is sound, in practice completing one often proves far from simple. Stowaways are generally well attuned to the journey facing them and know from friends who have experience or from their own past attempts that information is the key to getting sent back home. They may delay or refuse to answer.

It can become something of a war of attrition and should be dealt with patiently and sensitively. Conflict can arise when the stowaways are asked for information, so personnel should be warned of what they can expect and primed to manage the situation.

Some key aspects should be remembered:

- The questionnaires should be completed by stowaways and not by the Master or a correspondent. Spelling mistakes and writing styles often provide clues to a stowaway's origin. Typing questionnaires or filling in statements on the stowaway's behalf can conceal hints about the stowaway's true nationality
- Many stowaways will refuse to complete questionnaires. They may claim they do not understand the language or they cannot write. Stowaways will do or say anything to ensure their stay aboard long enough for them to go where they want. Experience shows that it is important to persist so as to gain as much information as possible.

According to research from the Taiwan Coast Guard, only 4.5% of stowaways processed were illiterate and the vast majority had received some level of education.

- Keep stowaways apart when completing questionnaires. Stowaways in groups tend to share stories and falsify information, making verification of nationality difficult.

Visual identification

Photographs of the stowaways comprise another important part of the documentary evidence-gathering. These will be used by the authorities to grant important travel documentation, so images must be of the standard required.

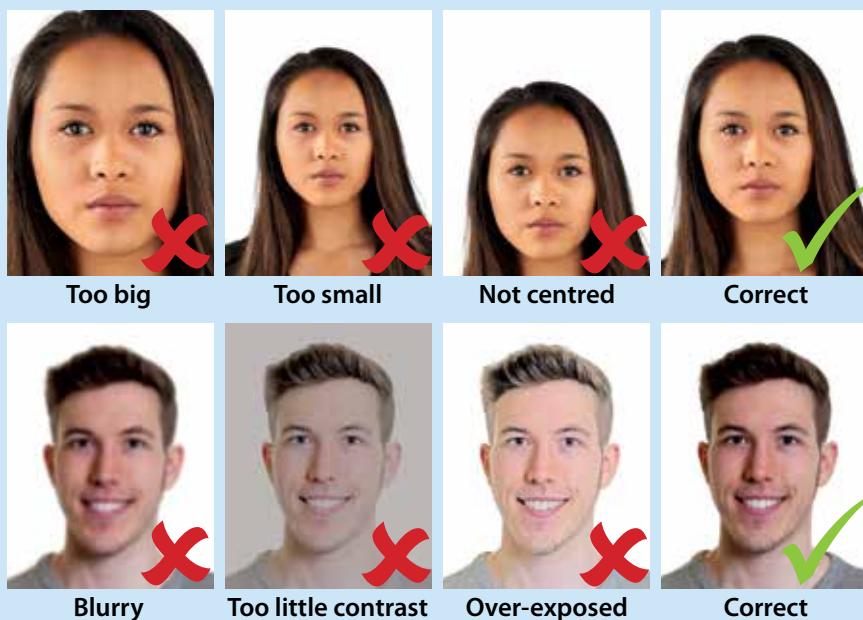
Photograph advice

- Photographs should be of head and shoulders only, as for ID or passports
- Ensure stowaways remove any items of clothing (hats, caps or sunglasses) that may conceal areas of the face, eyes or hair. Stand the stowaway against a plain, light-coloured background to take the photograph
- Authorities usually require at least four passport-sized photographs.

It is useful to have digital copies of the images so that these can be forwarded to the authorities or internally as part of the reporting process.

In addition, a number of companies in specific stowaway hotspots compile databases of individuals engaged in unlawful boarding of vessels. Any images could become an important part of such efforts.

It may be useful to ensure there are images of distinguishing marks, tattoos, clothing and any other possessions. These may help to identify individuals or their nationality.



Tips for taking and recording fingerprints

- Fingers to be printed must be clean and dry. Wiping the stowaway's fingers with an alcohol swab and then drying them should prevent problems from perspiration
- The stowaway being fingerprinted should be asked to stand in front of and at a forearm's length from the fingerprinting surface. The stowaway should stand to the right and rear of the person taking the fingerprints
- Try to encourage the stowaway being fingerprinted to relax

- Grasp the stowaway's right hand at the base of the thumb with your right hand. Cup your hand over their fingers, tucking under those fingers not being printed. Guide the finger being printed with your left hand
- When using the ink and paper method, roll the finger on the inking plate so the entire fingerprint pattern area is evenly covered with ink. The ink should cover from one edge of the nail to the other and from the crease of the first joint to the tip of the finger. Using the right amount of ink is important. Too little and the impression will be too light, while using too much ink will make the fine details run together
- In taking the rolled impression, the side of the bulb of the finger is placed upon the paper fingerprint card and the finger is rolled to the other side until it faces the opposite direction. The bulb of each finger should be rolled evenly from tip to below the first joint. Generally, the weight of the finger is all the pressure needed to record the fingerprint clearly
- In order to take advantage of the natural movement of the forearm, the hand should be rotated from the more difficult position to the easiest position. This requires thumbs be rolled toward and the fingers away from the centre of the individual's body. This process relieves strain and leaves the fingers relaxed when rolling so that they may be lifted easily without danger of slipping, which smudges and blurs the fingerprints
- Roll each finger from nail to nail in the appropriate space, taking care to lift each finger up and away after rolling, to avoid smudging.



Biometric data – for example, from fingerprinting – can be used to identify people, and the equipment necessary to collect and collate it should be carried on board. Companies are advised to have one fingerprinting kit on board each vessel as part of the onboard security equipment.

A fingerprint kit normally includes fingerprint data cards. These are laid out to show where to place the prints and the details that should be completed to provide sufficient supporting information. This usually comprises the personal details and description as in the stowaway evidence list on pages 47-49, plus signatures of the stowaway being fingerprinted, the person taking the fingerprints and the date.

Duty of care

The duty of care owed to a stowaway is that of humane treatment. In its web document *ITF policy on stowaways*, the International Transport Workers Federation stresses that stowaways should be treated fairly and humanely while aboard and that the Master and the crew must respect stowaways' human rights at all times.

Such fair and humane treatment should include:

- Checks on a stowaway's physical and mental health
- Provision of suitable food and lodging
- Avoidance of actions or behaviour that might intimidate.

The ITF also stresses shipboard personnel should not "arrest or unnecessarily detain the stowaway" (although this does not affect the right of the Master to maintain discipline and order on board). However, the Master may have to detain stowaways for their own safety or for the safety of the crew or ship.

It is important to give stowaways basic training in case of emergency (fire or abandon ship). They should have access to a lifejacket and be allocated to an emergency roster in case of abandon ship or other emergencies. In such eventualities they should be escorted to their stations, if circumstances permit.

The Master must also consider the status of a stowaway in relation to SOLAS. Under national law, the stowaway may be classified as a supernumerary on board, but SOLAS states that the person is to be considered a passenger or, if working, a seafarer. In this case, regulations such as STCW may also apply.

There are too many cases reported, and probably many more that remain unreported, of cruelty and **mistreatment** of stowaways.

Thrown overboard

In 2009, authorities in the Democratic Republic of Congo detained a vessel after its crew beat and threw overboard four Congolese stowaways, each tied to an oil drum. One died and three had to be rescued from the Congo River off Matadi.

Three Ukrainian sailors were charged on two counts of murder and five of attempted murder in a South African court after allegedly starving seven stowaways and then forcing them to jump overboard.

There can be no justification for the mistreatment of stowaways. While in the heat of the moment, or at times of extreme stress, it may seem that making the problem disappear is the answer, it is not. It is important that companies, Masters and all shipboard personnel are made fully aware of the need to treat stowaways fairly, humanely and with due regard for their human rights.

At the same time, over-familiarity must be guarded against. This can lead to problems, such as escape attempts or even stowaways being given access to alcohol. It is advisable to draw up a rota of personnel attending to the stowaways to ensure that contact time is kept to a minimum.

Crew charged with murder

A ship's crew befriended a large group of stowaways. When the vessel arrived in port, the stowaways were not declared to the port authorities and the crew agreed to allow them to sneak off since the vessel was not heading towards what they considered a favourable destination.

To avoid detection by port security personnel on the quayside, the stowaways climbed off the vessel by way of a rope, fixed to the offshore side of the vessel and dropped down into the harbour, where they intended to swim to a more remote quayside, no doubt in search of the next vessel on which to stow away.

However, the plan went wrong and two of the seven stowaways drowned. The five surviving men made it to the quayside where they then alleged that they had been forced off the ship. The police were called in and the Master and three crew members were arrested.

The surviving stowaways, perhaps not surprisingly, turned on the crew members and reported them to the police. These crew members were arrested and charged with

murder, among other offences. This charge was subsequently dropped to culpable homicide. The crew members subsequently agreed a plea bargain. They were heavily fined and received suspended prison sentences in return for the plea bargain.

Since the incident, police now attend on all vessels arriving at Durban with stowaways. They question the stowaways to find out where and when they boarded the vessel and how the crew have treated them. (MARS report 200622)

While aboard, the **mental and physical health** of the stowaways must be considered and they should be observed and monitored to the best of the crew's ability. Those charged with taking food and water or assisting with exercising the stowaways should be made aware of the need to watch for any signs of health problems.

Suitable precautions should be taken against the risk of infectious diseases. These include confining stowaways to their quarters, reducing contact with the crew to a minimum and separating any cutlery, crockery, bedding and clothing from that provided for the crew. The condition of the stowaways and any treatment or medicines administered should be recorded.

The advice from P&I clubs is that stowaways should not be made to work as there are numerous legal, health, safety and security issues. There is a high likelihood that a stowaway will be injured (perhaps even deliberately) or feign injury, leading to liability issues. If a stowaway does engage in shipboard work, there may be claims made against the shipowner for wages.

Health precautions

Stowaways or rescued migrants who seem unwell may have an infectious disease. The 2020 COVID-19 coronavirus pandemic, which led to some ships being quarantined or turned away from ports, highlighted the disruptive effects of infectious disease at sea.

COVID-19 and other influenza-like diseases such as SARS (2002 03) and MERS (2012) are spread via droplets (eg from an infected person's cough) reaching one's mouth, nose or eyes. Symptoms include a cough, breathing difficulties and fever, but may take days to appear. Vomiting and diarrhoea may indicate norovirus infection.

Good practice is to minimise contact with suspected infected people, keeping at least 1m separation; to wear gloves, face masks and appropriate PPE; and to keep affected individuals isolated in separate cabins, with doors closed. Crew should

practise careful hygiene, especially thorough handwashing. An infected person may contaminate surfaces they touch, so it is essential to deep-clean cabins, and safely dispose of potentially dangerous waste including used masks, gloves, tissues and PPE.

The ship's disease management plan should encompass the risk of stowaways or migrants bringing an infection on board. If disease is suspected, advice should immediately be sought from the P&I club, and the port health authority at the next port of call informed.

Accommodation of stowaways

The SSP should contain details of an area in which persons can be safely and securely detained, with due regard to flag state requirements for their treatment. The Master and SSO should also refer to any further guidance issued by the vessel's P&I club.

The most common place to keep stowaways is in a spare cabin. This is an arrangement that can work, but it may prove inadequate if large numbers have to be accommodated..

In accordance with the duty of care, the cabin should contain an adequate provision of fittings, such as a bunk and the usual furniture to be found in a standard cabin. Linen should be provided and lighting, such as would be supplied to shipboard personnel.

Hygiene is a consideration. Depending on the vessel, toilet and washing facilities may be en-suite. If they are separate the stowaway will need to be accompanied when washing etc.

It is also important to consider access from the cabin. The area should be made as secure as possible to minimise the risk of escape. Doors and portholes must be secured. Anything which could be used as a weapon or to self-harm should be removed.

Use of spare cabins may be adequate if spare accommodation is available, the numbers of stowaways are small and if the situation arises infrequently. If stowaways are a recurring problem, specialised accommodation may be required.

One company, after suffering repeated and violent incidents, made the decision to modify its vessels to provide more secure and suitable accommodation for determined and violent stowaways. In one incident, stowaways caused extensive damage to the cabins they were kept in and the crew had to maintain round-the-

clock security. The company decided that a more secure and specialised solution was required and hardened a number of cabins. Furniture was bolted down and electric lights protected from damage. Doors were provided with a slot through which food could be passed. A 40ft container could also be modified into four secure cabins with heating, toilets, sinks and showers.

Stowaways saved, cargo destroyed

During a routine inspection of the vehicle deck of ro-pax ferry *Stena Horizon* a crew member heard banging from inside a climate-controlled trailer. The vehicle's driver was summoned over the ferry's PA system and opened the trailer, revealing 16 Kurdish migrants inside. The 14 adults and two minors were taken to one of the ferry's passenger lounges, where they were given food, drink and medical assistance.

The ferry was *en route* to Rosslare, in the Republic of Ireland, from the French port of Cherbourg. The men, who were trying to reach the UK, are believed to have entered the trailer at a truck park in Cherbourg without the driver's knowledge. After being assessed by medical and immigration personnel in Rosslare, the men applied for asylum. The trailer's cargo of pharmaceuticals, reportedly valued at €1 million, was contaminated and had to be destroyed.

Repatriation

Shipping companies do not usually talk too freely about the problems associated with stowaways, and particularly the issue of repatriation.

In the face of extreme frustration with authorities one company decided to voice the problems it had experienced in getting a number of stowaways repatriated.

The stowaways had boarded the ship in Hamburg, Germany, and were discovered after the ship had left Gothenburg, Sweden, *en route* for Belgium. The Belgian authorities refused to assist the repatriation process and the stowaways were eventually transferred to another of the company's ships bound for Gothenburg. This obviously caused undue stress for the crew and stowaways and increased costs.

Without the acceptance and an appreciation of the problem from authorities it is very difficult to close out stowaway cases and to repatriate the individuals. However,

progress is being made on getting all countries to accept their part of their burden and IMO FAL.13(42) further sets out the principles and responsibilities for the resolution of stowaway cases.

A number of companies provide specialist repatriation services and if stowaways are found it could be beneficial to access such expertise. P&I clubs can advise on the options and may have worked with specialists in the vessel's trading area before.

Pragmatic and workable solutions are needed to ensure the repatriation process runs as swiftly and smoothly as possible. Getting the desired outcome depends on the speed and clarity with which the vessel and owner or operator acts. Information needs to be communicated promptly up the chain to the P&I club and on to any third-party agents that may be appointed. Options can then be assessed and documentation prepared. This requires knowledge of the immigration regimes in place in the next port of call, or subsequent ones if the next is deemed unsuitable.

Many ports are toughening their stance on repatriation of stowaways. While it is not possible here to provide a full breakdown of the requirements of every country, many of those that will act as repatriation corridors have similar requirements and follow similar patterns.

An example of what a Master might encounter is the *Maritime and Port Authority of Singapore's Conditions for repatriation of stowaways* (<https://tinyurl.com/y62voh45>). These cover responsibility for safe custody and secure transfer of stowaways at every stage of the repatriation process, evidence of arrangements made, costs and provision of a security bond. Repatriation is limited to ISPS-certified vessels.

Masters and companies require expert guidance on the specifics of each case, such as location of attempted repatriation, country of embarkation and suspected nationality of stowaways. Although cases may be similar, each will have its own unique problems to be faced and solved. For these reasons it is vital that the P&I club is made aware of the stowaway incident at the earliest opportunity so that expertise can be sought to ensure a swift conclusion.

Fines and costs

Apart from the human element issues, the presence of stowaways can have serious financial implications. In addition to the potential damage to the vessel and costs of security, there are delays, fines and other liabilities to consider. Stowaways are not just a difficult issue to manage but are a costly one too.

Although stowaway incidents and numbers of stowaways have both decreased, costs have risen. Fines and legal costs are likely to continue increasing, so shipowners need to try to limit their liabilities. Companies should contact their P&I club for up-to-date information on the latest fines in various jurisdictions within their trading areas.

Depending on where the incident occurs, fines can range from hundreds to thousands of dollars, with additional costs being imposed for accommodation and repatriation transport.

Charterparties and stowaways

To clarify the allocation of responsibility and liability for costs for stowaways between owners and cargo interests, BIMCO revised its Stowaways Clause for Time Charter Parties in 2009 (<https://tinyurl.com/y6m25zbp>). The clause allocates responsibility according to the method of gaining access to the vessel.

Charterers are responsible for stowaways who board by hiding in containers or other goods, and by any other means relating to the cargo operation (such as in grabs or other lifting gear). Such access amounts to breach of charter and charterers must indemnify owners against all claims. Owners are responsible for stowaways who gain access by all other means.

Stowaways and P&I cover

P&I club members have an obligation to notify any potential claim on the club promptly. This is to ensure that the full scope of the club's expertise is brought to bear on the member's behalf in either defending or settling the claim, and also to allow the club to estimate the claims exposure properly, which is essential for sound underwriting practice.

In general, a P&I club will provide cover for the following in a stowaway incident:

- Fines imposed by authorities for having a stowaway
- Cost of security guards employed to prevent stowaways running away in port

- Agency charges for handling the stowaways in port
- Expenses incurred to maintain the stowaways on board
- Repatriation expenses incurred in sending stowaways back to their countries
- Other expenses associated with repatriation such as escorts, embassy fees and agency charges.

This does not mean the shipowner can take a more relaxed view of the problem. The extent to which the P&I club provides cover could be jeopardised if adequate steps were not taken to prevent the stowaway gaining access to the vessel.

Chapter 5

Migrants and rescue at sea

KEY ADVICE

- Obligations for rescuing persons in distress and their disembarkation
- Maintaining security with large numbers of distressed people on board
- Issues affecting vessels rescuing migrants at sea

For many migrants, the sea is often the most obvious means of escape to a better life. While stowaways seek to start their sea passage on a merchant vessel, migrants put to sea by whatever means possible. This has obvious safety implications and increasingly ships need to rescue migrants in distress.

Vessels encountering large numbers of migrants at sea may have to transfer sick, frail or pregnant people from very unseaworthy craft and in perilous conditions. The IMO strongly advises planning in advance. Such a plan should include an assessment of how the vessel would lift people on board, where they would be accommodated and the medical resources that may be needed. Its advice is to:

- Assess the recovery options available on board
- Train the crew to carry out such recoveries
- Prepare to save lives.

Administrative procedures for disembarking persons rescued at sea

Harmonisation of the administrative procedures for disembarking persons rescued at sea is covered by an IMO Facilitation Committee circular (FAL.3/Circ.194).

This identifies five essential principles:

- Coastal states should ensure that the search and rescue (SAR) service, or other competent national authority, co-ordinates its efforts with all others responsible for the disembarkation of persons rescued at sea
- Operations and procedures that go beyond rendering assistance to persons in distress – for example, screening and status assessment of rescued persons – are to be carried out after disembarkation to a place of safety
- All parties involved should co-operate to ensure the swift disembarkation of the rescued people
- All parties involved should co-operate with the government of the disembarkation area to facilitate the return or repatriation of the persons rescued
- International protection principles, as set out in international instruments, should be followed.

The IMO recognises that the parties concerned in dealing with persons rescued at sea may include some or several of the following:

- The government responsible for the SAR area where the rescue took place
- Other coastal states in the vicinity or in the planned route of the rescuing ship
- Flag state
- Shipowners and their representatives
- States of nationality or residence of the persons rescued
- The state from which the rescued persons departed, if known
- The United Nations High Commissioner for Refugees (UNHCR).

Those parties should take into account the Master's preferred arrangements for disembarkation and the immediate basic needs of the rescued persons. The government responsible for the SAR area where the persons were rescued should take the main responsibility for ensuring this co-operation. If disembarkation from the rescuing ship cannot be arranged swiftly elsewhere, the government responsible for the SAR area should accept the disembarkation of the persons rescued.

They should be moved into a place of safety under its control so that post-rescue support can be provided quickly. Immigration laws and regulations of each member state should be respected.

Amendments to SOLAS Chapter V Safety of Navigation clarify the existing longstanding obligation to provide assistance by addition of the words *regardless of the nationality or status of such persons or the circumstances in which they are found*.



Migrants in distress at sea often have to be rescued from overloaded and unseaworthy craft. When coming alongside, care must be taken to avoid swamping the craft

A new regulation makes clear the Master's discretion:

the owner, the charterer, the company operating the ship... or any other person shall not prevent or restrict the Master of the ship from taking or executing any decision which, in the Master's professional judgement, is necessary for safety of life at sea and protection of the marine environment.

Amendments to the Annex to the SAR Convention include a definition of persons in distress (Chapter 2), assistance to the Master in delivering persons rescued to a place of safety (Chapter 3) and identification of the most appropriate places for disembarking persons found in distress at sea (Chapter 4).

Related guidelines on the treatment of persons rescued at sea, adopted in May 2004, cover humanitarian obligations and obligations under the relevant international law. The amendments concerning the treatment of people rescued at sea have taken on added importance as increasing numbers of migrants and refugees are involved in maritime emergencies.

Rescue at sea

Masters' responsibilities to assist persons rescued at sea may appear incompatible with their responsibilities for security under the ISPS Code. Effective security may be impossible to maintain while bringing any number of unknown persons on to a vessel, especially if this is done in an uncontrolled way. In a rescue it is likely that matters other than security will take precedence.

The ISPS Code emphasises that the Master has ultimate responsibility and must make decisions at the time of the event, with the understanding that the traditional undertaking to rescue persons in distress takes priority.

By deciding to rescue persons at sea, the Master may have to compromise the ship security plan (SSP). This is particularly true if there are large numbers of people (one-third or more of the ship's complement) coming aboard, as the vessel's security provisions may be unable to cope with such an influx of people.

The ISPS Code deals with the potential security implications of a rescue or recovery. Information could be required as condition of entry into a port:

All known information about such persons or goods, including their identities when known and the results of any checks run on behalf of the ship to establish the security status of those rescued could be considered important for the next port of call.

The Code also states:

it is not the intention of chapter XI-2 or part A to delay or prevent the delivery of those in distress at sea to a place of safety.

Such information could influence decisions to grant or deny entry. Gathering of the information required may prove problematic and the lack of clear guidance in the ISPS Code means the Master, SSO and CSO must develop a strategy that gives them the flexibility to save lives while ensuring that the ship remains secure.

This strategy should take into account the need to show that in the event of port state interrogation, or any subsequent legal or commercial dispute, the Master took every possible step to satisfy both ISPS and the responsibility to save lives.

To keep the vessel secure, a plan must be developed. The SSA should have reviewed all potential conflicts between safety and security, including the increased likelihood of a vessel being involved in the rescue of migrants, and this should have been assessed as a foreseeable risk.

The CSO should be keeping the vessel informed about security risks, including the likelihood of encountering large numbers of migrants. Likely problem areas include the African coast and the Canary Islands. The Mediterranean is an area of great concern, especially in the approaches to Malta and the Italian island of Lampedusa. Once the risk is identified, the CSO must issue instructions to mitigate it.

Although it is vital to get the distressed people on board as quickly and safely as possible, it may be advisable to consider the following minimum measures:

- Quarantine
- Monitoring
- External guidance
- Understanding.

Those rescued should be embarked into a secure **quarantine area**. This should be capable of being secured from the rest of the ship, be comfortable and suitable for administering assistance and humanitarian aid. This area will allow the crew to contain those rescued and to control movement around the vessel. Restricting movement is essential to ensure the security of the vessel and prevent injury to the rescued people.

It is advisable to **monitor** the quarantine area. This can be done physically, but the use of CCTV places less demand on the crew. It also protects crew from unnecessary contact and interaction.

It is vital to take **guidance** and advice from flag and port states and also from the vessel's P&I club. The CSO must continually monitor the situation and provide the necessary advice and support to the ship while keeping external agencies informed. In the first day or so of the rescue the vessel would be advised to work at an increased security level. Further guidance can be gained through CSO and flag state dialogue.

Often these people are desperate; having placed their lives at risk they may well take drastic action to secure their dreams of relocation. The risk of crew being taken hostage is high and crew members should never work alone in the security quarantine area. There should be sufficient strength in numbers (where and when possible) to deter attack by those rescued.

Understanding means establishing a balance between vigilance and compassion. The vast majority of rescued migrants are suffering and need care and attention. However, there may be some among them who are liable to attack crew members and it is important to remain alert to the possibility.

Seafarers should be aware that criminals may pretend to be in distress as a pretext for getting on board, or close to, ships. Somali pirates are adept at raising false alerts to bring ships closer to their traps. Undesirables may try to take advantage of the rescue and aid that ships are bound to provide.

A challenging migrant rescue

Capt Harbinder Singh Soni was on the bridge of crude oil tanker *Navigare Tolero* in September 2019 when he heard someone calling “Help... Help me... Help”. The tanker was off the coast of Greece at the time, and the call was from a boat 9nm away carrying migrants from Iran, Iraq and Russia. After deciding to attempt a rescue, Capt Singh Soni informed his company’s DPA and the charterers. Meanwhile, a message had been passed to Piraeus Joint Rescue Co-ordination Centre.

The rescue proved challenging, as the tanker was in ballast and had 15m freeboard. The overloaded migrant boat was rolling heavily, so when the ship’s gangway was lowered it was hit by the boat’s mast. The pilot ladder was tried, but this proved too risky to climb. A harness was then lowered to the boat, but none of the migrants was able to put it on. Next, the ship used a crane to lower its rescue basket, but it too was hit by the boat’s mast. Finally, the gangway was tried again and brought to water level, well clear of the mast, and all 42 people were safely brought aboard the ship. Their belongings were checked for weapons and contraband, and their names and nationalities recorded.

The next challenge was to maintain order – when they found the ship was bound for Greece rather than Italy, some of the migrants threatened to jump overboard. The 21-strong crew brought the situation under control, securing all but one of the ship’s doors. They also provided the rescued people with food, water and bed sheets. The migrants were allowed to use the washrooms under close supervision.

On arriving at Kalamata port the 42 migrants were taken off and the paperwork completed. An hour later, the ship was allowed to sail out, ending an episode that had lasted a stressful 20 hours.

(Summarised from *Seaways*, December 2019, pp4–5)

Issues affecting vessels rescuing migrants at sea

Various high-profile cases, such as the *Tampa* asylum-seeker stand-off in 2001 and the *El Hiblu 1* hijack by migrants in the Mediterranean in March 2019, have demonstrated that rescuing migrants at sea can be risky for Masters and owners.

Despite obligations by coastal states to assist those vessels rescuing migrants and facilitating the disembarkation of such persons in safe ports, growing numbers of states are refusing to allow such vessels to enter their ports. This is especially true of migrant rescue vessels owned by certain NGOs.

As a result, these vessels often have to spend a considerable time in international waters or territorial seas until the coastal state decides whether to accept the migrants. Italy and Malta are among states that have refused entry to such vessels. Some governments have accused rescuing vessels' crews of being complicit in the illegal trafficking of the migrants.

The Refugee Convention of 1951, Article 33(1), states that migrants who originate from war-torn countries must not be subjected to expulsion or forcible return to:

the frontiers of territories where [their] life or freedom would be threatened on account of [their] race, religion, nationality, membership of a particular social group or political opinion.

This principle of not returning migrants to a place of danger is called *non-refoulement*. The same convention extends the policy of *non-refoulement* to people who are fleeing armed conflict (eg in Libya or Syria) even though they do not meet the 1951 Refugee Convention's criteria for definition of a refugee.

The Master is thereby placed in a precarious position. On the one hand, international law (under UNCLOS Article 98(1) & (2); SOLAS Chapter V, Regulation 7 and 33; and the SAR Convention Chapter 2.1.10 and 1.3.2) obliges the Master to render assistance to those in distress – defined as those in grave and imminent danger – and to bring them to a place of safety. At the same time, the Master is being refused entry into ports or places of safety.

Those who drafted the conventions never foresaw that large numbers of migrants or refugees – sometimes more than 300 on a single vessel – would end up in distress at sea. They doubtless had in mind the rescue of a limited number of crew members or perhaps passengers, but certainly not the numbers being encountered in the Mediterranean week after week.

Listed below are some of the other issues that may arise from these migrant rescue situations. Guidance from the shipowner/operator or P&I club should be sought in these cases.

- A “distress situation” has not been clearly defined. If migrants are encountered at sea but are not in a life-threatening situation, is the Master obliged to assist? How should the Master act if those on the boat do not request assistance?
- If the Master wants to embark the migrants for their own safety, this decision may lead to the ship having to spend many days at sea trying to negotiate entry to a safe port (or place of safety). Only certain ports qualify as safe havens/ports, and coastal states are increasingly reluctant to accept more migrants.
- There may be serious financial consequences from a delayed arrival in port. Cargo may be affected and the charterer and/or shipowner will be exerting pressure because of the commercial implications of late arrival.
- Deviation from course and the embarking of migrants may affect the crew’s work schedule and hours of rest, perhaps leading to fatigue. If human performance is impaired, there will be a higher risk of an accident occurring.
- There have been cases where a ship has refused to help a migrant vessel in distress. This may have been for commercial or practical reasons or for fear of migrants seizing control, as happened when rescued migrants took over the tanker *El Hiblu 1* after they realised it was heading for Tripoli in Libya rather than a European port.
- Rescuing large numbers of persons directly from the sea or from a sinking vessel, perhaps in heavy seas, may be dangerous. Embarking children and the elderly by pilot ladders, for example, is likely to be hazardous.
- Careful thought will need to be given to accommodating and managing rescued persons on board especially when the vessel is ill-equipped to carry so many people.
- Complying with the ship security provisions of the ISPS Code will become more challenging with rescued persons on board.
- The safety of the crew and rescued persons is paramount. However, it will be put at risk if the migrant smugglers come on board, or if migrants are armed or become violent.
- Seriously injured or very old/young individuals will need medical attention. To cater for people in excess of the usual complement, sufficient medical supplies should be held on board. Contingency planning should take into account the possibility that some of the rescued people may be infected with a virus or communicable disease.



Bringing aboard large numbers of distressed people of different nationalities can pose safety and security risks for the ship and its crew. However, to save life, the Master may have to compromise on aspects of the SSP

- The ship will have to cater for basic needs including toilets and general hygiene. The requirements are likely to be far in excess of a merchant vessel's designed capacity.
- In the event of a major incident, the ship will need to have enough lifesaving appliances on board for everyone.
- The additional people on board will all need food, water and adequate clothing/blankets.
- If the ship is operating in waters where migrants may be encountered, the crew needs to be trained to handle this sort of situation. This may include conducting a search of the migrants for dangerous items. Crew members will need to be equipped with appropriate PPE.
- Migrants, especially children and vulnerable individuals, should not be allowed to wander around freely, particularly if hazardous cargo is being carried. Pre-planning should include identifying those areas on the ship to which access should be restricted to crew only.

These are just some of the issues that Masters will need to have considered before undertaking a migrant rescue operation. Potential problems do not end here, however. In 2018 the Italian government published its *Code of Conduct for NGOs Undertaking Activities in Migrants' Rescue Operations at Sea*, which required the NGOs operating in the Mediterranean to agree to certain commitments and restrictions.

The code warns:

Failure to subscribe to this Code of Conduct or to comply with the commitments set out therein may result in the adoption by the Italian Authorities of measures addressed to the relevant vessels, in compliance with applicable domestic and international law and as required in the public interest of saving human lives while guaranteeing shared and sustainable reception of migration flows.

Some migrant-rescue NGOs have not signed up to the code because they believe it to be inhumane and overly restrictive of rescue efforts.

Migrant rescue or migrant smuggling?

In July 2019, *Sea-Watch 3*, a rescue vessel operated by German NGO Sea-Watch, was carrying 52 migrants who had been picked up from a rubber dinghy off the Libyan coast. The most vulnerable individuals were taken off the vessel at sea. *Sea-Watch 3* was then refused entry into the Italian port of Licata on the island of Lampedusa.

Sea-Watch and the German Master of the Dutch-flagged vessel, Captain Carola Rackete, took the Italian government to the European Court of Human Rights in an attempt to get the 43 remaining migrants disembarked in Italy. The court ruled that there was no imminent risk of significant harm to the rescued migrants.

Captain Rackete disagreed and sailed to Lampedusa. Allegedly, the Italian Coast Guard tried to prevent *Sea-Watch 3* from docking by placing a boat between the quay and the incoming rescue vessel. As a result, the patrol boat was slightly damaged when *Sea-Watch 3* docked.

Rackete was arrested under an Italian law that treats migrant rescuers in much the same light as migrant smugglers. Although released from house arrest, she was investigated for aiding illegal immigration and for entering Italian waters in defiance of a direct order to stop.

On coming across a migrant boat in difficulties, the Master faces a difficult choice: either comply with UNCLOS and SOLAS by rescuing people in distress and delivering them to the nearest place of safety, or turn a blind eye and continue with the voyage to avoid falling foul of anti-migrant-smuggling laws. The reality is that in the Mediterranean Sea many ships are already choosing to sail on by.

Whichever course of action is chosen, the ship, its owner, the Master and crew may find themselves under close scrutiny by news media, social media and politicians. Masters, senior officers and shore management should be aware of the possible problems that may arise in such a situation and ensure that specialist media relations expertise is employed where necessary.

Given the increasing risk of national authorities treating migrant rescue and disembarkation on their territory as an illegal act, Masters should ensure that detailed, accurate records are kept of the incident.

Further guidance

The obligation to render assistance was formally established in international law by:

- Article 98(1) of the United Nations Convention on the Law of the Sea (UNCLOS), 1982
- Regulation V/33.1 of the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended.

For practical advice on recovery see:

- *Guide to recovery techniques* (IMO MSC.1/Circ.1182/Rev.1, 21 November 2014)
- *Rescue at sea – a guide to principles and practice as applied to migrants and refugees* (IMO/UNHCR/ICS, 2015)
- *Large scale rescue operations at sea – guidance on ensuring the safety and security of seafarers and rescued persons* (2nd edn, ICS, 2015)
- *Guidelines on the treatment of persons rescued at sea* (IMO Resolution MSC.167(78), adopted 20 May 2004).

Relevant Nautical Institute guidance includes:

- *Guidelines for collecting maritime evidence, Vols 1 and 2* (NI, 2017 and 2019)
- *Driving lifeboats and rescue boats*, by Dag Pike (NI, 2019).



Chapter 6

Reporting and closing out

KEY ADVICE

- Collecting evidence and recording stowaway incidents
- Carrying out effective investigations
- Accessing and sharing information

Record-keeping should be a continuous process and the requirements will be clearly laid down in both the SMS and SSP. Key elements of good record-keeping include:

- Personnel should know what is to be recorded
- Personnel should know and understand how the information will be used
- The importance of accuracy should be clearly understood
- Records should be truthful and complete
- The reason for keeping them should be understood and respected by those ashore and those at sea.

A swift and successful conclusion to a stowaway incident depends on the successful gathering of evidence and recording of information. It is important, therefore, to have as much evidence as possible on how the stowaways got on board. Evidence will also be needed to show that the ship made every effort to prevent stowaways boarding and to find any stowaways who succeeded in hiding on board (see the stowaway evidence list in Chapter 4).

The CSO should ensure that shipboard personnel, and in particular the SSO, are aware of the importance of reporting. Each company will have its own process for this, which should be followed closely by all on board. While a high-profile incident, particularly one in which outside agencies were involved, is likely to be reported properly, less attention may be paid to a near-miss. Yet near-misses are valuable opportunities to learn and should always be reported to the company.

The subsequent internal investigation by shore management into a stowaway incident could be extremely useful and positive so long as the motivation is to learn lessons rather than apportion blame. Companies should always study the circumstances carefully so that any mistakes are not repeated.

The key outcome of the investigation is remedial action. The company will need to identify the assistance, training, guidance and resources that are necessary to cut the risk of a recurrence.

There is no need to wait for incidents to happen to realise that something is going wrong. Personnel should be encouraged to act proactively in spotting potential problems and reporting them. Just as hazardous occurrences, near-misses and non-conformities (as set out in the ISM Code) are all learning opportunities within a safety context, security too is a process to be understood and managed.

By reporting and analysing these incidents, corrective action can be taken before stowaway incidents actually occur. In addition to internal reporting, there are also opportunities to feed back to the wider maritime community. Such sharing of information can have an extremely positive influence and help others gain an insight into problems and their solutions.

The Mariners' Alerting and Reporting Scheme (MARS) is a confidential reporting system run by The Nautical Institute to allow full reporting of accidents and near-misses without fear of litigation.

Reports on stowaway incidents have been submitted in the past, and anyone wishing to submit a report should do so at www.nautinst.org/mars/

IMO reporting process

A reporting form has been developed for IMO member states and international organisations in consultative status (Annex to FAL.2/Circ.50/Rev.2).

This requires:

- Name of ship
- Type of ship
- Flag
- Gross tonnage
- IMO number
- Date and place of embarkation
- Date and place of disembarkation

- Dates and places of attempted disembarkations
- Number and nationality of stowaways
- Assessment of the effectiveness of the FAL Convention, section 4, and the associated guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases, and any other relevant information
- Reporting authority or international organisation.

Such data collection, submission and analysis are vital to ensure that industry and regulators fully understand the extent of the threat posed to shipping by stowaways. Without accurate and complete statistics it is almost impossible to protect vessels properly or to allocate resources to counter a problem that is growing globally and has a heavy impact on shipping.

Index

A

Abidjan, Ivory Coast 4, 18
 accommodation, stowaways 43, 56
 Africa, high stowaway numbers 4, 18–19
 apprehending stowaways 43–44, 46, 56
 area searches 34, 35–38
 asylum seekers 46, 57, 67
 definition 3, 6–7
 aviation, lessons from 15–16

B

biometric data 53
 Brussels Stowaway Convention 3

C

Cape Town, South Africa 4, 19
 cargo searches 34, 38–39
 Caribbean region 4, 17, 18
 CCTV systems 31, 66
 charterparties 59, 68
 container ships 20, 24–25
 containers 21–25, 38
 COVID-19 coronavirus 55
 crew, security training 26–27, 43, 69
 criminal activity 3–4, 7–8, 26, 46
 CSO (company security officer) 18, 26, 29, 32, 64–65, 66, 73
 CVSSA (Cruise Vessel Security and Safety Act 2010), US 15

D

Dakar, Senegal 4, 19
 deterrent searches 32, 33
 disease management plan 56
 Djibouti 4, 18
 drug trafficking 3–4, 7
 Durban, South Africa 4, 18, 19, 55
 duty of care 53–55

E

economic migrants 6, 7
El Hiblu 1 67, 69
 emergency travel documents 47, 50
 evidence collection and report writing 47–49, 50–53, 73–75

F

FAL (IMO Convention on Facilitation of International Marine Traffic, 1965) 6, 9, 11, 13–14, 20–21, 57, 61–62, 74–75
 fines and costs incurred 58–59
 fingerprints 51–53
 flag states 10, 11, 12, 13, 44, 66

G

gangways 30, 31, 32, 67
 GISIS (IMO Global Integrated Shipping Information System) 14, 21
Grande Tema 46

H

health, stowaways 55–56
 hiding places, stowaways 5, 22–25,
 30, 38–39
 human trafficking 7–8

I

ICAO (International Civil Aviation Organization), UN 15–16
 ICS (International Chamber of Shipping) 71
 identification, stowaways 50–53
 illegal immigrants 7–8
 immigration crime 7
 IMO (International Maritime Organization)
 facilitation issues 14–15
 migrant rescue 61–62, 71
 reporting process 74–75
 stowaways, responsibilities
 towards 9–13
 infection control 55–56
 influenza-like diseases 55
 information sharing 14
 ISM (IMO International Safety Management) Code 74
 ISPS (IMO International Ship and Port Facility Security) Code 3
 shipboard security 29, 31, 34, 64
 stowaways, responsibilities
 towards 9, 57
 ITF (International Transport Workers Federation) 53

L

Lagos, Nigeria 4, 14, 19, 46

M

MARS (NI Mariners' Alerting and Reporting Scheme) 23–24, 54–55, 74
 Masters
 migrant rescues 62–63, 64
 responsibilities, stowaways and
 migrants 10–11, 53, 55, 64, 68–71
 security decisions 18, 26, 27, 29, 64
 migrants. *See also* asylum seekers
 deaths 22
 European ports 5, 18–19
 motivation of 3–4, 6–9
 rescue. *See* rescue at sea
 modern slavery 7–8
 Mombasa, Kenya 4, 18, 19

N

nationalities, stowaways 4–5, 13,
 17–18, 62
 Nautical Institute, The 71, 74
 next port of call, responsibilities,
 stowaways 10, 11, 12, 57, 64
 NGOs 67, 70
 non-*refoulement* 68
 norovirus 55

P

people smuggling 7–8, 19, 22
 photographs 50–51

P&I clubs 5, 8, 10, 18, 20, 22, 40, 47, 55, 57–58, 59, 66, 68
 port health authority 56
 ports/states of stowaway embarkation 4, 9, 10, 11, 12–13, 18–19, 25, 33, 58
 PPE (personal protective equipment) 39, 46, 56, 69
 precautionary searches 32, 33, 34
 preventative searches 32, 33–34
 protestors 8–9

Q

quarantine 55, 66
 questionnaires 47–50

R

Rackete, Captain Carola 70
 Refugee Convention, 1951 68
 refugees 6, 7
 repatriation of stowaways 57–58
 report writing and evidence collection 47–49, 50–53, 73–75
 rescue at sea 64–67
 administrative procedures for disembarking persons
 rescued 61–63
 issues affecting rescue
 vessels 67–71
 risk assessment and management
 management and planning 25–27
 trading patterns and 17–18
 ro-ro vessels 19–20, 21–22

S

safety
 migrant rescues 69
 shipboard searches 39–40
 SAR (Search and Rescue)
 Convention 63, 68
 search and rescue (SAR) 62–63
 searching, shipboard
 area searches 34, 35–38
 cargo searches 34, 38–39
 external searchers 40–41
 safety of searches 39–40
 search planning 34–36
 searching stowaways 44–45
 tools and equipment 39–40
 types of search 32–34
 security, shipboard. *See*
 shipboard security
 security levels, ships 26, 32, 34, 66
 ship types, stowaways and 19–25
 shipboard security. *See also* ISPS
 access control 29–32, 64, 69
 importance of 29
 rescued migrants 66–67, 69
 searching. *See* searching, shipboard
 security levels 26, 32, 34, 66
 third-party stowaway specialists 32, 33, 40
 training 26–27, 43, 69
 shipowners' responsibilities, stowaways 10, 11, 68
 SMS (safety management system) 39, 73
 SOLAS (International Convention for the Safety of Life at Sea, 1974) 53, 62–63, 68, 71
 South America 4, 17, 18

SSA (ship security assessment) 29, 64
 SSO (ship security officer) 26, 29, 31, 32, 56, 64, 73
 SSP (ship security plan) 2, 29, 32, 34, 35, 56, 64, 65, 73
 state of nationality, stowaways 13, 62
 states of transit 10, 13, 25
 states responsibilities, stowaways 11–13
 stowaways
 access control 29–32
 accommodation 43, 56
 apprehending 43–44, 46, 56
 deaths 22, 54–55
 definitions 3, 6
 embarkation points. *See* ports/
 states of stowaway embarkation
 evidence collection and report
 writing 47–49, 50–53, 73–75
 fines and costs incurred 58, 59
 health 55–56
 hiding places 5, 22–25, 30, 38–39
 identification 50–53
 managing 43–44, 46–47
 nationalities of 4–5, 13, 17–18, 62
 numbers 20–21
 questionnaires 47–50
 repatriation of 57–58
 responsibilities towards 9–13,
 53–55, 59
 searching for. *See* searching,
 shipboard
 searching stowaways 44–45
 ship types targeted 19–25
 types of 3–4, 6–9
 violence 43, 53–54
 SUA (Convention for the Suppression
 of Unlawful Acts against the Safety of
 Maritime Navigation, 1988) 14–15

T

Takoradi, Ghana 4, 19
 Tema, Ghana 4, 19
 third-party stowaway specialists
 32, 33, 40
 trading patterns, stowaway risk
 affecting 17–18
 training, security 26–27, 43, 69

U

UN Convention Relating to the Status
 of Refugees, 1951 7, 68
 UN Trafficking Protocol 8
 UNCLOS (United Nations Convention
 on the Law of the Sea, 1982) 68, 71
 UNHCR (United Nations High
 Commissioner for Refugees) 62, 71

V

violence, and stowaways 43, 53–54

About the author

Steven Jones MA MSc BSc (Hons) MNI FRSA



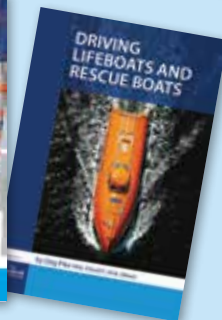
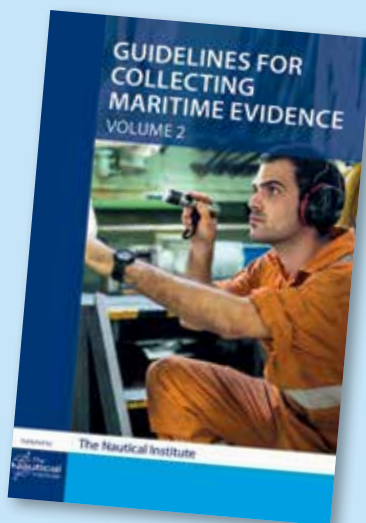
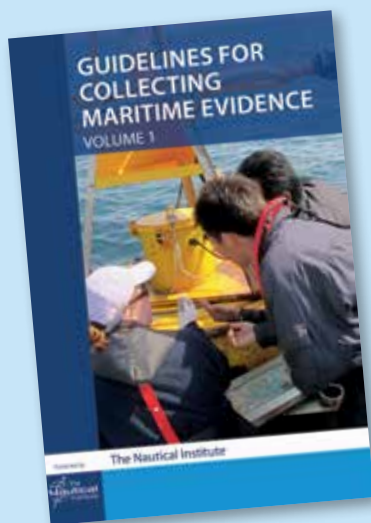
Steven Jones is a specialist in maritime affairs and works as consultant to a number of leading companies and organisations. He spent a decade working as a navigation officer in the merchant navy and experienced stowaway situations and instigated intensive searching processes while serving. After moving ashore he advised numerous shipping companies on security planning, spending years researching, applying and developing an in-depth knowledge of security and the International Ship and Port Facility Security (ISPS) Code.

This knowledge has provided the basis for this publication and the main book in The Nautical Institute's *Maritime Security Suite*, *Maritime Security: a practical guide* (2nd edn, 2012) and its companion handbooks. He has also contributed articles to The Nautical Institute's magazine *Seaways* and other publications.

His primary focus is on the human element – particularly the ways and means of bringing security techniques and effective management to the attention of crews of merchant vessels, office personnel and ship operators. He has experience across the maritime industry, working for shipping companies, insurers, publishers and professional bodies.

He is a Member of The Nautical Institute and the Chartered Institute of Public Relations and is a Fellow of the Royal Society of Arts. He also holds a Master of Arts in International Relations and a Master of Science in Marketing, Communications and Public Relations.

More titles published by The Nautical Institute



For more information on book discounts
and membership please see our website
www.nautinst.org

UPGRADE YOUR FUTURE



Can you keep up with new technology & new regulations?
Want to network & improve your job prospects?
Want a direct line to IMO decision making?
Want professional recognition?
Want legal defence insurance?



join today at www.nautinst.org

PROUD TO BE #INtheNI