

S. HRG. 113-642

**CRUISE INDUSTRY OVERSIGHT: RECENT
INCIDENTS SHOW NEED FOR STRONGER
FOCUS ON CONSUMER PROTECTION**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

—————
JULY 24, 2013
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ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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CRUISE INDUSTRY OVERSIGHT: RECENT INCIDENTS SHOW NEED FOR STRONGER FOCUS ON CONSUMER PROTECTION

WEDNESDAY, JULY 24, 2013

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 2:40 p.m., in room SR-253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV, U.S. SENATOR FROM WEST VIRGINIA

The CHAIRMAN. I thank all of you for being here. And I will proceed with an opening statement, followed by Senator Thune, and then we will go directly to testimony, and then we will have a lively discussion.

Millions of Americans enjoy taking cruises every year. I completely understand why. Cruise lines sell people a fun-filled, once-in-a-lifetime dream vacation. Probably with that in mind, I guess, two my children have taken cruise line ships. And sometimes they get that dream. Sometimes they get that dream. But, as we all know, sometimes cruises hit rough waters and that dream can turn into a nightmare.

In March 2012, after several very troubling safety incidents occurred on cruise ships, I held a hearing in this room to get answers about why passengers sometimes find themselves in harm's way. It was a serious attempt to get answers. The leader of the Cruise Industry Trade Association sat right there and told me, basically, to trust her—that doesn't come easily in the Senate, right?—to trust that the industry was engaged in a rigorous review of safety procedures that would fix everything. I did not entirely believe her at the time, but I felt like the industry needed a fair chance to correct their course. It has now been 16 months since that hearing, and I have not seen much evidence that things have changed.

Since that hearing, since those empty promises, serious incidents continue to plague cruise ships. And I'm sorry about that. This conduct should make us all very angry. If the industry is seriously working to improve the safety and security of its ships, why have we witnessed so many serious incidents in the last 16 months? Is the industry really trying to adopt a culture of safety or are these safety reviews and temporary investments a cynical effort to counter bad publicity? That happens.

I seriously worked to improve the safety and security of these ships. Why have we witnessed so many serious incidents in the last 16 months? I believe the culture of safety that Americans expect, as they should, is clearly not always a priority for cruise lines. That's not necessarily restricted to cruise lines, I might say. I can think of a number of American industries where I might make the same comment.

Cruise ships on fire and drifting at sea tend to make headlines, and we know how they impact passengers. But, cable news doesn't cover the many crimes committed against individual passengers on cruise ships, which are just as concerning to me.

We have been reviewing the industry for a while now, for quite a long while, and have found some sobering details. Consumers have the right to know what we have learned before they book their first or next dream vacation. For instance, if somebody steals your property or assaults you on a cruise ship, you cannot, obviously, call 911 and have the police there in a few minutes; you can only call the ship's security officer, who, I think, predictably, happens to be an employee of the cruise line. That's not a criticism, it's just a fact. The cruise industry has fought to limit when and where passengers can file lawsuits, so it becomes incredibly difficult, if not impossible, to right these wrongs.

I have placed, for your reading enjoyment, in front of you, this. I went to the ophthalmologist, 2 days ago, and, in spite of my very best efforts last night and this morning, I can't read a word of this.

[Laughter.]

The CHAIRMAN. And, at one hearing, we were told that, when you are sold a ticket, that, after the ticket sale is made, then you peel off, and then you run into this. What this is are many pages, in absolutely the smallest type that I have ever seen in my entire life. It's all about liability limitations. Not all of it, but a lot of it. It's stunning. And what is most important to me, I guess, is that it isn't readable. So, if it isn't readable, is it, in fact, like it's not there and that they're not being warned?

I don't think people go on cruise ships with the idea of wanting to sue, but, after some of these incidents recently, it may be that people do have that in mind.

Anyway, to make things worse, under current law, cruise ship crime report data is not available to the public. That's crime data. That means consumers have no way to find out what their real risks are before they take a cruise. Now, granted, these are huge ships. I guess the largest one is now, what, 5,000-plus people and 2,000 employees. And I'm not criticizing that. It's a stunning sight to see, in the Virgin Islands or the Bahamas or somewhere. But, I'm—I can't criticize that—but, implicit in 7,000 people on a ship in such tight quarters over a fairly long period of time, the possibility of predators and criminal activities, whether it be on persons or on property, is obviously large.

During the last few months, my staff has been analyzing the FBI crime report. And that's this. It's the FBI crime report data that does not get publicly released. And I'm not doing it. They recently submitted a report to me on cruise ship crimes. That's that.

I ask unanimous consent to put this staff report in the record of this hearing.

[The information referred to follows:]

CRUISE SHIP CRIME



CONSUMERS HAVE INCOMPLETE ACCESS TO CRUISE CRIME DATA

STAFF REPORT PREPARED FOR:

SENATOR JOHN D. ROCKEFELLER IV
CHAIRMAN
SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

JULY 24, 2013

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Executive Summary

For many passengers, a cruise is a dream vacation: a floating city full of exciting attractions and adventure for the whole family. However, crime on a cruise ship can turn a dream vacation into a nightmare. While crimes occur infrequently on cruise ships,¹ when crime does occur onboard the victim often lacks the same access to law enforcement and emergency services—as well as avenues for recourse—that are available in the United States. Particularly given these differences, it is important that passengers are informed about crime on cruises before they travel.

To increase transparency regarding crime on cruise vessels,² Congress included in the Cruise Vessel Security and Safety Act of 2010 (CVSSA) public reporting requirements regarding cruise ship crime. Under the CVSSA, cruise lines must report to the Federal Bureau of Investigation (FBI) any allegation of a crime³ as soon as possible and the United States Coast Guard (Coast Guard)⁴ must maintain and publicly post on a website a statistical compilation of the alleged crimes. Unfortunately, the public reporting process established under this language is not providing consumers a complete view of crimes reported on cruise vessels.

Actual Cruise Crime Data is Higher than Publicly Reported

Unlike with crimes reported on land in the United States,⁵ the public database established pursuant to CVSSA discloses only those crimes that are no longer under investigation by the FBI. The law also requires only a subset of the types of crimes reported to the FBI to be reported publicly.⁶ Data the Committee on Commerce,

¹ Cruise Line I A, *CLIA Statement: Congressional Hearing* (Mar. 27, 2001) (online at <http://www.cruising.org/vacation/node/316>).

² Congress found that “Passengers on cruise vessels have an inadequate appreciation of their potential vulnerability to crime while on ocean voyages, and those who may be victimized lack the information they need to understand their legal rights or to know whom to contact for help in the immediate aftermath of the crime.” Pub. L. No. 111–207, Sec. 2, (2010).

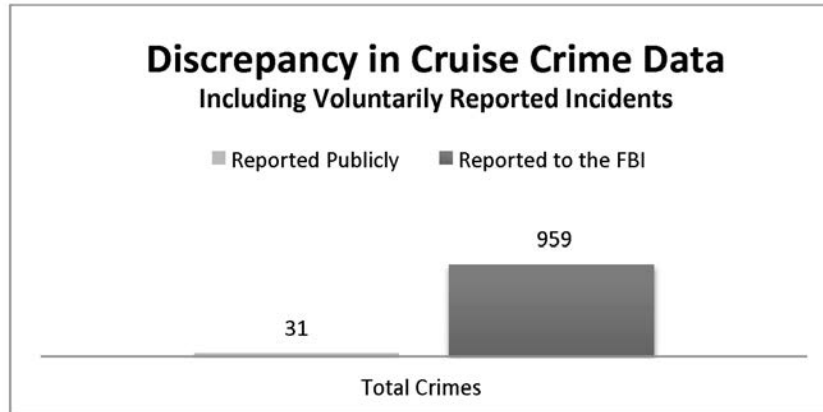
³ CVSSA classifies as crimes required to be reported to the FBI as all homicide, suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, any offense to which section 2241, 2242, 2243, or 2244(a) or (c) of title 18 applies, firing or tampering with the vessel, or theft of money or property in excess of \$10,000. Pub. L. No. 111–207.

⁴ CVSSA requires the Secretary of Homeland Security to maintain and publicly post a statistical compilation of alleged crimes reported and no longer under investigation by the Federal Bureau of Investigation. These statistics are published on the Coast Guard’s website. Pub. L. No. 111–207.

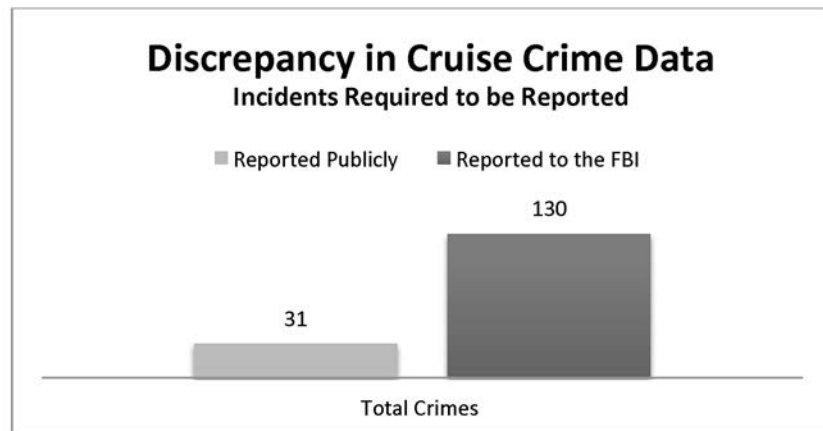
⁵ Federal Bureau of Investigations, Crime Statistics, Uniform Crime Reports Web Site (online at <http://www.fbi.gov/about-us/cjis/ucr/ucr-publications#Crime>) (accessed June 10, 2013).

⁶ The owner of a cruise vessel is required to keep logs of all allegations of crime but is only required to report certain types of crime incidents to the FBI. The owner of a cruise vessel may voluntarily report other alleged crimes to the FBI. CVSSA provides that only the crimes that are required to be reported to the FBI must be reported publicly. These crimes include all homicide,

Science and Transportation obtained from Coast Guard and the FBI shows that, since passage of the CVSSA, the number of alleged crimes cruise lines reported to the FBI—including crimes reported voluntarily by cruise lines—is 30 times higher than the number of alleged crimes reported publicly. Since 2011, cruise lines have reported 959 alleged crimes to the FBI, while the Coast Guard reported only 31 alleged crimes publicly.



Further, with respect to the categories of crimes for which the CVSSA specifically requires cruise lines to report alleged incidents to the FBI, the number of alleged crimes that cruise lines reported is over four times higher than the number of alleged crimes reported publicly. Since 2011, cruise lines have reported 130 of such alleged crimes to the FBI, while only 31 alleged crimes were reported publicly.



Crimes Committed Against Minors are Unrepresented in Official Statistics

The Committee's review of cruise crime statistics also identified that crimes committed against minors are unrepresented in publicly available statistics. In cases of sexual assault, cruise crime data that is not publicly reported indicates minors are the victim in a significant percentage of total alleged sexual assaults.

suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, any offense to which section 2241, 2242, 2243, or 2244(a) or (c) of title 18 applies, firing or tampering with the vessel, or theft of money or property in excess of \$10,000. Pub. L. No. 111-207. The FBI records crimes reported to the Bureau, but not required to be reported or publicly listed by the Coast Guard, as "Other Crimes."

I. The Commerce Committee's Review

In March 2012, the Senate Committee on Commerce, Science, and Transportation held a hearing on the cruise industry and its ability to protect its passengers. The Committee received testimony raising concerns that the public was receiving incomplete information regarding alleged cruise crimes.⁷ At the hearing Ross Klein, a professor at Memorial University of Newfoundland, testified about his Freedom of Information (FOIA) request to the FBI for cruise crime data after the passage of CVSSA:

The material returned in response was totally unhelpful. All useful information was redacted. As well, the FBI says they are not required to keep track of or report crimes committed on cruise ships unless they have opened a file of investigation and subsequently closed the file. That means that allegations of crime are no longer available for analysis . . . [This absence of data] is not in the interest of the public or in the spirit of the Cruise Vessel Security and Safety Act of 2010.”⁸

To further examine these concerns, Committee Chairman John D. Rockefeller IV requested that the FBI provide the Committee the crime data that the cruise lines reported to the FBI since passage of CVSSA. Using the crime data provided by the FBI,⁹ Committee staff then compared this data to the publicly reported cruise crime data that is posted on the Coast Guard's website.¹⁰

II. Background on Cruise Passenger Resources and Recourse Following a Crime Onboard

According to the cruise industry, a cruise is as safe as “your average community in the United States,”¹¹ and “the incidence of crime onboard is very small given the large number of guests carried.”¹² However, there are significant differences between how crimes that occur on land in the United States are responded to as compared to crimes that occur on cruise vessels.

A. Calling for Help

In the United States, when a crime occurs, a victim or a witness to the crime generally can call 911 to access police, medical, and other services.¹³ Often, within minutes, law enforcement trained to investigate and eventually help prosecute criminals is on the scene.¹⁴ Law enforcement called to the scene is an impartial party to the investigation;¹⁵ they must protect the scene, take statements, and collect and preserve evidence in accordance with the law.¹⁶

When a crime occurs on a cruise vessel, it can be an entirely different story for the victim. Victims generally report crimes to cruise vessel security officers, who are employees of the cruise company.¹⁷ These employees do an initial investigation and determine when and whether to report a crime to law enforcement.¹⁸ As employees

⁷ Testimony of Professor Ross Klein, Senate Committee on Commerce, Science, and Transportation, *Oversight of the Cruise Ship Industry: Are Current Regulations Sufficient to Protect Passengers and the Environment?*, 112th Cong. (Mar. 1, 2012).

⁸ *Id.* at p. 47.

⁹ Letter from Stephen D. Kelly, Assistant Director, Office of Congressional Affairs, Federal Bureau of Investigation, to Senate Commerce Committee Chairman Rockefeller (July 16, 2012); Letter from Stephen D. Kelly, Assistant Director, Office of Congressional Affairs, Federal Bureau of Investigation, to Senate Commerce Committee Chairman Rockefeller (Apr. 4, 2013).

¹⁰ The Coast Guard Cruise Crime Website (online at <http://www.uscg.mil/hq/cg2/cgis/CruiseLine.asp>) These statistics can be found attached to this report as Appendix III.

¹¹ *Mystery at Sea: Who Polices the Ships?*, New York Times (Feb. 26, 2006) (online at http://www.nytimes.com/2006/02/26/travel/26crime.html?pagewanted=all&_r=1&).

¹² Carnival Cruise Line Website (online at https://secure.carnival.com/cms/fun/cruise_control/security_safety_act.aspx) (accessed June 10, 2013).

¹³ The National 911 Program (online at <http://www.911.gov/about.html>).

¹⁴ See, e.g., Department of Justice, *Crime Scene Investigation: A Guide for Law Enforcement* (Jan. 2000) (online at <http://www.nij.gov/nij/topics/law-enforcement/investigations/crime-scene/guides/generalscenes/welcome.htm>).

¹⁵ See, e.g., Florida Department of Law Enforcement, Officer Requirements page (online at <http://www.fdle.state.fl.us/Content/CJST/Menu/Officer-Requirements-Main-Page/LE-Ethical-Standardsof-Conduct.aspx>); FBI, *Quick Facts* (noting FBI core values include fairness) (online at <http://www.fbi.gov/about-us/quick-facts>) (accessed June 28, 2013).

¹⁶ Department of Justice, *Crime Scene Investigation: A Guide for Law Enforcement* (Jan. 2000), pp.iii, 1, and 10.

¹⁷ House Subcommittee on Coast Guard and Maritime Transportation of the Committee on Transportation and Infrastructure, *Hearing on Crimes Against Americans on Cruise Ships*, 110th Cong. (Mar. 27, 2007), p. 30.

¹⁸ Senate Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security of the Committee on Commerce, Science, and Transportation, *Hearing on Cruise*

of the cruise lines, these security officers do not have the same arm's length relationship with the cruise lines as do local and Federal law enforcement officials.¹⁹ Rape, Abuse & Incest National Network (RAINN) testified before the Commerce Committee about the inherent difficulties victims face when reporting a crime that occurred onboard to security officers who work for the cruise company:

You won't have any rape crisis personnel onboard to support you, let alone law enforcement officials to come to your aid. You might turn to cruise ship employees for help, only to later find that the cruise line has a vested interest in shielding themselves against negative publicity or legal jeopardy. And you might wonder how any security personnel hired by the cruise line will react if presented with any situation that might give rise to a potential conflict of interest between their employer and yourself.²⁰

B. Onboard Investigation

Since law enforcement generally is not immediately present when a crime occurs on a cruise ship, the cruise ship security officers and sometimes the victims themselves are responsible for preserving the scene of the crime and any evidence.²¹ According to Congressional testimony, cruise lines have taken the position that they have no duty to investigate crimes.²² Victims groups and others have raised concerns that cruise lines have omitted basic steps such as taking witness statements and have lost, destroyed, or mishandled evidence.²³ The International Maritime Organization²⁴ (IMO) is developing draft guidelines to help guide cruise line crew in crime scene preservation.²⁵

C. Jurisdictional Issues

Because of complex jurisdictional rules governing cruise line activities, in some cases passengers may not have the same legal protections on cruise vessels as they do in the United States.²⁶ U.S. laws and protections only govern in certain circumstances and there are instances where U.S. law enforcement has limited juris-

Ship Safety: Examining Potential Steps for Keeping Americans Safe At Sea, 110th Cong. (June 19, 2008), pp. 55–56.

¹⁹House Subcommittee on Coast Guard and Maritime Transportation of the Committee on Transportation and Infrastructure, *Hearing on Crimes Against Americans on Cruise Ships*, 110th Cong. (Mar. 27, 2007), p. 30.

²⁰Senate Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security of the Committee on Commerce, Science, and Transportation, Senate Committee on Commerce, Science, and Transportation, *Hearing on Cruise Ship Safety: Examining Potential Steps for Keeping Americans Safe At Sea*, 110th Cong. (June 19, 2008), p. 13.

²¹*Id.* p. 12.

²²See Testimony of International Cruise Victims Association, Inc. President Kendall Carver, *Cruise Ship Safety: Examining Potential Steps for Keeping Americans Safe at Sea* (June 19, 2008) (discussing cruise lines' legal position and attaching legal memo by a leading cruise line taking this position) (online at http://www.internationalcruisevictims.org/files/Total-testimony-1a-1-with_titles.pdf) (accessed July 15, 2013).

²³See, e.g., The World Today—Brimble inquest hears staff disturbed crime scene, ABC Online (June 15, 2006) (online at [http://www.abc.net.au/worldtoday/content/2006/s1663754.htm](http://www.abc.net.au/cgi-bin/common/printfriendly.pl?http://www.abc.net.au/worldtoday/content/2006/s1663754.htm)); Testimony of Professor Ross Klein, Senate Committee on Commerce, Science, and Transportation, *Oversight of the Cruise Ship Industry: Are Current Regulations Sufficient to Protect Passengers and the Environment?*, 112th Cong. (Mar. 1, 2012), pp. 39 and 43 (stating that crew training for crime scenes is inadequate); Testimony of RAINN (Rape, Abuse, and Incest National Network), Senate Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security, of the Committee on Commerce, Science, and Transportation, *Cruise Ship Safety: Examining Potential Steps for Keeping Americans Safe at Sea*, 110th Cong. (June 19, 2008), p. 12, 18 (discussing issues concerning contaminated evidence).

²⁴IMO is a United Nations agency that sets international standards for ship safety, security, and pollution. IMO, See *About IMO* page (on line at <http://www.imo.org/About/Pages/Default.aspx>).

²⁵International Maritime Organization, *Collation and Preservation of Evidence Following an Allegation of a Serious Crime Having Taken Place on Board a Ship or Following a Report of a Missing Person from a Ship, and Pastoral and Medical Care of Victims*, Legal Committee 100th session, Agenda item 7 (I:LEG/100/7.doc) (Feb. 8, 2013).The International Cruise Victims Association has raised concerns about the adequacy of these draft guidelines. See CDR. Mark Gaouette, USNR (Ret.), *Unpublished paper entitled ICV Discussion on the IMO Legal Committee Guidelines: "Collation and Preservation of Evidence Following an Allegation of a Serious Crime" 2013*; Mark Gaouette, *Campaigners and industry clash over crime guidelines*, Fairplay (June 6, 2013).

²⁶Myers, Rosie, *Cruise Industry Regulation: What Happens on Vacation Stays on Vacation*, A&NZ Mar LJ (2007) (online at <http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/ausnewma21&div=11&id=&page=>), pp. 109 and 114.

diction over crimes.²⁷ For example, a U.S. citizen can report a cruise crime to the FBI, but if the ship has left U.S. port the FBI is not typically in a position to act as an onboard police force immediately after the crime happens.²⁸ Law enforcement may be located thousands of miles away²⁹ and may have to work through a myriad of jurisdictional issues with other countries that share jurisdiction over the incident.³⁰

Further, only certain crimes meet the threshold for the FBI to intervene. Theft of items valued under a certain amount³¹ or lack of evidence³² may result in the FBI declining to investigate an alleged crime. Even if the FBI does investigate, another country's law enforcement agency may play the lead role in investigating and prosecuting the crime.³³

D. Ticket Contracts Limit Passenger Rights

Passengers may also find their ability to pursue legal action limited by clauses in the passenger contract that provides the terms and conditions of a cruise.³⁴ For example, ticket contracts may require that a passenger has to file a lawsuit in a much shorter period than if the crime had occurred on land.³⁵ Contracts also may include restrictions on the location of where an aggrieved passenger can file a lawsuit—typically requiring actions to be brought in Florida, where the major cruise lines are based.³⁶ Further, cruise contracts often require mandatory arbitration³⁷ or limit class action lawsuits.³⁸

E. Impact of Differences

The vast majority of cruise passengers are not victims of onboard crime. However, where a crime does occur, the difference between passenger resources and recourse available on a cruise vessel versus on land can be the difference between justice and injustice for a crime victim. A case in point is the account of Laurie Dishman, who testified to Congress that while she was traveling on a cruise to Mexico, a janitor who was “filling in” for a security guard raped her, leaving ligature marks on her neck and other physical evidence.³⁹ According to Ms. Dishman's testimony, following this incident, the cruise line personnel contaminated the scene, mishandled evidence, destroyed or “re-used” closed circuit television camera tapes, delayed notifying the FBI, delayed providing medical treatment, did not immediately seal the crime scene, and provided limited information to Ms. Dishman.⁴⁰ Further, she stat-

²⁷ Senate Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security of the Committee on Commerce, Science, and Transportation, *Crimes Against Americans on Cruise Ships*, 110th Cong. (Mar. 27, 2007), p. 1.

²⁸ Senate Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security of the Committee on Commerce, Science, and Transportation, *Cruise Ship Safety: Examining Potential Steps for Keeping Americans Safe At Sea*, 110th Cong. (June 19, 2008), p. 13.

²⁹ Rosie Myers, *Cruise Industry Regulation: What Happens on Vacation Stays on Vacation*, 21 Australian and New Zealand Maritime Law Journal (2007), pp. 106–107.

³⁰ *Id.* at pp. 114–117.

³¹ Asia N. Wright, *High Seas Ship Crimes*, Loyola Maritime Law Journal 1 (2009), p. 8.

³² House Subcommittee on Coast Guard and Maritime Transportation of the Committee on Transportation and Infrastructure, *Hearing on Crimes Against Americans on Cruise Ships*, 110th Cong. (Mar. 27, 2007), p. 12.

³³ House Subcommittee on Coast Guard and Maritime Transportation of the Committee on Transportation and Infrastructure, *Hearing on Crimes Against Americans on Cruise Ships*, 110th Cong. (Mar. 27, 2007), pp. 11–12; Asia N. Wright, *High Seas Ship Crimes*, Loyola Maritime Law Journal 1 (2009), p. 19.

³⁴ Christopher Elliott, *Can you trust the cruise lines' new passenger "bill of rights"?*, Chicago Tribune (June 18, 2013) and Princess Cruises, *Passage Contract* (online at http://www.princess.com/legal/passage_contract/index.jsp).

³⁵ Justice Thomas A. Dickerson, *The Cruise Passengers' Rights and Remedies: 2013* (June 10, 2013) pp. 120–123. (online at http://www.nycourts.gov/courts/9jd/TacCert_pdfs/Dickerson_Docs/CRUISEPASSENGERSRIGHTS&REMEDIES2013ONLINE.pdf).

³⁶ Michael D. Eriksen, *U.S. Maritime Public Policy Versus Ad-hoc Federal Forum Provisions in Cruise Tickets*, The Florida Bar Journal Volume 80, p.11 (Dec. 2006) (online at http://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/c0d731e03de9828d852574580042ae7a/78aff425fc6f9e48525723300561ebf!OpenDocument&Highlight=0,*).

³⁷ Justice Thomas A. Dickerson, *The Cruise Passengers' Rights and Remedies: 2013* (June 10, 2013) (online at http://www.nycourts.gov/courts/9jd/TacCert_pdfs/Dickerson_Docs/CRUISEPASSENGERSRIGHTS&REMEDIES2013ONLINE.pdf), pp. 127–128.

³⁸ E.g., Princess Cruise Lines Passage Contract, p. 14 (online at http://www.princess.com/legal/passage_contract/index.jsp) (accessed July 1, 2013).

³⁹ House Subcommittee on Coast Guard and Maritime Transportation of the Committee on Commerce, Science, and Transportation, *Crimes Against Americans on Cruise Ships*, 110th Cong. (Mar. 27, 2007) pp. 158–159.

⁴⁰ *Id.*

ed that the FBI was not able to access the crime scene for several days. At the time, the FBI indicated they did not have enough evidence to further investigate the crime. The accused crew member was not arrested, and he was allowed to return to his home country.⁴¹

Stories like this and others provided impetus for Congress to enact a number of provisions addressing crime on cruise ships in the 2010 CVSSA.⁴²

III. The CVSSA Crime Reporting Requirements

In 2007, the FBI, Coast Guard, and the cruise lines agreed that cruise lines would voluntarily report to the FBI incidents involving serious violations of U.S. law: homicide, suspicious death, missing U.S. nationals, kidnapping, assault with bodily injury, sexual assaults, firing or tampering with vessels, and theft greater than \$10,000.⁴³

According to U.S. Coast Guard testimony, under this agreement, the FBI would annually compile this data and prepare a comprehensive report to share with the Cruise Lines International Association (CLIA). The Coast Guard encouraged CLIA to disclose this information to potential cruise ship passengers.⁴⁴ A victims group indicated it had been able to obtain these statistics through FOIA requests.⁴⁵ However, this information was not readily available to the public.

One of the ways Congress sought in the CVSSA to improve the safety of cruise passengers was to provide for greater transparency in reporting crimes that occur on cruise ships.⁴⁶ In most major U.S. localities and foreign countries, the public can view local crime statistics based on crimes reported.⁴⁷ The FBI views these crime statistics as an important and helpful tool.⁴⁸ The public can use information regarding the occurrence of crimes to make more informed decisions about their travel and actions.⁴⁹

The CVSSA includes language providing for public access to crime reports for cruise lines similar to reports the public can access regarding communities across the country. Toward that end, the law requires cruise lines to report a specific set of crimes to the FBI that (1) occur on a vessel owned by a U.S. person, (2) involve a U.S. national, (3) that occur in U.S. waters, or (4) will depart from or arrive at a U.S. port.⁵⁰ Additionally, the Coast Guard must make these crime statistics publicly available online.⁵¹ However, unlike crime reporting on land in the United

⁴¹*Id.*

⁴²*Id.*; Senate Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security of the Committee on Commerce, Science, and Transportation, *Hearing on Cruise Ship Safety: Examining Potential Steps for Keeping Americans Safe At Sea*, 110th Cong. (June 19, 2008).

⁴³House Subcommittee on Coast Guard and Maritime Transportation of the Committee on Transportation, Crimes Against Americans on Cruise Ships (110–21) (Mar. 27, 2007), pp. 2, 15–16.

⁴⁴*Id.*

⁴⁵Kendall Carver and Jamie Barnett, *International Cruise Victims Challenges Cruise Crime Statistics Provided by FBI* (June 10, 2012) (online at http://internationalcruisevictims.activeboard.com/t49559394/icv-update-june-102012/?w_r=1354674534)

⁴⁶Pub. L. No. 111–207.

⁴⁷The Federal Bureau of Investigations, *Uniform Crime Reporting Program page* (online at <http://www.fbi.gov/about-us/cjis/ucr>); the State Department, International Travel Page (online at http://travel.state.gov/travel/cis_pa_tw/cis/cis_4965.html).

⁴⁸See Federal Bureau of Investigation, Uniform Crime Reports, Crime in the United States, *Statement of FBI Director Robert S. Mueller* (noting: “The significant challenge of protecting life and property requires many different kinds of resources, including data such as the information found in this report. The highest mission of the FBI’s UCR Program is to provide information to help law enforcement and other community leaders better understand the issues they face and more effectively prepare to meet them each day”) (online at <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.2010/message-from-the-director>).

⁴⁹For example, numerous travel articles discuss crime as a factor for consumers considering tourist destinations. See, e.g., Komal Bakhru, *Safest Vacation Destinations in the Caribbean* (July 2011) (online at <http://www.buzzle.com/articles/safest-vacation-destinations-in-the-caribbean.html>).

⁵⁰The CVSSA requires cruise lines to report to the FBI all incidents of homicide, suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, any offense to which section 2241, 2242, 2243, or 2244(a) or (c) of title 18 applies, firing or tampering with the vessel, or theft of money or property in excess of \$10,000. Pub. L. No. 111–207.

⁵¹*Id.*

States,⁵² the FBI interprets the CVSSA to require public reporting of only those incidents that are no longer under investigation by the FBI.⁵³

The CVSSA also requires cruise lines to keep logs of all complaints of crimes committed on any voyage that embarks or disembarks passengers in the United States.⁵⁴ This requirement covers a broader range of crimes than those required to be reported to the FBI. Under the CVSSA, cruise lines may voluntarily report any of the alleged incidents that do not fall under the category of incidents required to be reported, and many cruise lines have voluntarily provided this information to the FBI.⁵⁵

While CVSSA attempted to improve public access to reported cruise crime data, today complete information is still not publicly released.

IV. Analysis of Cruise Crime Statistics Since CVSSA

Cruise crime data reviewed by Commerce Committee staff⁵⁶ shows that since enactment of CVSSA, the public has not been able to access complete information regarding reported crimes aboard cruise vessels. Since passage of the CVSSA, the total number of alleged crimes cruise lines reported to the FBI—including both incidents reported voluntarily and those required to be reported to the FBI by cruise lines—is 30 times higher than the number of alleged crimes reported publicly. Since 2011, cruise lines have reported 959 alleged crimes to the FBI, while the Coast Guard reported only 31 alleged crimes publicly.

⁵²Federal Bureau of Investigations, Crime Statistics, Uniform Crime Reports Web Site (online at <http://www.fbi.gov/about-us/cjis/ucr/ucr-publications#Crime>) (accessed June 10, 2013).

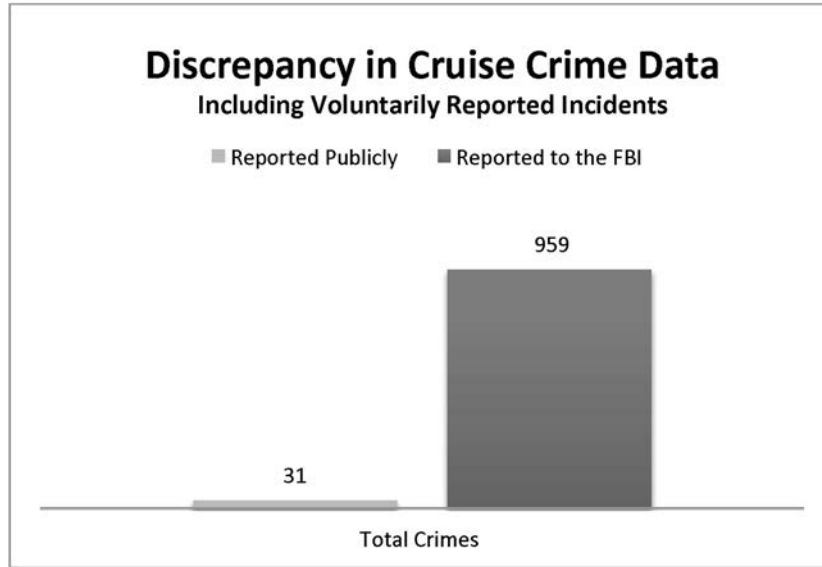
⁵³Under the CVSSA, the incidents of homicide, suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, any offense to which section 2241, 2242, 2243, or 2244(a) or (c) of title 18 applies, firing or tampering with the vessel, or theft of money or property in excess of \$10,000, that are reported and are no longer under investigation by the Federal Bureau of Investigation must be maintained on an Internet site that provides a numerical accounting of each of these incidents. Pub. L. No. 111–207 (2010).

⁵⁴Pub. L. No. 111–207.

⁵⁵*Id.*

⁵⁶To conduct this analysis, Committee staff reviewed publicly available cruise crime statistics and those requested by the Chairman, and by victim advocate groups through Freedom of Information Requests (FOIA). Letter from Stephen D. Kelly, Assistant Director, Office of Congressional Affairs, Federal Bureau of Investigation, to Senate Commerce Committee Chairman Rockefeller (July 16, 2012); Letter from Stephen D. Kelly, Assistant Director, Office of Congressional Affairs, Federal Bureau of Investigation, to Senate Commerce Committee Chairman Rockefeller (Apr. 4, 2013); Letter from David M. Hardy Section Chief, Record/Information Dissemination Section, Records Management Division, Federal Bureau of Investigation, to Mr. Kendall Carver, International Cruise Victims Association (June 14, 2013) regarding FOIA request for 2012 cruise crime data submitted to the FBI. Appendix I includes the incident data analyzed to determine total alleged crimes reported to the FBI versus total alleged crimes reported publicly in 2011 and 2012. The FBI provided such incident data for 2011 and the incident data for 2012 was drawn from an FBI response to a FOIA request. The FBI also provided the Committee data for 2012 that tallies victims of alleged crimes—as opposed to incidents of alleged crimes—and this data is shown in Appendix II.

Figure I: Discrepancies Between Publicly and FBI Reported Cruise Crime Data



There is also a significant discrepancy between the total crimes in the categories of crime for which CVSSA mandates reporting to the FBI, and total crimes in these categories that are reported publicly. According to the FBI, for the years 2011 and 2012, the total alleged crimes that cruise lines reported to the FBI, in categories where reporting is required, was 130—over four times the total reported publicly by the Coast Guard. Figure II shows this difference.

Figure II: Cruise Crime Statistics Reported to the FBI and by the Coast Guard, Excluding Crimes Voluntarily Reported to the FBI

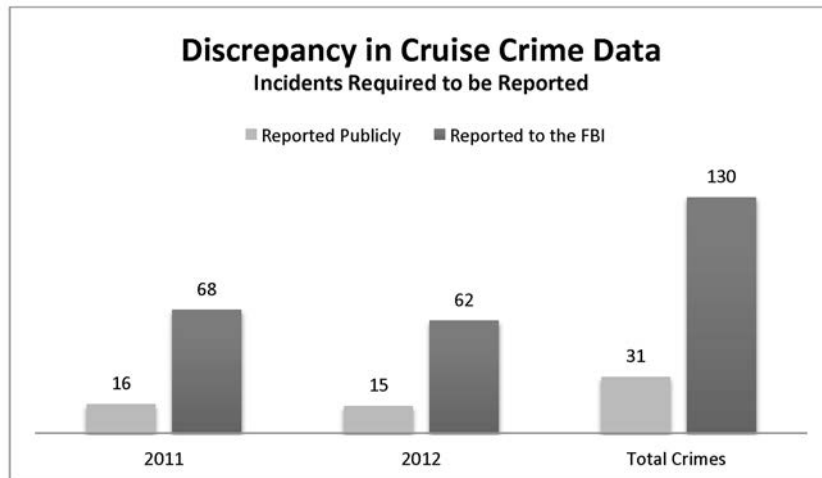


Figure III provides additional detail, displaying by categories of crime the difference between the number of alleged crimes reported to the FBI by cruise lines and the number of alleged crimes reported publicly.

Figure III: Detailed Cruise Crime Statistics as Reported by the FBI and Coast Guard⁵⁷

Year	Reporting Source	Death	Missing U.S. National	Assault with Serious Injury	Firing or Tampering with Vessel	Theft > \$10,000	Sexual Assault	Total Crimes	Other Crimes	Total Including Other Crimes
2011	Public	-	-	3	-	-	13	16	-	16
	FBI	3	5	3	-	15	42	68	487	555
2012	Public	1	-	-	1	2	11	15	-	15
	FBI	-	7	10	1	15	29	62	342	404

In some cases, as with assaults with serious injury reported in 2011, the number of crimes publicly reported matches the number of crimes reported to the FBI. In most cases, however, the number of crimes reported to the FBI differs significantly from the number reported publicly. For example, with respect to alleged sexual assault crimes, the 13 alleged crimes publicly reported in 2011 represented only 31 percent of the 42 alleged crimes reported to the FBI, and in 2012 the 11 alleged crimes publicly reported represented only 38 percent of the 28 alleged crimes reported to the FBI. Figure III also shows that the FBI receives cruise line data on “other crimes” that is not shared publicly.

In addition to the discrepancy between total alleged crimes reported to the FBI and total alleged crimes reported publicly, the FBI also receives additional victim detail not reported publicly concerning the age of victims of reported crimes. According to the FBI, of the 29 alleged reported sexual assault victims in 2012, 10—or 34 percent—were minors. Figure IV depicts this added detail that the FBI obtains when gathering cruise crime data with specific regard to alleged sexual assaults.

Figure IV—2012 Sexual Assault Data as Reported by the FBI⁵⁸

Sexual Assault Victim Data			
Adult	Minor	Other	Total
18	10	1	29

Two recent media accounts of alleged sexual assaults on board cruise ships, one involving an alleged groping of a 12-year-old girl by a passenger,⁵⁹ and one involving an alleged groping of an 11-year-old girl by a crew member,⁶⁰ are reminders that minors as well as adults can be victims of crimes onboard cruise ships.

V. Conclusion

Since the enactment of CVSSA, the number of alleged crimes reported by cruise lines to the FBI have been substantially higher than the number reported publicly. Further, the public does not currently have the ability to assess the extent to which minors are victims of cruise crime because this information is not currently publicly released.

⁵⁷ *Id.*

⁵⁸ Letter from Stephen D. Kelly, Assistant Director, Office of Congressional Affairs, Federal Bureau of Investigation, to Senate Commerce Committee Chairman Rockefeller (Apr. 4, 2013).

⁵⁹ KTOO, *Ketchikan DA Investigating Alleged Cruise Ship Sexual Assault* (July 12, 2013).

⁶⁰ USA Today, *Watchdogs Urge Better Reporting of Cruise Ship Crime* (June 10, 2013).

**CRUISE SHIP CRIME
CONSUMERS HAVE INCOMPLETE ACCESS
TO CRUISE CRIME DATA**

STAFF REPORT PREPARED FOR:

SENATOR JOHN D. ROCKEFELLER IV
CHAIRMAN
SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

JULY 24, 2013

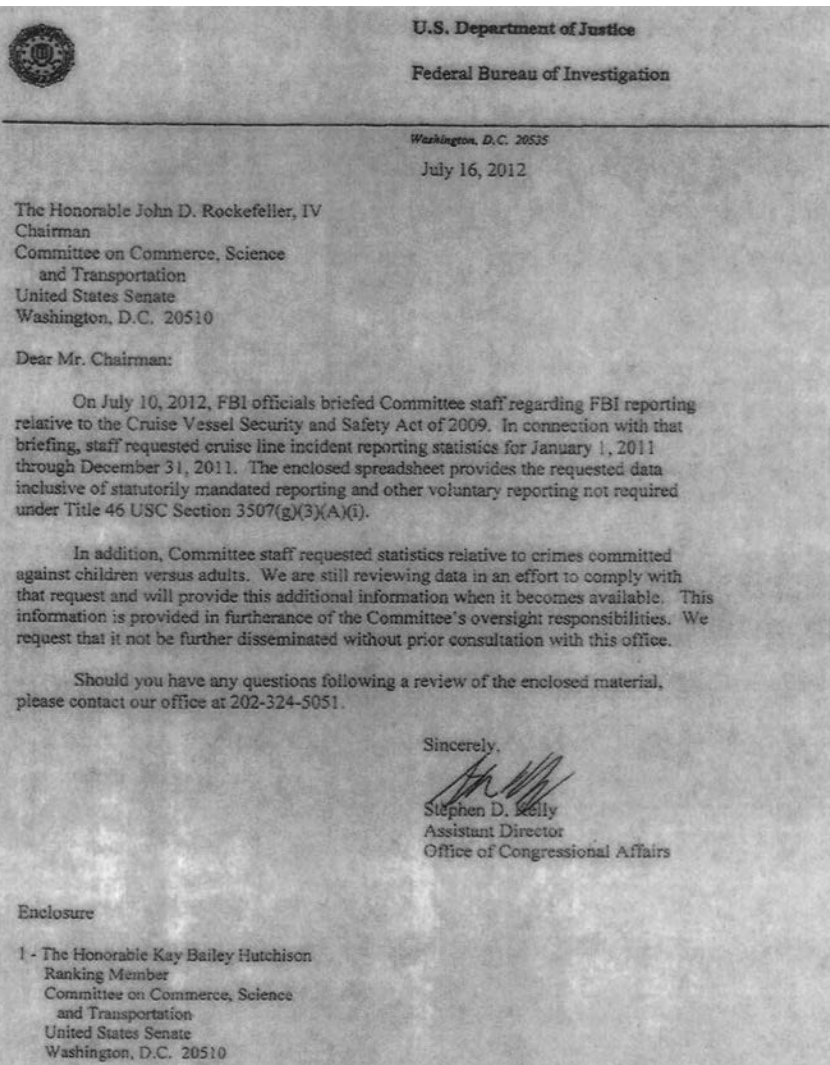
Appendix I

Appendices Guide

Appendix I – Data on alleged cruise crime incidents reported to the FBI. Includes incident data obtained from the FBI for 2011 and from a FOIA request for 2012.

Appendix II – Data provided to the Committee by the FBI regarding total victims of alleged crimes reported to the FBI for 2012. This data is distinct from data regarding total incidents of alleged crimes.

Appendix III – Data on cruise crime data publicly reported by the United States Coast Guard for 2010, 2011, and 2012. The data also can be found at the Coast Guard Cruise Crime Web site (online at <http://www.uscg.mil/hq/cg2/cgis/CruiseLine.asp>).



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Cruise Line Incident Reporting Statistics
January 1, 2011 - December 31, 2011

INCIDENTS REPORTED
 (As required by Title 46 USC Section 3507(g)(3)(A)(i))

	Total (including Others)	Total (excluding Others)	Homicide	Death (suspicious)	Missing U.S. National	Kidnapping	Assault with serious bodily injury	Firing or tampering with vessel	Theft >\$10,000	Sexual assault	Other Crimes ¹
Azamara Cruises	1	0	0	0	0	0	0	0	0	0	1
Carnival Cruise Line	163	26	0	1	0	0	1	0	3	21	137
Celebrity	74	8	0	0	3	0	0	0	2	3	66
Costa Cruises	1	0	0	0	0	0	0	0	0	0	1
Cunard Cruises	1	1	0	0	0	0	0	0	0	1	0
Disney Cruise Line	1	1	0	0	0	0	0	0	1	0	0
Holland America	3	1	0	0	1	0	0	0	0	0	2
Norwegian Cruise Line	14	7	0	1	0	0	0	0	1	5	7
Princess Cruises	3	2	0	0	0	0	0	0	1	1	1
Royal Caribbean	292	20	0	1	1	0	2	0	6	10	272
Seabourn	1	1	0	0	0	0	0	0	1	0	0
V-Ships Leisure	1	1	0	0	0	0	0	0	0	1	0
Total	655	68	0	3	5	0	3	0	15	42	487

¹ Title 46 USC Section 3507(g)(3)(A)(i) does not require cruise lines to report "Other crimes." However, a number of cruise lines voluntarily report "Other crimes."

Updated: 7/13/2012

CRUISE SHIP CRIME
CONSUMERS HAVE INCOMPLETE ACCESS
TO CRUISE CRIME DATA

STAFF REPORT PREPARED FOR:

SENATOR JOHN D. ROCKEFELLER IV
CHAIRMAN
SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

JULY 24, 2013

Appendix II

Appendices Guide

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U.S. Department of Justice
Federal Bureau of Investigation

Washington, D.C. 20535

April 4, 2013

Honorable John D. Rockefeller, IV
Chairman
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This is a follow-up to our July 10, 2012 briefing for Committee staff and our letters to you dated July 16 and November 5, 2012. In response to the Committee's most recent request, enclosed is a spreadsheet depicting cruise line incident reporting for the year of 2012.

As with our prior release of data, the enclosed spreadsheet provides the statistics inclusive of statutorily mandated reporting and other voluntary reporting not required under Title 46 USC Section 3507 (g)(3)(A)(i). In addition, as requested by the Committee, this data distinguishes adult and minor victims. This information is provided in furtherance of the Committee's oversight responsibilities. We request that it not be disseminated further without prior consultation with this office.

Should you have any questions following a review of the enclosed material, please contact our office at (202) 324-5051.

Sincerely,

Stephen D. Kelly
Assistant Director
Office of Congressional Affairs

Enclosure

1 - Honorable John Thune
Ranking Member
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

Allegations of Crimes on Cruise Ships Reported to the FBI January 1, 2012 - December 31, 2012														
Year	Year	Allegation	Victims	Death	Allegation	Allegation	Allegation	Allegation	Allegation	Allegation	Allegation	Allegation	Allegation	Allegation
2012	2011	...	...	...	...	...	...	...	...	...	...	...	...	...

Note: For those categories where the number of alleged victims is not included in the report or the alleged victim is the cruise line. The numbers represent the number of alleged victims and not the number of alleged incidents. There are instances of multiple victims per allegation.

CRUISE SHIP CRIME
CONSUMERS HAVE INCOMPLETE ACCESS
TO CRUISE CRIME DATA

STAFF REPORT PREPARED FOR:

SENATOR JOHN D. ROCKEFELLER IV
CHAIRMAN
SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

JULY 24, 2013

Appendix III

Appendices Guide

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**Cruise Line Incident Reporting Statistics
January 1, 2010 - December 31, 2010**

Cruise Line	CASES NO LONGER UNDER INVESTIGATION BY FBI*																				Grand Total						
	Homicide			Death (suspicious)			Missing U.S. National			Kidnapping			Assault with serious bodily injury			Firing or tampering with vessel			Theft +\$10,000			Sexual assault					
	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew		Other	Passenger	Crew	Other		
StarLine Cruise Line	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Starway Cruise Line	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Starland America	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MSC Cruises	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Northwest Cruise Line	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Princess Cruises	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Royal Caribbean	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Note: The cruise lines included herein represent those involving cases no longer under investigation by the FBI during the time period.

*Pursuant to Title 46 U.S.C section 3507(g)(4)(A):

"The Secretary shall maintain a statistical compilation of all incidents described [above] on an internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed [above] that are no longer under investigation by the Federal Bureau of Investigation. The data shall be updated no less than quarterly, aggregated by cruise line, each cruise line shall be identified by name, and each crime shall be identified as to whether it was committed by a passenger or a crew member." (emphasis added)

Note:

The number of matters "no longer under investigation" provided on this internet site is necessarily different than the aggregate number of matters required to be reported to the FBI per the above. A matter may be reported but not opened as a full investigation if, for example, there is insufficient evidence of a federal crime within FBI jurisdiction or prosecution is declined.

The "matters no longer under investigation" provided herein do not include:

- open investigations or pending prosecutions;
- reported matters other than homicide, suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, sexual assault, firing or tampering with a vessel, or theft of money and property in excess of \$10,000;
- any matters that were reported that did not result in open investigations, e.g., lack of federal jurisdiction.

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**Cruise Line Incident Reporting Statistics
January 1, 2011 - March 31, 2011**

Cruise Line	CASES NO LONGER UNDER INVESTIGATION BY FBI*																				Grand Total						
	Homicide			Death (suspicious)			Missing U.S. National			Kidnapping			Assault with serious bodily injury			Firing or tampering with vessel			Theft +\$10,000			Sexual assault					
	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew		Other	Passenger	Crew	Other		
StarLine Cruise Line	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Starland America	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MSC Cruises	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Cobalt Cruises	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Royal Caribbean	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

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- any matters that were reported that did not result in open investigations, e.g., lack of federal jurisdiction.

CRUISE VESSEL SECURITY AND SAFETY ACT (CVSSA) STATISTICAL COMPILATION
April 1, 2011 - June 30, 2011

		CASES NO LONGER UNDER INVESTIGATION BY FBI ¹																Grand Total										
		Homicide			Death (suspicious)			Missing U.S. National			Kidnapping			Assault with serious bodily injury			Firing or tampering with vessel			Theft >\$10,000			Sexual assault					
Cruise Line	Committed by	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other
		Samuel Cruise Line		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Nonwegian Cruise Line		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Note - The cruise lines included herein represent those involving cases no longer under investigation by the FBI during the time period.

¹Pursuant to Title 46 U.S.C section 3507(g)(4)(A):

"The Secretary shall maintain a statistical compilation of all incidents described [above] on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed [above] that are no longer under investigation by the Federal Bureau of Investigation. The data shall be updated no less than quarterly, aggregated by cruise line, each cruise line shall be identified by name, and each crime shall be identified as to whether it was committed by a passenger or a crew member." (emphasis added)

Note:

The number of matters "no longer under investigation" provided on this Internet site is necessarily different than the aggregate number of matters required to be reported to the FBI per the above. A matter may be reported but not opened as a full investigation if, for example, there is insufficient evidence of a federal crime within FBI jurisdiction or prosecution is declined.

The "matters no longer under investigation" provided herein do not include:

- 1) open investigations or pending prosecutions;
- 2) reported matters other than homicide, suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, sexual assault, firing or tampering with a vessel, or theft of money and property in excess of \$10,000;
- 3) any matters that were reported that did not result in open investigations, e.g., lack of federal jurisdiction.

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CRUISE VESSEL SECURITY AND SAFETY ACT (CVSSA) STATISTICAL COMPILATION
July 1, 2011 - September 30, 2011

		CASES NO LONGER UNDER INVESTIGATION BY FBI ¹																Grand Total										
		Homicide			Death (suspicious)			Missing U.S. National			Kidnapping			Assault with serious bodily injury			Firing or tampering with vessel			Theft >\$10,000			Sexual assault					
Cruise Line	Committed by	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other
		The FBI closed 0 cases during July 1, 2011 - September 30, 2011 pursuant to Title 46 USC Section 3507(g)(4)(A)																										
Total		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

¹Pursuant to Title 46 U.S.C section 3507(g)(4)(A):

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- 3) any matters that were reported that did not result in open investigations, e.g., lack of federal jurisdiction.

CRUISE VESSEL SECURITY AND SAFETY ACT (CVSSA) STATISTICAL COMPILATION
October 1, 2011 - December 31, 2011

		CASES NO LONGER UNDER INVESTIGATION BY FBI ¹																Grand Total							
		Homicide			Death (Suspicious)			Missing U.S. National			Kidnapping			Assault with serious bodily injury			Firing or tampering with vessel			Theft >\$10,000			Sexual assault		
Cruise Line	Committed by:	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other
		Total		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Note - The cruise lines included herein represent those involving cases no longer under investigation by the FBI during the time period.

¹Pursuant to Title 46 U.S.C section 3507(g)(4)(A).

"The Secretary shall maintain a statistical compilation of all incidents described [above] on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed [above] that are no longer under investigation by the Federal Bureau of Investigation. The data shall be updated no less than quarterly, aggregated by cruise line, each cruise line shall be identified by name, and each crime shall be identified as to whether it was committed by a passenger or a crew member." (emphasis added)

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The "matters no longer under investigation" provided herein do not include:

- 1) open investigations or pending prosecutions;
- 2) reported matters other than homicide, suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, sexual assault, firing or tampering with a vessel, or theft of money and property in excess of \$10,000;
- 3) any matters that were reported that did not result in open investigations, e.g., lack of federal jurisdiction.

CRUISE VESSEL SECURITY AND SAFETY ACT (CVSSA) STATISTICAL COMPILATION
January 1, 2012 - March 31, 2012

		CASES NO LONGER UNDER INVESTIGATION BY FBI ¹																Grand Total							
		Homicide			Death (Suspicious)			Missing U.S. National			Kidnapping			Assault with serious bodily injury			Firing or tampering with vessel			Theft >\$10,000			Sexual assault		
Cruise Line	Committed by:	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other
		Caribbean Cruise Line		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Holland America		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Princess		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Note - The cruise lines included herein represent those involving cases no longer under investigation by the FBI during the time period.

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"The Secretary shall maintain a statistical compilation of all incidents described [above] on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed [above] that are no longer under investigation by the Federal Bureau of Investigation. The data shall be updated no less than quarterly, aggregated by cruise line, each cruise line shall be identified by name, and each crime shall be identified as to whether it was committed by a passenger or a crew member." (emphasis added)

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- 3) any matters that were reported that did not result in open investigations, e.g., lack of federal jurisdiction.

CRUISE VESSEL SECURITY AND SAFETY ACT (CVSSA) STATISTICAL COMPILATION
April 1, 2012 - June 30, 2012

Cruise Line	CASES NO LONGER UNDER INVESTIGATION BY FBI ¹																								
	Homicide			Death (suspicious)			Missing U.S. National			Kidnapping			Assault with serious bodily injury			Firing or tampering with vessel			Theft >\$10,000			Sexual assault			
	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Grand Total
Rembrandt Cruise Line	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Royal Caribbean Cruise Line	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Note - The cruise lines included herein represent those involving cases no longer under investigation by the FBI during the time period.

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 "The Secretary shall maintain a statistical compilation of all incidents described [above] on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed [above] that are no longer under investigation by the Federal Bureau of Investigation. The data shall be updated no less than quarterly, aggregated by cruise line, each cruise line shall be identified by name, and each crime shall be identified as to whether it was committed by a passenger or a crew member." (emphasis added)

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 3) any matters that were reported that did not result in open investigations, e.g., lack of federal jurisdiction.

CRUISE VESSEL SECURITY AND SAFETY ACT (CVSSA) STATISTICAL COMPILATION
July 1, 2012 - September 30, 2012

Cruise Line	CASES NO LONGER UNDER INVESTIGATION BY FBI ¹																								
	Homicide			Death (suspicious)			Missing U.S. National			Kidnapping			Assault with serious bodily injury			Firing or tampering with vessel			Theft >\$10,000			Sexual assault			
	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Grand Total
Rembrandt Cruise Line	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Conrad	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Princess Cruises	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Seven Seas	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Royal Caribbean	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Note - The cruise lines included herein represent those involving cases no longer under investigation by the FBI during the time period.

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 "The Secretary shall maintain a statistical compilation of all incidents described [above] on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed [above] that are no longer under investigation by the Federal Bureau of Investigation. The data shall be updated no less than quarterly, aggregated by cruise line, each cruise line shall be identified by name, and each crime shall be identified as to whether it was committed by a passenger or a crew member." (emphasis added)

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 3) any matters that were reported that did not result in open investigations, e.g., lack of federal jurisdiction.

CRUISE VESSEL SECURITY AND SAFETY ACT (CVSSA) STATISTICAL COMPILATION
October 1, 2012 - December 31, 2012

Cruise Line	CASES NO LONGER UNDER INVESTIGATION BY FBI ¹																								
	Homicide			Death (suspicious)			Missing U.S. National			Kidnapping			Assault with serious bodily injury			Firing or tampering with vessel			Theft >\$10,000			Sexual assault			
	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Passenger	Crew	Other	Grand Total
Rembrandt Cruise Line	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Bahamas Celebration	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Note - The cruise lines included herein represent those involving cases no longer under investigation by the FBI during the time period.

¹Pursuant to Title 46 U.S.C section 3507(g)(4)(A):
 "The Secretary shall maintain a statistical compilation of all incidents described [above] on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed [above] that are no longer under investigation by the Federal Bureau of Investigation. The data shall be updated no less than quarterly, aggregated by cruise line, each cruise line shall be identified by name, and each crime shall be identified as to whether it was committed by a passenger or a crew member." (emphasis added)

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 3) any matters that were reported that did not result in open investigations, e.g., lack of federal jurisdiction.

The CHAIRMAN. Our exhaustive oversight of the cruise industry and the recent events that have left thousands stranded at sea make it absolutely clear that more needs to be done. So, this week I took action. I introduced new legislation to make the common sense consumer protection improvements the cruise lines have not been willing to make on their own.

At this point, incidentally, I should thank the Royal Caribbean CEO for coming. He was the most cooperative. And I don't know what he's going to say, but he came, and it was his own decision, and I want to thank him for that.

Consumers deserve to know what rights and protections they have, and, more importantly, that they do not have, on their cruise. I have been assured repeatedly by the industry, that things will get better.

Take a look at the events over the past 16 months and tell me if this is what you think "better" looks like. Cruise lines are on notice that the safety and protection of passengers is now their number one priority, whether they like it or not.

That is the conclusion of my statement, and I turn now to Senator John Thune, the Ranking Member, whom I'm very fortunate to be able to work with.

**STATEMENT OF HON. JOHN THUNE,
U.S. SENATOR FROM SOUTH DAKOTA**

Senator THUNE. Likewise. Thank you, Mr. Chairman, for holding this hearing today. And I want to thank our witnesses for being here to testify.

Ensuring safety across all modes of transportation is one of this committee's most important functions. And recent events, in several modes, whether by air, rail, or sea, have demonstrated how challenging this can be. This task can be made even more difficult when a vessel like a cruise ship must travel through several jurisdictions during a single voyage.

For instance, when a cruise ship embarks from a U.S. port, the cruise line must ensure compliance with safety regulations through coordination with the industry, the U.S. Coast Guard, and with foreign governments in countries through which the cruise ship is passing, either by sailing in foreign territorial waters or docking at a port within a foreign government's jurisdiction.

While the cruise ship industry's safety record is generally good, there have been a few troubling incidents in recent years. The most tragic of these was the fatal accident involving the *Costa Concordia*, which ran aground off the coast of Italy in 2012. Thankfully, other incidents, other recent incidents, including those involving ships departing from U.S. ports, have not resulted in fatalities or significant injuries. Nevertheless, these particular incidents, which received significant media attention, did underscore the challenges and discomfort that passengers can be subjected to, including days without power or plumbing, and raise questions about the protections afforded to U.S. passengers.

In the wake of these incidents, the cruise ship industry has taken several noteworthy steps to further ensure the safety and comfort of its customers and crews. The industry should be commended for its adoption of the Cruise Industry Passenger Bill of

Rights, which includes the right to disembark from a ship if essential provisions cannot be provided; the right to a refund for a trip canceled due to mechanical failures; and the right to an emergency power source in the case of a generator failure. As the Chairman has noted, however, the Committee has an interest in ensuring that these commitments are translating into better experiences for passengers.

So, I look forward to hearing more from our witnesses about these and other steps the cruise industry has taken to improve safety.

Additionally, I am interested in hearing from the Coast Guard about any recommendations stemming from their investigations of recent cruise ship incidents and the work that they're doing at the Cruise Ship National Center of Expertise, in Everglades, Florida.

Mr. Chairman, thank you again for holding this hearing, and I want to thank our witnesses for being here and for their willingness to testify.

The CHAIRMAN. Thank you, Senator Thune.

I think we should just move right into the witnesses. That's not pleasing to three distinguished colleagues of mine over there, but they'll have a lot of time to ask questions and to engage.

Why don't we just start the way it is here: Rear Admiral Joseph Servidio, Assistant Commandant for Prevention and Policy, United States Coast Guard.

**STATEMENT OF REAR ADMIRAL JOSEPH SERVIDIO,
ASSISTANT COMMANDANT FOR PREVENTION POLICY,
UNITED STATES COAST GUARD**

Admiral SERVIDIO. Chairman Rockefeller, Ranking Member Thune, members of the Committee, good afternoon. On behalf of the Commandant and the men and women of your Coast Guard who perform our challenging safety, security, and environmental stewardship missions each day, including our response to the blow-out well going on in the Gulf right now, sir, I thank you for your continuing strong support of our service. And, Mr. Chairman, thank you for your oversight.

Today, I look forward to telling you how the Coast Guard regulates foreign-flagged cruise ships to ensure they are as safe as possible for the U.S. passengers who embark them. I want to leave you with three messages, sir: that we have a robust inspection regime for foreign-flagged cruise ships; I believe, the strongest port state control program in the world; that we have trained vessel inspectors and a National Center for Expertise to provide consistency in identifying risks and enforcing compliance; and that we have an assertive investigations process, a feedback loop informing our inspectors and our inspections, as well as our forward-leaning standards development process. We're looking to address today's and tomorrow's potential risks.

Our regulatory oversight of cruise ships starts when they are still on the drawing board. Coast Guard naval architects review design drawings with a focus on critical elements, like fire- and life-safety plans, including structural fire protection and emergency escape routes. Once the design drawings are reviewed, we send our inspectors overseas to conduct onsite inspections and see if the ves-

sels are constructed as they are designed. Once the ship is complete, it must pass the rigorous inspection initial exam before we allow it to embark passengers in U.S. ports. Finally, once in service, the ship is regularly inspected and will be examined on a risk-based schedule at least semiannually.

If we have any concerns about a ship's safety, we will not permit it to embark passengers until our concerns are addressed. For example, several weeks ago, the *Carnival Triumph* was attempting to return to service after suffering an engine-room fire. Before we would allow it back into service, *Triumph* had to pass an initial inspection, which included Coast Guard inspectors examining fire-detection, firefighting, and lifesaving systems and observing the crew conduct safety drills. *Triumph* did not initially pass, the captain of the port formally detained the vessel. *Triumph* eventually did pass, but, because it was detained, we'll be conducting more frequent inspections on the vessel.

Inspecting these vessels is difficult, sir. Modern cruise ships are some of the most sophisticated vessels on the water today, due to their size and their complexity. To ensure our Coast Guard inspectors are experts, we leverage our National Cruise Ship Center of Expertise, in Fort Lauderdale. The NCOE collects studies and applies lessons learned from inspections and casualty investigations, and uses them to update our cruise ship inspection procedures, courses, and job aids.

As an example, the Coast Guard was, and is, actively involved in a number of investigations. We've learned that our attention to detail on structural fire protection has worked. Systems generally performed well; they protected passengers and they likely saved lives. However, we also learned, in the *Carnival Splendor* investigation, that we need to inspect some areas more closely, like fixed engine-room firefighting systems, as well as to focus on higher-risk engine-room fires and drill evaluations. With the NCOE, we have adjusted our inspection procedures to make these changes.

Because almost all of the cruise ships are foreign flagged, we are exerting leadership internationally to make cruise ships safer. Last month, I attended the IMO's Maritime Safety Committee meeting. At this session, we adopted an amendment that requires passengers to receive safety instructions prior to, or immediately after, departure. We also tasked IMO experts to study how cruise ship designs can be enhanced to increase survivability.

In summary, the Coast Guard is dedicated to ensuring the safety and security of every cruise passenger and crew member, as well as protecting our environment. Our oversight of foreign cruise ships is comprehensive, but we strive to improve, every day. We're learning from our casualty investigations and working on better leading indicators. And, although leadership at the—and, through leadership at the IMO, we're looking to mitigate tomorrow's, as well as today's, risks.

I thank you again for the opportunity to testify, and I look forward to answering your questions.

[The prepared statement of Admiral Servidio follows:]

PREPARED STATEMENT OF REAR ADMIRAL JOSEPH SERVIDIO, ASSISTANT
COMMANDANT FOR PREVENTION POLICY, UNITED STATES COAST GUARD

Introduction

Good morning Mr. Chairman, Ranking Member Thune, and distinguished members of the Committee. Thank you for the opportunity to appear before you to discuss issues related to cruise ship safety. I would like to provide background into the Coast Guard's oversight of the cruise industry, highlight what we've learned and implemented from recent casualties, and discuss the effectiveness of our Port State Control system in holding cruise industry companies and their vessels accountable for safe passenger operations.

In my role as the Coast Guard's Assistant Commandant for Prevention Policy, I am responsible for setting standards for safety, security, and environmental stewardship for commercial vessels, facilities, and mariners, ensuring compliance with those standards, and conducting investigations of violations and accidents.

Over the past three years we've seen a number of high profile ship casualties within the cruise industry, fires aboard the *Carnival Splendor*, *Carnival Triumph* and *Grandeur of the Seas* highlight serious questions about the design, maintenance and operation of fire safety equipment on board these vessels, as well as their companies' safety management cultures. As the United States' lead as a Port State for holding foreign companies accountable for the safe and secure design and operation of these vessels, I am very concerned about these failures. I am working to ensure that the Coast Guard thoroughly reviews each incident to determine causes and identify corrective actions and hold the cruise lines accountable for improving safety aboard vessels through increased examination and oversight. Additionally we will work through the International Maritime Organization (IMO) to update the design and operational standards for cruise ships based on these incidents.

We recently completed our investigation into the *Carnival Splendor* engine explosion and debilitating fire. We are treating the recommendations for Coast Guard action in that report as requirements, and based on that report, the Coast Guard is changing its examination program for foreign cruise ships to examine CO₂ system installations and arrangements more closely. Additionally, we have increased our expectations for successful fire drills. We have also made recommendations to Carnival Corporation to improve their training programs. I will cover these recent developments in more detail a bit later in my testimony.

In late June, I led the U.S. delegation to the 92nd session of the IMO Maritime Safety Committee. At this session, we adopted new rules governing cruise ship passenger safety briefings which will become mandatory in July 2015. These new rules ensure that whenever U.S. passengers board a Safety of Life at Sea (SOLAS) regulated passenger ship for more than 24 hours, they will receive a detailed safety briefing either prior to, or immediately after, the vessel gets underway. This regulatory change elevates the standard globally for approximately one third of all cruise passengers who don't embark ships in the U.S.

Further, based in part on our proposals at this June session, IMO has commenced reviewing design standards in order to make cruise ships safer, and even more damage-tolerant, through improved survivability standards.

Modern Standards for Cruise Ships

Over the past decade, the international shipping community, through the IMO and with Coast Guard leadership, has moved decisively toward a proactive approach to passenger ship safety. With cruise ships growing progressively in size and capacity, in May 2000 the IMO agreed to undertake a holistic examination of safety issues pertaining to passenger ships, with particular emphasis on large cruise ships. The outcome of this proactive initiative is an entirely new prevention-and survivability-based regulatory philosophy for cruise ship design, construction, and operation.

The U.S., through the efforts of the Coast Guard, has taken a very active leadership role throughout this initiative, putting forward many of the recommendations for action taken by the various IMO Sub-Committees. This effort identified a number of areas of concern related to cruise ships, and resulted in substantial amendments to major IMO conventions, including SOLAS, International Convention for the Prevention of Pollution From Ships (MARPOL) 73/78, International Tonnage, Standards for Training, Certification, and Watchkeeping (STCW) and Load Line conventions. These amendments address surveys, structures, stability, machinery, fire safety, lifesaving equipment, communications, navigation equipment, safety management, maritime security, pollution prevention, crew competency, watertight integrity, and safe loading.

Significant improvements under the five main pillars of the IMO initiative entered into force in July 2010 include:

- *Prevention*: Amendments to the STCW Code and supporting guidelines focus on navigation safety and resource management;
- *Improved survivability*: New SOLAS requirements for the “safe return to port” concept address essential system redundancy, management of emergencies, and casualty mitigation, including the new concept of dedicated shipboard safety centers to manage emergencies;
- *Regulatory flexibility*: Amendments to SOLAS provide a methodology for the approval of new and innovative safety technologies and arrangements;
- *Operations in areas remote from SAR facilities*: Guidelines on external support from SAR authorities, as well as guidance to assist seafarers taking part in SAR operations have been developed; and finally; and
- *Health safety and medical care*: Guidelines on establishing medical safety programs, and a revised Guide on Cold Water Survival.

Other recent improvements include stability and survivability of cruise ships through new probabilistic subdivision and damage stability regulations, and flooding detection systems; improved voyage planning, particularly in remote and high latitude areas; and voyage data recorders. As a separate initiative, stemming from the 2006 fire aboard the *Star Princess*, significant improvements have been made to the fire safety features of external areas on cruise ships. Overall, the past decade has been an enormous leap forward in cruise ship safety measures and has been largely proactive to casualties. The U.S. Coast Guard’s leadership in the international community with respect to cruise ship safety measures and our support to foreign casualty investigations evidences our dedication to the world wide safety of U.S. passengers.

The Safety, Security, and Environmental Protection Net

The IMO conventions form the basis for the international safety, security, and stewardship net designed to ensure consistent standards across the world wide fleet of cruise ships. Owners and operators, vessel crews, classification societies, flag states (or their recognized organizations when delegated to act on the behalf of the flag state), and port states each have distinct roles in ensuring compliance with those standards. Each of these entities performs specific roles intended to maximize safety, security, and environmental protection.

Flag states have the primary responsibility to ensure their vessels meet international and domestic standards. They often achieve this through recognized third party organizations who certify that vessels meet design, construction, operating, and manning requirements throughout the life of the vessel.

Port states verify substantial compliance with international standards and ensure compliance with applicable domestic requirements for vessels of all flags calling in their ports. As the port state authority for the U.S., the Coast Guard has established a robust control verification program that subjects cruise ships calling in U.S. ports to a much higher level of scrutiny than other foreign flag vessels, and much higher than any other port state requires for foreign flag cruise ships in their ports.

Although we cannot provide total quality control for foreign cruise ships visiting our ports, we do take prompt action to ensure deficiencies we find during our examinations are corrected in an expeditious manner. If a deficiency is serious, we ensure it gets corrected before the vessel leaves port. When one or more deficiencies lead us to conclude a ship is substandard, we detain the vessel. A detention means the vessel cannot leave port until the serious deficiencies are corrected. We report the detention to IMO and list the vessel on international forums as a detained vessel, and we will examine the vessel more frequently for a period of three years.

Most recently, the Coast Guard detained the *Carnival Triumph* after it was found to have three serious deficiencies at its first examination after completing repairs following the February 2013 fire. As described above, the vessel was held in port until these deficiencies were corrected, we reported the detention to IMO and listed the vessel as detained on our website, and the vessel will be subject to quarterly examinations for three years. This detention demonstrates the effectiveness of our control verification program, as well as our willingness to hold substandard vessels accountable.

Coast Guard Control Verification Program for Foreign Flag Cruise Ships

All foreign flag cruise ships arriving in the United States that embark passengers or make a U.S. port call while carrying U.S. citizens as passengers must participate in the control verification process. Cruise ships that return to U.S. service after a

prolonged absence are treated as if they had never been in service in the U.S. and must undergo the entire process again.

The Coast Guard control verification program includes initial, annual, and periodic examinations for foreign flag cruise ships calling in our ports. Further, it includes concept review during the very earliest stages of design and pre-construction planning by Coast Guard naval architects and fire protection engineers, mid-construction inspections at the builder's yard by Coast Guard marine inspectors, an initial operational inspection of the vessel upon completion of construction, and at least annual inspections while the vessel is in service in U.S. ports. This regime allows the Coast Guard to determine that the vessel is in substantial compliance with all applicable international and domestic standards.

The engineering review of plans for structural fire protection arrangements provides an additional level of assurance that shipboard fire safety arrangements meet international standards. After review, these same engineers visit the ship to confirm that the arrangements on the vessel are the same as those shown on the structural fire protection plans. On the basis of this initial examination, the Coast Guard issues a certificate of compliance that allows the vessel to operate in U.S. ports.

The annual examination ensures that foreign cruise ships continue to maintain the systems the Coast Guard previously examined during the initial exam in proper operating condition and that the flag administration has performed annual renewal surveys as required by SOLAS. Inspectors focus on marine environmental protection, firefighting, lifesaving, and emergency systems and witness a comprehensive fire and boat drill by the crew. In addition, inspectors examine the vessel for modifications that would affect the vessel's structural fire protection and means of escape. They also check for modifications completed without the vessel's flag administration approval. After a satisfactory annual examination, the Coast Guard re-issues a certificate of compliance.

Periodic examinations are also conducted, typically midway between the annual examinations. These examinations are more limited in scope but still compliment the more comprehensive annuals, and they are intended to ensure vessels are being operated in a safe manner. The periodic examinations focus on the performance of officers and crew, with specific attention paid to their training on and knowledge of the ship's emergency procedures, environmental protection, security, firefighting, lifesaving systems, and conduct during the drills. To ensure the overall material condition of the ship has not appreciably changed since the annual examination, inspectors randomly select sample items for examination.

Inspectors also vary the scope of the examination depending on such factors as the material condition of the vessel, recordkeeping, the maintenance of the vessel, and the professionalism and training of the crew. At every Coast Guard examination of a foreign cruise ship, the inspectors will determine whether the vessel is in substantial compliance with the international convention standards.

Investigations

Foreign vessels operating in U.S. waters are required by U.S. law to report accidents immediately. Upon accident notification, we proactively investigate casualties meeting a threshold to determine causes and issue safety recommendations to prevent recurrences.

This is a continuous improvement process which incorporates lessons learned from accident investigations to enhance cruise ship safety and ensure compliance with national and international laws.

After the *Costa Concordia* incident, and as a "Substantially Interested State" in accordance with IMO Protocols, the Coast Guard immediately offered technical expertise and support to the Government of Italy's marine casualty investigation. Similarly, following the *Carnival Triumph* fire and the *Grandeur of the Seas* fire, the Coast Guard is participating in the investigations with the vessel's flag state of the Bahamas as a Substantially Interested State. It is long standing practice to cooperate in all manner of accident investigations involving different flag and coastal states and the Coast Guard routinely acts in this accord.

After the *Carnival Splendor* fire in November 2010, the Coast Guard reached out to Panama, the vessel's flag state, to offer assistance. In accordance with international protocols and at the request of Panama, the Coast Guard took the lead for the investigation into this casualty. While this incident did not lead to major damage to the vessel, injury or loss of life, the investigation revealed a number of major safety concerns. As a result, the Coast Guard immediately issued two safety alerts to advise the industry of potential CO₂ system problems.

The Coast Guard report of investigation which was released on July 15, 2013, also contains five safety recommendations. Three of the recommendations are addressed to Carnival and Panama (as the flag state) to ensure that the conditions which con-

tributed to the fire, are addressed appropriately. In addition, there are two safety recommendations which are aimed at exercising and enhancing the Coast Guard's role as the Port State for this and many other foreign flag cruise ships. These recommendations will be implemented by my staff and will ensure that Coast Guard Port State Control Officers are armed with the information needed to not only evaluate the mechanical systems onboard these complex vessels, but the human element as well.

Investigations informing the Control Verification Process and other actions

In its role as a Port State, the Coast Guard employs casualty investigation lessons learned where practical and appropriate to inform the Control Verification process.

For example, as a result of the *Costa Concordia* incident, we directed Coast Guard field inspectors to witness the passenger muster required by SOLAS whenever they are aboard a cruise ship conducting an initial, annual, or periodic examination. Our personnel witness these musters either immediately before or during vessel departure from port. In conjunction, the cruise industry associations announced a new emergency drill policy requiring mandatory muster for embarking passengers prior to departure from port.

As a result of the *Carnival Splendor* casualty, we are directing Coast Guard field inspectors to examine vessel CO₂ systems more closely during examinations. There was evidence that the CO₂ system had not been installed and maintained properly, and we are looking at sister vessels for similar problems. Any similar problems will require swift correction. We have also increased our expectations for the fire drills we witness during our examinations. Too often, ships perform drills for our inspectors which do not address a fire in a high-risk area such as an engine room. We will direct ships to perform an engine room fire drill during the next examination of all vessels, and will expect such demonstrations periodically thereafter.

Following the *Carnival Triumph* fire in the Gulf of Mexico in February of 2013, we engaged aggressively in Carnival's Safety Management System (SMS) by requesting them and the vessel's flag state (the Bahamas) to hold their annual audit early, with which they complied. We participated in Carnival's company level SMS Document of Compliance audit conducted by Lloyd's Registry in April, and plan to observe one of their shipboard SMS audits. Based on the most recent audit results, we have been generally satisfied with Carnival's SMS implementation, and will continue to keep a close eye on their progress.

A more recent casualty to the *Grandeur of the Seas* yielded several observations which we are taking immediate action to correct. One involves a deluge system valve that protected the mooring deck area that had caught fire. The valve was located in an area made inaccessible due to the fire. Our inspectors will examine sister ships for similar problems. Another observation involved un-insulated aluminum deck hatches which failed and allowed the fire to affect adjacent spaces. Again, our inspectors will examine sister ships for similar problems.

Search and Rescue (SAR) and Mass Rescue Operations (MRO)

The Coast Guard has maintained a sound relationship with the cruise lines regarding search and rescue and medical evacuations. For the Coast Guard, a Mass Rescue Operation involving a cruise ship casualty offshore, with potentially thousands of passengers and crew forced to evacuate into lifeboats and the water, presents our greatest search and rescue challenge.

Working with cruise line and passenger vessel companies, the Coast Guard continues to develop and improve SAR and MRO contingency plans. In addition to internal Coast Guard SAR plans, the Coast Guard holds a copy of cruise ship SAR plans and is able to incorporate the cruise ship plans into our overall SAR planning. The Coast Guard also meets periodically with cruise line medical personnel to discuss plans for medical emergencies.

Coast Guard passenger vessel safety personnel at each of our Districts assist in the conduct and coordination of Coast Guard mass rescue exercises. Over the last five years, the Coast Guard conducted thirty-six mass rescue exercises involving passenger vessels, three of which involved a cruise ship.

Mass rescue exercises have been structured around a five-year cycle. The Coast Guard has directed that, at a minimum, each Coast Guard District conduct and/or participate in one discussion based (*e.g.*, seminar, workshop, game, or tabletop) and one operations based (*e.g.*, drills, functional, full scale) mass rescue exercise over a five year period.

To meet this exercise requirement the Coast Guard initiated a five-year mass rescue exercise series known as "Black Swan." The exercise series commenced in April 2013 with a full scale exercise on a passenger ship in Freeport, Bahamas, and will continue with a full scale exercise in Hawaii in 2015 and Norfolk in 2017. The scope

of these exercises provides a valuable opportunity to identify and resolve the difficulties associated with rescuing hundreds or thousands of people. Black Swan will continue to focus on the exercise of Coast Guard mass rescue plans, coordination with other authorities and industry partners, notification and information processes, personnel accountability, and unique challenges of embarking thousands of survivors on rescue ships from the water, lifeboats and rafts, and rescued passenger and crew support.

Cruise Ship Security and Crime

The events of September 11, 2001, spurred the development of the Maritime Transportation Security Act (MTSA) and the IMO International Ship and Port Facility Security (ISPS) Code, both of which are rigorously enforced by the Coast Guard. The Coast Guard examines every cruise ship that visits the U.S. for compliance with MTSA and ISPS requirements during the ship's annual and periodic Control Verification exam, as well as on a random basis throughout the year during unannounced port security checks.

Despite this security compliance regime, there have been serious incidents and crimes that have affected U.S. citizens aboard foreign-flagged cruise ships. This has led to an increased focus on protecting our citizens both in port and while they are at sea. In 2010, Congress enacted the Cruise Ship Security and Safety Act of 2010 (CVSSA) which prescribes security and safety requirements for designated cruise ships.

CVSSA addresses many areas that affect personal safety and security, including: ship design; better public access to information about crime aboard cruise ships; improved precautions, response, medical care, support for victims of sexual assault; preservation of evidence necessary to prosecute criminals; and more consistent and complete reports. Some of these requirements went into effect when the President signed the legislation on July 27, 2010; however, there are areas that require implementation through the publication of regulations.

Thus far, the Coast Guard has completed the following actions with respect to implementing the CVSSA:

- The Coast Guard published policy establishing guidelines for Coast Guard Marine Inspectors examining cruise vessels for compliance to include physical requirements, such as: rail heights; door peep-holes (similar to hotel doors), which allow cabin occupants to see who is outside; and the passenger security guide.
- The Coast Guard established an Internet-based portal (*NCC@uscg.mil*) to facilitate electronic submission of crime reports.
- The Coast Guard established a web link to publish cruise ship sexual assault and criminal activity data received from the Federal Bureau of Investigation (FBI) in accordance with the Act: <http://www.uscg.mil/hq/cg2/cgis/>.
- An Inter-agency workgroup consisting of Coast Guard, FBI, and the Maritime Administration personnel completed development of a model course addressing crime scene preservation standards and curricula.
- The Coast Guard published policy promulgating training standards and curricula for the certification of passenger vessel security personnel.

Closing

In closing, let me emphasize that the Coast Guard understands and embraces our lead role in protecting our most precious cargo—people, who are carried aboard cruise ships in many of the world's most pristine marine environments. We continue to place the highest priority on enforcing compliance with safety, security and environmental regulations on those vessels that embark passengers in the United States and embark U.S. passengers world-wide.

We have a strong and effective port state control program for foreign cruise ships and will continue to ensure that vessels calling on ports in the United States are in substantial compliance with applicable international and domestic standards.

Through proactive oversight and enforcement, we participate in casualty investigations, even those taking place overseas, and we lead efforts at the IMO to improve maritime safety, security, and environmental protection standards. As those investigation results are analyzed, the Coast Guard will continue to capture the lessons learned and incorporate them into our safety regime, and continue to recommend international requirement updates where necessary. Internally, we are also changing our examination procedures to address the lessons made apparent from other recent cruise ship fire casualties and ensure our port state control examinations target areas of concern.

The Coast Guard looks forward to continued cooperation with this committee, passenger victims groups, and the passenger vessel industry to maximize cruise vessel safety, security, and environmental protection.

Thank you again for the opportunity to testify today. I will be pleased to answer any questions you may have.

The CHAIRMAN. Thank you very much.

I want to make two announcements at this point. One is that Senator Nelson—obviously, from Florida—this is a big deal, this hearing, for him—has left another hearing that he's chairing and, I think, is going back, and he asked me if he could make a short statement.

I'm looking at my three esteemed colleagues over there, praying for sympathetic looks.

[Laughter.]

The CHAIRMAN. The Ranking Member is sympathetic, so Senator—

Senator BLUMENTHAL. We're very, very, very sympathetic.

The CHAIRMAN. Yes.

[Laughter.]

The CHAIRMAN. And the other thing is, I would ask Committee staff to remove these photographs. They've been up, now, and I want this to be unfettered exchange, as opposed to pictorial matters.

Please go ahead, Senator Nelson.

**STATEMENT OF HON. BILL NELSON,
U.S. SENATOR FROM FLORIDA**

Senator NELSON. Thank you, Mr. Chairman and to my colleagues, for your indulgence.

As scheduling would have it, the Aging Committee is meeting, right now, of which I'm chairing. Senator Collins is taking the gavel while I'm gone, and I must return. But, I did want to thank you for your consideration that I could make—Chairman, could make a statement. And I look forward to reviewing the legislation that you have filed.

All of us here have a responsibility to ensure that cruise passengers are safe, that ships are well maintained, in top condition, and the crew members onboard these ships are well trained and thoroughly prepared to handle any situation that might arise at sea. So, we, obviously, all of us, have a keen interest in this, naturally.

The cruise industry is of concern to us, in my state. They have a major presence in Florida. They employ over 130,000 people. In my state, cruising accounted for \$6.7 billion in total economic impact in Florida, and, last year, nearly 6 million cruise passengers departed from ports in Florida. So, I can share with the members of this committee that, in my meetings with the industry, I have stressed that passenger and crew safety must be the industry's top priority. The industry has responded to me that it is making a good-faith effort in prioritizing and improving its safety programs and that it is ready to work with this committee, and with you, Mr. Chairman, and they hope to continue this improvement.

And I want to thank you again for your efforts, Mr. Chairman. I want to thank you, as the Chairman of our overall committee, on

the work that you do to ensure the safety of the traveling public, not just on the seas, but in all means of travel.

Thank you, Mr. Chairman.

The CHAIRMAN. And, you're right, it's in all means of travel.

Senator NELSON. It is.

The CHAIRMAN. And thank you for coming here.

Senator NELSON. And I—with your permission, I will return to my chairing duties over at Aging.

The CHAIRMAN. Uh-huh.

Senator NELSON. Thank you.

The CHAIRMAN. Thank you very much, Senator Nelson.

Dr. Ross Klein is Professor of the School of Social Work, which resonates with me, at St. Johns College, Memorial University of Newfoundland.

Please.

**STATEMENT OF ROSS A. KLEIN, Ph.D., PROFESSOR,
MEMORIAL UNIVERSITY OF NEWFOUNDLAND
IN ST. JOHN'S, NEWFOUNDLAND, CANADA**

Dr. KLEIN. OK, thank you. It is an honor to be asked to share my knowledge and insights with the U.S. Senate Committee on Commerce, Science, and Transportation.

In my brief oral remarks, I will identify some of the key points in my written submission.

The cruise industry has received considerable attention in the media in recent years. In 2013 alone, the media has reported for cruise ships: three running aground; five with fires; two collisions; 19 mechanical problems, including power loss, propulsion problems, and generator problems; 10 canceled port calls and/or changes in itinerary; 16 cruises with delayed embarkation and/or debarkation; two cruises where passengers have been bumped; and eight ships that have failed U.S. health inspection.

In response to the negative publicity from these events and Senator Schumer's call for greater consumer protection, the Cruise Lines International Association, in late May, issued its Passenger Bill of Rights, an obvious public relations initiative. A systematic evaluation reveals that, while many of the promises, on their face, are reassuring to cruise passengers, a deeper look indicates the Passenger Bill of Rights is filled with empty promises.

Take, for example, number 5, the right to a ship crew that is properly trained in emergency and evacuation procedures. There is a huge chasm between being properly trained and those same crew members demonstrating, through behavior, competence in executing emergency and evacuation procedures.

Take for example the U.S. Coast Guard's investigation of the fire and power loss of *Carnival Splendor*. It indicates a number of instances of human error.

Also take the cost of *Concordia*.

I doubt that crew members were not properly trained, but what assurances does a CLIA Passenger Bill of Rights provide that training will be reflected in behavior, and what recourse does a passenger have when this, or any right, is not realized?

Also take for example right number 1, the right to disembark a docked ship if essential provisions cannot be adequately provided.

What cruise passenger would not be reassured by this? But, how is this right fulfilled when a ship is dead in the water for 3 or 4 days, and being towed to port? And once the ship returns to port, who decides how quickly the disembarkation will begin, and does the passenger have any rights if it takes longer than they think is fair? Coming up with a list of rights is easy. But, as they say, the devil is in the details.

Perhaps more troubling are contradictions between CLIA's Passenger Bill of Rights and the typical cruise passenger contract. There's no indication which takes precedence, especially given the restrictiveness of the passenger cruise contract with regard to rights held by a cruise passenger, particularly in comparison to the rights of the cruise line, and the extreme limitations on the cruise line's liability for almost anything that happens on a cruise ship.

My written testimony systematically analyzes CLIA's Bill of Rights and a typical cruise passenger contract. This analysis points to the need for better consumer protection of cruise passengers, much like the protections that are available to passengers on other modes of commercial transportation, including air carriers.

My written testimony also provides systematic analysis of the Cruise Vessel Security and Safety Act of 2010. I look at the implications of differences between the Act, as initially introduced, and the final Act that was passed. I also look at issues that are not adequately addressed by the current Act.

One major issue is the reporting of statistics on crime on cruise ships. The original intent was that the Act would make available all reported crimes on cruise ships. In practice, there are many crimes that are neither—that are either not being reported to the FBI or which the FBI chooses not to make available to the American public. Take as just one example the fact that, for a 15-month period, the FBI reports a single case of sexual assault on Norwegian Cruise Line, but, in the legal case, in discovery, they disclosed that there were 23 sexual assaults for that same time period.

Access to comprehensive, reliable data is essential if we're going to be able to do a proper social epidemiological analysis of the problems, especially as relates to crimes against children.

Now, another point worth mention is the nature of security on a cruise ship. Presently, a crime committed on a cruise ship is initially investigated by security personnel who are cruise line employees. They are not independent, as would be the case for a crime reported on land. The cruise line employee is clearly in a conflict-of-interest position. This doesn't give much confidence to a victim of a crime on a cruise ship.

I will stop my oral testimony here. I invite all interested to read my written testimony for a deeper understanding of my insights and resulting concerns. I certainly welcome the Committee's questions.

[The prepared statement of Dr. Klein follows:]

PREPARED STATEMENT OF ROSS A. KLEIN, PH.D., PROFESSOR, MEMORIAL UNIVERSITY
OF NEWFOUNDLAND IN ST. JOHN'S, NEWFOUNDLAND, CANADA

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ORAL TESTIMONY

It is an honor to be asked to share my knowledge and insights with the U.S. Senate Committee on Commerce, Science, and Transportation. In my brief oral remarks I will identify some of the key points in my written submission.

The cruise industry has received considerable attention in the media in recent years. In 2013 alone the media reports for cruise ships: 3 running aground; 5 fires; 2 collisions; 19 mechanical problems including power loss, propulsion problems, and generator problems; 10 canceled port calls and/or changes in itinerary; 16 cruises with delayed embarkation and/or disembarkation; 2 cruises where passengers were bumped; and 8 ships that have failed U.S. health inspections.

In response to the negative publicity from these events, and Senator Schumer's call for greater consumer protection, the Cruise Lines International Association (CLIA) in late-May issued its Passenger Bill of Rights—an obvious public relations initiative. Sadly, a systematic evaluation reveals that while many of the promises on their face are reassuring to cruise passengers, a deeper look indicates the Passenger Bill of Rights is filled with empty promises. Take for example Right #5—The right to a ship crew that is properly trained in emergency and evacuation procedures. There is a huge chasm between being properly trained and those same crewmembers demonstrating through behavior competence in executing emergency and evacuation procedures. Take for example the U.S. Coast Guard's investigation of the fire and power loss of Carnival Splendor in 2010. It indicates human error in a fire alarm being reset, leading to a 15-minute delay in activation of an automatic fire-suppression system; the crew's lack of familiarity with the engine room, which hampered their ability to locate and fight the fire; and the captain ventilating the compartment where the fire began before it was fully extinguished, allowing the flames to flare again. I doubt the crewmembers were not properly trained, but what assurance does CLIA's Passenger Bill of Rights provide that training will be reflected in action. And what recourse does a passenger have when this or any Right is not realized?

Also take for example Right #1—The right to disembark a docked ship if essential provisions cannot adequately be provided onboard. What cruise passenger would not be reassured by this, but how is this Right fulfilled when a ship is dead in the water for 3 or 4 days and being towed to port? And once the ship returns to port, who decides how quickly disembarkation will begin? Does a passenger have any right to contest a decision to keep them onboard?

Coming up with a list of “mom-and-apple-pie” rights is easy. But as they say, the devil is in the details.

Perhaps more troubling are contradictions between CLIA's Passenger Bill of Rights and the typical cruise passenger contract. There is no indication which takes precedence, especially given the restrictiveness of the passenger cruise contract with regard to rights held by a cruise passenger (particularly in comparison to the rights of the cruise line) and the extreme limitations on the cruise line's liability for almost anything that happens on a cruise ship. My written testimony systematically analyzes CLIA's Bill of Rights and typical passenger cruise contracts. This analysis points to the need for better consumer protection of cruise passengers, much like the protections available to passengers on other modes of commercial transportation, including air carriers.

My written testimony also provides systematic analysis of the Cruise Vessel Security and Safety Act of 2010. I look at the implications of differences between the Act as initially introduced and the final Act passed. I also look at issues that are not adequately addressed by the current Act. One major issue is the reporting of statistics of crime on cruise ships. The original intent was that the Act would make available all reported crimes on cruise ships. In practice, there are many crimes that are either not being reported to the FBI or which the FBI chooses not to make available to the American public. Take as just one example the fact that for one 15-month period the FBI reports a single case of sexual assault on Norwegian Cruise Line; however records disclosed in discovery indicate the number was actually 23.

Access to reliable data is important for passengers who have a right to know the relative risk, including between one cruise line and another and ideally between one cruise ship and another. Through a Freedom of Information request by International Cruise Victims Association I was given 12-months of data to analyze. The analysis was illuminating. It revealed where sexual assaults occur, the identity of perpetrators and victims, and the conditions surrounding an attack (including the presence of alcohol and the high rate of victimization of children). Availability of such data is important for passengers, and access to data is essential for a proper social epidemiological analysis of the problem.

I will stop my oral testimony here. I invite all interested to read my written testimony for a deeper understanding of my insights and resulting concerns. I welcome the Committee's questions.

WRITTEN TESTIMONY

It is an extreme honor to be asked to share my knowledge and insights with the U.S. Senate Committee on Commerce, Science, and Transportation. My testimony focuses on the parameters I was given when I was invited to testify:

- safety and security issues relating to cruise ships (*e.g.*, fires, collisions, and other accidents);
- safety and security of cruise ship passengers, including discussion of the Cruise Vessel Security and Safety act of 2010;
- consumer rights and issues relating to cruise ship liability, including discussion of CLIA's Passenger Bill of Rights.

I. Safety and Security of Cruise Ships

As the luxury liner finally made it to shore . . . [passengers] expressed disgust at the way they had been treated . . . Conditions inside the cabins were said to have been "beyond horrific" due to the lack of air conditioning and running water. Lavatories overflowed and they were fed on little but spam sandwiches. They were forced to sleep on deck in sweltering temperatures of up to 35C (95F) and said that the stench in the corridors and cabins was so bad it would remain with them "for a long time" . . . "Sheer luck has disguised the incompetence from start to finish. Some people are blissfully unaware of how lucky they are."

The alarm was first raised at around 1.30 p.m. on Monday when an electrical fault caused a fire in the engine room and power was lost . . . All passengers were told to go to their muster stations, at which point many said they feared they would have to abandon ship . . . It then took three hours to conduct a roll call amid chaotic scenes and growing panic. As black smoke billowed from one of the chimneys, it became immediately clear that a fire had broken out on board.

American Gordon Bradwell, 72, from Georgia, who used to work in the travel industry, was on the cruise ship with his wife Eleanor when the engine caught fire. "It was very tense," he said. "We are just happy to have got through it. We were very hot and the sewage was very poor. Right now we're delighted to be off the ship. We are living off adrenaline right now. We have been eating dried sandwiches for three days so we are looking forward to eating a proper meal. After the fire broke out there was nothing to propel the ship along. Things deteriorated rather quickly. There was no running water so we had go back to living a primitive existence. The cabin temperature reached 110F so we had to sleep on the deck."¹

One might think this describes the ordeal on *Carnival Triumph* in February 2013, but it is about an almost identical incident occurring a year earlier in February 2012. The *Costa Allegra* experienced an engine fire, causing a loss of all power and setting it adrift for three days in the Indian Ocean. It was finally towed to Port Victoria on the island of Mahe in the Seychelles where passengers disembarked. The ship was decommissioned and scrapped after the incident.

A. The Nature of the Problem

The cruise industry would like us to believe incidents such as the one described above, and the eerily similar incident involving *Carnival Triumph* which had an engine fire knocking out all power and setting the ship adrift for five days²—finally arriving in Mobile under tow—are uncommon. The question isn't whether they are uncommon, but how common they are. Take for example the following engine fires, all involving members of the Cruise Lines International Association:³

- June 2009—*Royal Princess* had an engine room fire while leaving Port Said, Egypt. The ship returned to the port the next day and after evaluation of damage the cruise was terminated.
- November 2010—*Carnival Splendor* has engine room fire setting it adrift; the ship was finally towed to San Diego (150 miles north) even though it was 55 miles west of Punta San Jacinto, Mexico. It was a five day ordeal for pas-

¹Ward, V. 2012. "Costa Allegra: Passengers Tell of 'Hell' On-board." *The Telegraph* (March 1).

²See Brown, R., K. Severson, and B. Meier. 2013. "Cruise Line's Woes are Far From Over as Ship Makes Port," *New York Times*, (February 15).

³All of these events are reported at Events at Sea (www.cruisejunkie.com/events.html)

sengers. Initially there was no electricity and toilets did not work, but toilets were restored by the end of the first day although there was no air conditioning and no hot food service. The ship's engine that failed had had five alarms between July 21, 2010 and November 5, 2010, most recently repaired on November 5, 2010; the fire occurred on November 8, 2010.⁴

- September 2011—Hurtigruten's *Nordyls* suffered an engine room fire, killing two crew members and injuring 16. The ship was evacuated by lifeboat and the cruise was terminated. The *Washington Post* reported salvage teams pumped water from the cruise liner in danger of capsizing, reducing the tilt 21.7 degrees in the morning to 16 degrees in the evening.
- October 2011—Cunard Line's *Queen Mary 2* suffered an engine fire causing a loss of power while in a major storm (two other ships chose to turn back from the storm, but the *Queen Mary* decided to battle through). Staff members were given a 90 minute warning in order to prepare to deploy the lifeboats. Guests had their children dropped off and their animals picked up from the kennels. Power was restored, but people were understandably shaken up. Three weeks later the ship twice went dead in the water on a transAtlantic cruise. And again in February 2012 the ship had a total power failure and was dead in the water.
- March 2012—*Azamara Quest* had an engine room fire, injuring five crew members (one critically), setting the ship adrift between Manila and Borneo. The ship was able to restore power and some propulsion after 24 hours and limped to Sandakan, Malaysia, arriving three days after the fire. The cruise was terminated and passengers flown home.
- April 2012—*Adventure of the Seas* had an engine room fire causing section 6 of the ship to be temporarily evacuated. The ship was adrift for 1–2 hours and then continued on one engine.
- November 2012—*Adventure of the Seas* had an engine room fire while crossing the Atlantic causing a brief loss of power and electricity.
- February 2013—*Carnival Triumph* suffers an engine room fire, setting it adrift for five days without power, air conditioning, or toilets. Initial plans were to tow the ship to the closest port, Progreso, Mexico, however a decision was subsequently made to tow the ship to Mobile. NOTE: The ship was reported to have technical problems with its propulsion system affecting its cruising speed and causing a six hour delay in its return to port two weeks before;
- June 2013—Pullmantur's *Zenith* had a disabling engine fire and had to be towed to port (Venice, Italy)

There are also ships running aground (19 since 2009) with some incidents leading to termination of the cruise. Some examples include:

- January 2009—Hurtigruten's *Richard With* ran aground at the port of Trondheim on the west coast of Norway suffering propeller damage and taking on water through a leak in a seal. All 153 passengers were evacuated by the local emergency services from land.
- February 2009—Quark Expeditions' *Ocean Nova* ran aground off Antarctica. Passengers were evacuated to other ships. Unofficial sources report the ship's engines were turned off for maintenance when the ship was blown aground.
- August 2010—*Clipper Adventurer* ran aground in Canada's Northwest Passage. Passengers were transported to Coppermine, Nunavut to be transported home.
- October 2010—Celebrity Cruises' *Century* damaged its rudder at Villefranche-sur-Mer. Cruise terminated.
- March 2013—Hurtigruten's *Kong Harald* was forced to wait for the tide to come in and lift the ship off the underground rock at the entrance to Trollfjord where it was grounded and the hull breached. Once the incoming tide freed the ship it carried on to Svolvær, where all 258 passengers onboard disembarked and were flown home today.
- March 2013—Coastal and Maritime Voyages' *Marco Polo* ran aground just outside Sortland in Vesterålen causing a leak in a ballast tank.
- March 2013—Lindblad Expeditions' *National Geographic Sea Lion* hit a rock in the Las Perlas Islands, about 70 nautical miles from Panama City. The ship

⁴See United States Coast Guard. 2013. *Report of Investigation into the Fire Onboard the Carnival Splendor which Occurred in the Pacific Ocean Off the Coast of Mexico on November 8, 2010, which Resulted in Complete Loss of Power*, MISLE Incident Investigation Activity Number: 3897765 (July 15).

sustained damage to its hull and one propeller during the incident, but after clearance from the U.S. Coast Guard returned to Panama City on its own power. The cruise was terminated.

It isn't just engine fires and ships running aground. There are other problems worth note:

- March 2009—P&O Cruises' *Aurora* experienced propulsion problems four hours after leaving Sydney. It limped to Auckland where passengers remained on-board for five days while repairs were completed. The world cruise itinerary was changed.
- April 2009—Passengers were told upon embarkation on *Seven Seas Voyager* that most port calls between Dubai and Rome were canceled because of propulsion problems; the next two cruises canceled.
- November 2009—*Norwegian Dawn* lost power for hours (and no air conditioning). Power was restored and the ship sailed to San Juan from where passengers were flown home. This and the next cruise were canceled.
- February 2010—*Costa Europa* collided with pier in Sharm-el-Sheikh, ripping a hole in the side of the ship and flooding crew cabins. Three crewmembers were killed; four passengers were injured. The 18-day cruise from Dubai to Savona was terminated and passengers flown home.
- February 2010—P&O Australia's *Pacific Dawn* was delayed in port for 18 hours because of propulsion and maintenance problems; its itinerary is changed. Two months later the ship lost power and propulsion and narrowly missed collision with a bridge in Brisbane.
- May 2010—P&O Cruises' *Artemis* notified passengers upon boarding that engine problems require one port to be dropped from the itinerary. But once underway on the 20 day cruise, originally with ten scheduled port calls, passengers were issued a revised itinerary with four ports calls, only three of which were on the original itinerary.
- June 2010—Celebrity Cruises' *Infinity* was delayed five or six hours because of engine problems causing a port call to be canceled. Five days later an electrical fire caused a power loss for several hours.
- February 2011—P&O Australia's *Pacific Sun* delayed 24 hours in its arrival at Newcastle because of engine problems; several port calls canceled. Propulsion problems in November 2010 caused a 10-hour delayed arrival in Melbourne, engine problems cause a cruise to be canceled in April 2010, mechanical problems caused two ports calls to be canceled, and in November 2009 a cruise was canceled to permit repair of the propulsion system.
- March 2011—MSC's *Opera* twice collided with pier at Buenos Aires damaging several cabins and delaying departure for 10 hours while repairs completed. September 2011—Toilets in front and mid-ship cabins were inoperable for a day on *Carnival Imagination*. Passengers were told to use public washrooms in the aft section.
- May 2011—MSC's *Opera* had failure of an electric panel causing power loss for 8.5 hours. The ship was towed to port and the cruise canceled.
- November 2011—*Carnival Splendor* collided with pier in Puerto Vallarta, requiring it to stay an extra day to complete repairs; the next port call was canceled.
- January 2012—*Costa Concordia* hits a rock off the Italian coast and capsizes killing 32 people.
- February 2012—*Enchantment of the Seas* left Baltimore 24 hours late after unsuccessful attempts to repair an engine. The ship started the cruise on one engine, sailing at half speed, and the itinerary changed. Two weeks later the cruise had propulsion problems that left it in Port Canaveral for 27 hours for repairs, again requiring a change to the itinerary.
- March 2012—Silversea Cruises' *Silver Shadow* collided with container ship in Viet Nam holing the cargo ship; only minor damage to the cruise ship. Passengers were frightened.
- October 2012—Celebrity Cruises' *Summit* had a tender run aground with 93 passengers and 2 crew members. The tender suffered major damage and passengers were rescued by a fishing boat and whale-watching boat.
- November 2012—*Saga Ruby* had engine problems that required the current cruise to be canceled.

- March 2013—A malfunction of the backup emergency power diesel generator caused power outages and plumbing issues on *Carnival Dream* and led to a cruise being terminated in Saint Maarten and passengers flown home.
- March 2013—Steering problems required *Carnival Elation* to have a tugboat escort to port.
- March 2013—*Carnival Legend* was disabled and stuck in Costa Maya for a day. It finally got underway at reduced speed and dropped a port call to arrive on time at its port of disembarkation. The itinerary of the subsequent cruise was changed because of propulsion problems.
- March 2013—*Seven Seas Voyager* suffered propulsion problems causing ports to be skipped.
- April 2013—*Crown Princess* began a cruise with 410 cabins having toilets that would not flush. Until they were fixed, passengers needed to go to public bathrooms (even during the middle of the night).

The list can go on. Appendix 2 lists cruise ships having two or more incidents between January 2009 and June 2013. It shows 353 incidents involving mechanical problems and accidents, approximately 80 incidents per year.

The obvious question is how such events can be so common. A February 2013 in *Newsweek* gives the perspective of Jim Hall, head of the National Transportation Safety Board during the Clinton administration:

[He] says the industry is watched over by “paper tigers” like the International Maritime Organization and suffers from “bad actors” . . . “The maritime industry is the oldest transportation industry around. We’re talking centuries. It’s a culture that has never been broken as the aviation industry was, and you see evidence of that culture in the [Costa Concordia] accident,” says Hall.

Ships may seem and feel American but are mostly “flagged” in countries like the Bahamas or Panama in order to operate outside of what he says are reasonable safety standards. “It is, and has been, an outlaw industry,” says Hall. “People who book cruises should be aware of that.”⁵

B. Lessons to be Learned from These Events

My point is not to muckrake, listing all that goes wrong with cruise ships. My analysis instead provides insights. By knowing the problems, we can identify potential solutions. The available data raises several issues.

1. The Relative Absence of Reliable Data

“No one is systematically collecting data of collisions, fires, evacuations, groundings, sinkings,” says Jim Walker, a maritime lawyer, to the *New York Times*. The article goes on to say:

“The reason for the lack of data is that cruise lines, while based in the United States, typically incorporate and register their ships overseas. Industry experts say the only place cruise lines are obligated to report anything is to the state under whose laws the ship operates.”⁶

As the article points out, there remains no comprehensive public database of events at sea like fires, power failures, and evacuations except the data available at my website, Cruise Junkie dot Com.

While I take this acknowledgement as a compliment, it identifies a major gap in available information. My data is based on reports available in the public media and, on occasion, reports from passengers and/or crewmembers. There are many incidents occurring that never reach the public domain. Consequently, there is no way for passengers to know the track record of an individual cruise line or the ships comprising the line.

The data I have benefits greatly from the efforts of Senator Rockefeller who made public a list of casualty investigations by the U.S. Coast Guard for 2008–2012 and the Sun-Sentinel, which posted online U.S. Coast Guard data received through a Freedom of Information request. While the two datasets have considerable overlap, there are incidents on one list not appearing on the other, and incidents in my dataset that appear on neither.

Making data available is more important than simply making passengers aware. It allows a sort of social epidemiology of cruise ship incidents from which patterns can be discerned and potential solutions formulated. Rather than seeing each major

⁵ Conant, E. 2013. “Carnival from Hell: The Warning Signs Before the Triumph Disaster,” *Newsweek* (February 22).

⁶ Rosenbloom, S. 2013. “How normal are cruise mishaps,” *New York Times* (May 8, 2013).

incident as unique and unrelated to anything before it, a comprehensive data set permits early identification of trends or common problems. Unlike the airline industry, which is governed by the FAA, there is no similar authority when it comes to the cruise industry.

Recommendation #1: *There is need for systematic reporting of all cruise ship incidents to an independent, central authority charged with responsibility for data analysis and policy and operational recommendations.*

2. Frequency and Types of Events

There is a range of incidents occurring on cruise ships. Between January 2009 and June 2013 there were more than 350 incidents involving mechanical problems or accidents (see Appendix 1). The most frequent incidents were:

- propulsion and engine problems (average 19.59 per year)—7 in which cruise ships were known to go adrift;
- fires (average 13.56 per year)—6 known to require evacuation and 4 with loss of power;
- material failure and lifeboat failure (average 13.33 per year); and
- collisions (average 11.56 per year).

These four categories account for 261 incidents—all combined yielding an average 58 incidents per year. As seen in Appendix 1, less frequent incidents include loss of power (n=21), running aground (n=19), maneuverability and steering problems (n=15), experiencing a severe list (n=11), and technical (n=8) and electrical (n=8) problems. It needs to be remembered that these accounts rely on public reports, so the list is largely incomplete and underrepresents the actual frequency. For example, as relates to fires, a ship officer recently wrote to me saying:

Every ship, almost weekly, has some type of fire incident. This could be something as simple as a cigarette butt in a trash can or a fire in the silo of the incinerator, or a grease fire, toaster fire, electrical cord fire in the galley. These are never reported because they are put out quickly, within minutes. However, there are fires happening on ships every single week. (Private correspondence)

In part related to these incidents, and in part related to weather-related factors (not including tropical storms and hurricanes), there were 104 cruises (average 23 per year) with media-reported canceled port calls, 69 cruises with media-reported itinerary changes, 25 cruises with media-reported canceled cruises, and 73 cruises with media-reported delays in embarkation/debarkation. In sum, there are 271 incidents resulting in a cruise itinerary provided passengers when he or she booked the cruise being different than the itinerary delivered. The number is undoubtedly considerably higher given that there is no centralized collection of data on the degree to which cruise ships approximate their published itinerary, and my data does not include cruise itinerary changes caused by hurricanes or tropical storms.

Recommendation #2: *Similar to data maintained on airlines documenting “on time” performance, there should be a mechanism whereby cruise ships and cruise lines have reported their adherence to itineraries and on time performance.*

3. Discernable Insights from Data

Based on cursory analysis of the limited data available—approximately 1,500 incidents in four-and-a-half years (an average 333 per year)—there are two insights that stand out. First is that Carnival Cruise Lines is disproportionately represented. Appendix 2 shows ships with two or more mechanical incidents from January 2009 through June 2013. Not only does Carnival Cruise Lines have a higher proportion of its fleet included on the list (19 of 23 (82.6 percent) versus 10 of 16 (62.5 percent) for Princess Cruises, 10 of 21 (47.6 percent) for Royal Caribbean International, and 4 of 11 (36.3 percent) for Celebrity Cruises), but it has a higher average rate of incidents per ship listed (3.89 for Carnival Cruise Lines versus 3.40 for Princess Cruises, 3.25 for Celebrity Cruises, and 3.20 for Royal Caribbean International). An obvious question is why the rate of incidents for Carnival Cruise Lines would be 20 percent higher than for Royal Caribbean International; 30 percent higher than for Holland America Line and P&O Cruises, both of which are also owned by Carnival Corporation.

One factor may be the number and training of staff, but this is based on conjecture. An inside source in Royal Caribbean Cruises Limited wrote to me after the *Carnival Triumph* fire saying:

I've worked at RCCL for many years. Over the last 10 years they have been steadily decreasing the number of marine employees. These are the employees that navigate and maintain the engines and the main employees dealing with life saving. If there is a fire—it's the marine team suiting up and fighting the fires. If the ship is listing or sinking—it's the marine team dealing with technical systems such as water tight doors, moving tank contents from one area to another, making contact with rescue services, lowering life boats, etc.

The reason for the decrease in marine manning? It's purely driven by concern for profit. You can get rid of two marine employees who do not generate any income (they just play a major role in saving lives if something goes wrong) and replace them with a hotel employee such as a marketing and revenue manager or a maître 'd for income-generating specialty restaurants, or bar supervisors. Many times employees are cut in the marine department or doubled up in cabins so the company can revamp the crew cabins into sellable cruise guest cabins.

Approximately 5 years ago RCCL got rid of the safety officer position and combined the job with the chief officer position. There is now talk about changing the marine contracts for 3 stripe officers from 10 weeks/10 weeks off to 4 months on/2 months off so they match the hotel officer positions. The degree of technical knowledge needed, and the tremendous life saving responsibility marine officers have, is in no way equal to the demands placed on hotel officers to sell another drink. When the ship is sinking—do you want a marine officer that knows the technical systems or do you want a hotel officer selling you another beer as you are stepping into a lifeboat? (Personal correspondence)

While these comments are specific to one corporation, it raises to the forefront the degree to which this pattern is common to other cruise lines. Anecdotal accounts indicate changes of the same nature are taking place within Carnival Cruise Lines. This leads to a question requiring empirical research using reliable data. The problem is that such data is not available, largely because systematic independent oversight of the cruise industry is lacking. It is in stark contrast to the airline industry where oversight and reporting is the norm.

Recommendation #3: *There is need for greater oversight and monitoring of the cruise industry in order to monitor changing trends and to determine whether these changes are related to changes in safety and/or casualties.*

A second insight from the data is a preliminary conclusion also based in part on anecdotal information. It appears there is a pattern of incidents involving ships built on the Destiny platform (Destiny-class and Dream-class ships): my understanding is that *Carnival Destiny*, *Carnival Triumph*, *Carnival Splendor*, *Carnival Glory*, *Carnival Breeze*, *Carnival Dream*, *Carnival Liberty*, and *Carnival Magic* have all reported electrical and/or propulsion issues, power losses, and some electrical fires over the last three years or so (not all of these have been reported in the media and are thus not included in my dataset); *Costa Concordia*, *Costa Magica*, *Costa Serena* and *Costa Pacifica* have also reported similar problems during this time-span—all of these ships are Destiny platform design ships.

The relevant difference between Destiny platform and the Spirit/Vista 1/Vista 2/Signature classes is simple. Destiny platform ships have only been built at Fincantieri shipyards in Italy from a design by Fincantieri. Spirit & Vista 1 class ships originated in Kvaerner Masa shipyards and were then adapted/enlarged by Fincantieri. The original blueprints had more than enough redundancy to allow for growth and design tweaks. There is limited redundancy built into the Destiny platform ships, which may be why they suffer from systemic failures.

This is illustrated in the report of the *Carnival Splendor* fire, leading to the ship losing all power and going dead in the water. The report observes that "vessel engineers were unable to restart the unaffected main generators due to extensive damage to cables in the aft engine room."⁷ It goes on to state, there is "susceptibility of the Carnival Splendor and all Dream class vessels to a complete loss of power resulting from damage to a single area of electrical system components in either the forward or aft engine room." Presumably, with appropriate redundancy the main generators would have been functional.

The report also observes design flaws that cut across Dream class (and presumably Destiny platform vessels). These include air cooler drainage problems, noted as

⁷United States Coast Guard. 2013. *Report of Investigation into the Fire Onboard the Carnival Splendor which Occurred in the Pacific Ocean Off the Coast of Mexico on November 8, 2010, which Resulted in Complete Loss of Power*, MISLE Incident Investigation Activity Number: 3897765 (July 15).

far back as October 2009 and documented problems with the CO₂ system. That these problems were identified as early as 2009, and may have been factors in the catastrophic nature of both the *Carnival Splendor* and *Carnival Triumph* fires lends convincing support for increased independent oversight of the cruise industry.

Carnival Cruise Lines appears to address the shortcoming of redundancy through its announcement April 17, 2013, of a \$300 million program to enhance operating reliability, an initiative spurred by the *Carnival Triumph* fire in February 2013. As stated in the company's press release, the initiative will add an additional emergency generator on each vessel and install a second permanent back-up power system. There will also be increased fire prevention, detection and suppression systems. As well, there will be modifications to decrease the likelihood of losing propulsion or primary power.

The modifications will include a reconfiguration of certain engine-related electrical components. On ships where these enhancements will be made, the design of specialized components will require longer lead times for completion.⁸

While the company deserves recognition of the steps being taken, an obvious question is how many of these enhancements involve adding components that were not originally included in the ship's design, but are normally included in the design of ships operated by other cruise lines and/or built and designed by other ship yards. An independent audit is the only reliable means for determining the situation.

More serious is that the company did not appear to maximize learning from the *Carnival Splendor* fire in 2010. First, a report about the incident was not issued until three years later, perhaps because responsibility rested with Panamanian authorities; this even though Carnival Cruise Lines had employed a number of experts to provide them with analysis of causes of the fire. However, a preliminary U.S. Coast Guard investigation revealed several holes in the ship's fire fighting methodology, not to mention significant errors in its firefighting operations manual.

According to a marine advisory issue by the Coast Guard, the *Splendor's* fire-fighting instruction manual was riddled with problems, including references to "pulling" valves that actually needed to be turned to operate, incorrect descriptions of system locations, inaccurate graphics and schematics and confusing instructions such as: "Once the fire has been extinguished, make sure that the temperature has decreased before investigate the area same time is needed to wait hours."⁹

Recommendation #4: *Ships operating from U.S. ports should be obligatorily subject to accident investigations by the National Transportation Safety Board as a condition of using U.S. ports, and should be subject to the same fines and other administrative actions the NTSB is empowered to take with other modes of commercial transportation.*

4. Learning from Success, Not Just Accidents

So far I have looked at what might be learned from accidents and things that go wrong on cruise ships. There is another way to look at the data; concentrate on those cruise ships and cruise lines that appear to be under-represented when it comes to incidents. For example, among the mass market cruise lines Norwegian Cruise Line and MSC Cruises appear to have much lower incidence of fires, groundings, engine failures and accidents than others in this class. It would be interesting to know what those cruise lines are doing differently than Carnival Cruise Lines and Royal Caribbean International. The problem is that cruise lines under Cruise Lines International Association (CLIA) tend to not effectively differentiate themselves with regard to such things, and the consuming public lacks reliable data on which to compare cruise lines. As an authority on the cruise industry I am often asked what cruise line or cruise ship is the safest. I can give an anecdotal response, but without adequate data it is difficult to give a fully informed response.

There are similar contrasts among cruise lines in the premium and ultra-luxury segments, however they aren't as stark as among the mass market cruise lines. It appears that Oceania Cruises has a better record than Celebrity Cruises and both have a better record than Holland America Line; all have a better record than Princess Cruises. Similarly, Seabourn Cruises appears to have fewer incidents than

⁸See "Carnival Cruise Lines announces fleetwide \$300 million program to enhance operating reliability and guest comfort." April 17, 2013. Online at: <http://carnival-news.com/2013/04/17/carnival-cruise-lines-announces-fleetwide-300-million-program-to-enhance-operating-reliability-and-guest-comfort/>

⁹Wolfe, K.A. 2013. "Horrific Carnival cruise gets D.C.'s attention," *Politico* (February 27).

Silverseas Cruises and both less than Regent Seven Seas Cruises. Seadream Yacht Club has a lower incidence rate than any of the ships in the ultra-luxury category.

Again, it appears that some companies are doing a far-better job than others. Research on what they are doing, whether in staffing and training or in ship design and maintenance, is worth attention. This would naturally be something undertaken by an industry-based body, but this is unlikely to happen given the dominance in CLIA of under-achievers. As well, such research must be done by a wholly-independent researcher.

Recommendation #5: *There needs to be funded research, ideally provided by the cruise industry to a wholly independent body, to learn from those cruise lines that appear to be effective in reducing incidents and accidents.*

5. Regulation and Oversight of the Cruise Industry

Unlike the airline industry, the cruise industry is largely self-regulated. As foreign-registered vessels operated by foreign-located corporations, cruise ships are not subject to many regulations and laws in the U.S. However, cruise ships operating from U.S. ports are subject to regular safety inspections by the U.S. Coast Guard and they voluntarily participate in the Vessel Sanitation Program of the Centers for Disease Control (CDC) and report illness outbreaks affected 3 percent or more of passengers and/or 2 percent or more of crew members on ships operating from a U.S. port (ships operating from foreign ports, but sailing with a majority or U.S. passengers do not have to file illness reports with the CDC). While reports of CDC activities are available online, reports of U.S. Coast Guard inspections are not.

I received from a San Francisco-based NBC-affiliate a set of inspections (Annual Control Verification Exam) done by the U.S. Coast Guard in San Francisco from 2002 to 2012; they had been acquired through a Freedom of Information request. These reports spanning 82 pages were illuminating. It was interesting to see the types of deficiencies identified by inspectors (*e.g.*, fuel leaks, water leaks from fire pumps, many lifeboat problems, missing or faulty equipment, faulty fire extinguishers, improper record keeping of required information, exposed live electric wires, faulty doors, mixing of segregated garbage streams (including hazardous waste), fire risks, security deficiencies, and more) and the length of time permitted for correction of some of the deficiencies. Given these are annual inspections, it is difficult to know how long deficiencies were overlooked or ignored. Of greater concern is that these inspections are not entirely unannounced, so officers and crew often prepare for them and the most obvious problems are corrected in advance.

In extreme cases, a matter identified in the Annual Control Verification Exam was referred to the vessel's Classification Society (*e.g.*, Lloyd's Register, Bureau Veritas, Registro Italiano Navale, Det Norske Veritas), which certifies the ship's safety and seaworthiness. While these societies appear to be independent, they earn their income from cruise lines and may be conflicted when taking action that can cost the cruise line money or cause a ship to be taken out of service. For example, there is a fair number of cases where ships have been judged to have insufficient lifeboat space for the number of passengers. In some, the Classification Society has instructed the cruise line to book fewer passengers on the ship until the lifeboat(s) has/have been repaired. In others, the Classification Society has permitted the cruise ship to accommodate passengers on inflatable rafts rather than lifeboats. It is unclear whether this is a reasonable solution if there were need for emergency evacuation, especially if like the *Costa Concordia* half of the lifeboats cannot be deployed.

There is also need for the U.S. Coast Guard to oversee and review the work of classification societies. For example, the report of the *Carnival Splendor* fire indicates:

The firefighting manual available to officers onboard the *Carnival Splendor* referred to a CO₂ system but not the one that was installed onboard the vessel. Related system photographs, images, schematics and diagrams were also found to be inaccurate.

A review of CO₂ system documents revealed a RINA approved test memoranda dated October 20, 2006, which established the following procedure for testing the CO₂ system: (1) select the zone or line, (2) observe the shutdowns of ventilation systems, machinery and other warning alarms and then (3) move to the gas-release procedure, which included cylinder selection for the particular zone and verification of pressurization of the manifold, etc. Another document that appears to be part of a RINA approval letter dated December 28, 2008, describes the operational procedure in exact reverse order.

In this instance, ship's crew opened the cylinder valves first. As a result, the pressure differential across the zone valve prevented opening of the ball valve.

This reminds me of publicly-reported findings in 2001 and 2004 respectively, both involving a ship approved by their Classification Society. The first involves Holland America Line's *Zaandam*. In May 2001 a crew member noticed a sprinkler head missing from a passenger cabin and upon investigation found that a branch of the sprinkler system did not connect to the main water supply. The problem was corrected.¹⁰

In the second, the British Marine and Coastguard Agency ordered Cunard Line's *Queen Mary 2* in June 2004 to fit extra sprinklers in the ship's 1,300 passenger cabins. A BBC investigation revealed material used in the ships' bathroom units did not meet international fire safety regulations. A short-term remedy was fitting all cabins with an extra smoke detector, but the ship must also add extra sprinklers in bathrooms. The ship is estimated to contain 140,000 pounds (63,503 kilograms) of the material causing concern.¹¹

Recommendation #6: *Ships should have thorough and exhaustive safety inspections by the U.S. Coast Guard without advance warning. Full reports (including all details) of cruise ship inspections by the U.S. Coast Guard should be available online.*

The importance of an unannounced, surprise inspection is demonstrated by a recent health inspection of Silversea Cruise's *Silver Shadow*. The ship had never had an inspection score of 99 in May 2012 and 95 in September 2012, however following complaints to the CDC from crewmembers a surprise inspection was done June 17, 2013, and the ship received a failing score of 84. Crewmembers had alleged that they were forced to store raw meat, salami, fish, cakes, and every kind of culinary preparations in their cabins and remote hallways to avoid inspections by the U.S. Public Health (USPH), and that some spoilable food items were kept out of the refrigerator in cabins and hallways but were served the following day to the cruise passengers. Other complaints included the alleged use of out-of-date ingredients which were served to the guests. Again, the importance of inspections being done unannounced and without advance notice cannot be stressed enough.

II. Safety and Security of Cruise Passengers

Previous committee hearings have dealt with safety and security of cruise passengers.¹² I won't duplicate that information here, except to summarize some important points.

A. Scope of the Problem

It is worth noting that the only comprehensive dataset for crime on cruise ships is based on data provided by the FBI in response to a Freedom of Information request by the International Cruise Victims Association. Between October 1, 2007 and September 30, 2008, the data reveals there were 115 simple assaults, 16 assaults with serious bodily injury, 89 thefts less than \$10,000, 12 thefts more than \$10,000, 154 sex related incidents, 7 people overboard, and 3 drug arrests. A comprehensive analysis of the data on sexual assaults on cruise ships is reported in "Sex at Sea: Sexual Crimes Aboard Cruise Ships," published in 2011 in the *Journal of Tourism in Marine Environments* (see Appendix 4).

Two areas are worth further mention here because the data is not reported elsewhere. First, is persons overboard. Since 1995, there have been 201 reports of persons gone overboard from passenger ships.¹³ As shown in Appendix 3, 73.8 percent were male, 26.2 percent female. On average, males are a shade younger than females (38.85 percent vs 42.11 percent). The majority go overboard from cruise ships: 91.4 percent from a cruise ship, 8.6 percent from a ferry. While data is limited, we know that the person overboard was rescued alive in 16.7 percent of cases, 11 percent cases were a confirmed suicide, and all indications are that 3.3 percent of cases involve murder. Alcohol was a factor in at least 6.2 percent of cases, a fight with a significant other in 7.1 percent of cases, 2.4 percent followed a significant loss in

¹⁰ Seatrade Insider. 2001. "Another Ship Sprinkler Problem." Seatrade Insider (June 5).

¹¹ BBC News. 2004. "Urgent Safety Work Starts on QM2," BBC News (June 26).

¹² Testimony before the Senate Committee on Commerce, Science, and Transportation, Hearings on "Oversight of the Cruise Industry," March 1, 2012; Testimony before the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security, Senate Committee on Commerce, Science, and Transportation, June 19, 2008; Testimony before Subcommittee on Coast Guard and Maritime Transportation, Committee on Transportation and Infrastructure, Hearings on "Crimes Against Americans on Cruise Ships, March 27, 2007.

¹³ See www.cruisejunkie.com/Overboard.html

the casino, and 9.5 percent were witnessed and confirmed to be a fall. These numbers will be discussed further later.

The second area worth mention is drug arrests. Between January 2009 and June 2013 there were 53 media reports of drug arrests on cruise ships involving 87 people. Based on cases where data is available, we know that males are more likely to be arrested than females (83.33 percent vs 16.66 percent); the average age is the same for both genders. The largest number of individual incidents occur in Bermuda (n=27) where cruise ships are routinely searched by government officials using drug-sniffing dogs; the U.S. had 8 incidents involving the arrest of 27 individuals, in all cases the person was apprehended by Customs and Border Protection agents. Ships with the largest number arrests are *Norwegian Dawn* (9) and *Explorer of the Seas* (6) (see Appendix 4). Most frequently, drug arrests are for small amounts of marijuana, from several grams to less than an ounce.

B. The Cruise Vessel Security and Safety Act of 2010 (CVSSA)

The Cruise Vessel Security and Safety Act was introduced in 2008 following Congressional hearings in 2005, 2006, 2007, and 2008. The hearings in 2005 were convened in December by two subcommittees of the House of Representatives Committee on Government Reform: the Subcommittee on National Security, Emerging Threats and International Relations chaired by Christopher Shays and the Subcommittee on Criminal Justice, Drug Policy and Human Resources chaired by Mark Souder. The hearings had a twofold purpose. First, given the recent attack of the *Seabourn Spirit* by pirates off the coast of Somalia, they sought to determine the decision-making procedures and processes that were in place to determine the extent to which the U.S. Government responds to a ship being attacked by terrorists or pirates. The second purpose of the hearings was to determine jurisdictional conflicts that occur when U.S. citizens traveling on a foreign-flagged vessel are involved in a criminal incident. These incidents included sexual assaults, physical assaults, robbery, and missing persons. The hearings concluded with an assurance they would reconvene in March in order to hear directly from victims.

Hearings were reconvened in March 2006. The Committee heard from six victims of crime on cruise ships: three victims of a sexual assault, two families with three persons overboard (one mysterious, one alcohol-related fall), and one incident involving a theft of \$6,700. The Committee also heard from International Cruise Victims Association (ICV), which presented 10 recommendations, many of which would be incorporated in the CVSSA; and from an expert hired by the cruise industry who claimed the rate of sexual assault on cruise ships was half the rate on land. The Committee appeared to be sceptical about the reliability of crime statistics and acknowledged the absence of reliable data on persons overboard from cruise ships. Subsequent to the hearing Representative Shays introduced on June 28, 2006 HR 5707, *Cruise Line Accurate Safety Statistics Act*. The bill was straightforward. It required cruise ships that call at a port in the United States to report all crimes occurring on the ship in which a U.S. citizen is involved. It also required this information to be made available to the public on the Internet. The cruise industry didn't embrace the legislation and with the current session of Congress near-complete the legislation died in committee.

In March 2007 hearings were held by the Subcommittee on Coast Guard and Maritime Transportation of the House of Representatives Committee on Transportation and Infrastructure. Two things appear to have solidified support for the hearings. First, the *Los Angeles Times* published an article on January 20, 2007, which based on internal documents from Royal Caribbean said sex-related onboard incidents was a larger problem than the cruise industry suggested in March 2006. The documents revealed 273 reported incidents within a period of thirty-two months, including 99 cases of sexual harassment, 81 of sexual assault, 52 of inappropriate touching, 28 of sexual battery and 13 cases that fit into other categories.¹⁴ When the company-specific numbers were subjected to the same statistical analysis as done with industry-wide data in James Fox's 2006 testimony before Congress, the rate of sexual assault was not half the average rate for rape in the U.S., but 50 percent greater than the U.S. rate.¹⁵

The second factor that pushed for a new round of hearings was that Representative Doris Matsui from California had a constituent, Laurie Dishman, appeal for help following non-prosecution of a rape by a security officer on a Royal Caribbean

¹⁴Yoshino, K. 2007. "Cruise Industry's Dark Waters: What Happens at Sea Stays There as Crimes on Liners Go Unresolved." *Los Angeles Times* (January 20).

¹⁵Klein, R. A. 2007. "Crime Against Americans on Cruise Ships," Testimony Before the Committee on Transportation and Infrastructure, United States House of Representatives, Subcommittee on Coast Guard and Maritime Transportation, March 27.

International's *Vision of the Seas*. Matsui was not only concerned about the way Laurie had been treated and her case handled, but also with discrepancies in crime statistics.

These hearings opened with the FBI and Coast Guard announcing that an agreement had just been reached with the cruise industry whereby cruise line members of the Cruise Line International Association (CLIA) agreed to report to the FBI (either a field office in the U.S. or the FBI Legal Attaché at an embassy or consulate closest to the vessel's location at the time of the incident) all crimes against Americans on their ships. To many the timing of the announcement was suspicious. As well, the agreement appeared to be a rehash of the "zero tolerance" policy announced by the International Council of Cruise Lines in 1999 and it was redundant to reporting requirements already in place. The key difference was the agreement provided a standardized form for reporting crimes that the FBI could use to establish a data set from which reports could be drawn for Congress and other government authorities. The data would not be available to the public. The hearings also heard from ICV, Laurie Dishman, a sociologist who reported on analysis of the crime statistics presented in the *Los Angeles Times*, an attorney who represents cruise victims, and representatives of the cruise industry. At the end of the hearings the subcommittee chair, Elijah Cummings, called on CLIA and ICV to get together and to attempt to find some common ground and solutions. He said he'd prefer a solution that did not require legislation, but also said that legislation was always an option. He gave the two sides six months and said the hearings would reconvene in September.

With no solution from collaboration between ICV and CLIA, hearings were reconvened in September 2007. The day before the Congressional subcommittee reconvened September 19, 2007, Representatives Matsui and Shays with twenty-three cosponsors introduced a House Resolution to call attention to the growing level of crime on cruise ships and the lack of Federal regulations overseeing the cruise industry. The purpose of the reconvened hearings was to receive an update on the status of discussions between ICV and CLIA and to examine whether the security practices and procedures aboard cruise ships are adequate to ensure the safety of all passengers. As before, it received testimony from the FBI and Coast Guard, which discussed the implementation of the reporting framework announced at the previous hearings; from ICV and several of its members (parents of a 21-year-old who fell overboard while throwing up over a railing, two sexual assault victims, a surviving family member whose father died in a cruise ship fire); and from the cruise industry. Not surprisingly the cruise industry painted a picture that said everything was under control, that it is working diligently to improve situations raised as sources of concern by its critics, and that cruises continue to be safe.¹⁶ The claim of safety was based in large part on the FBI receiving from cruise ships only forty-one reports of sexual assault and twenty-eight cases of sexual contact between April 1 and August 23, 2007. Together, these numbers give an annualized rate for sexual abuse on CLIA member cruise lines of 172 incidents; a rate of 56.9 per 100,000 passengers—several fold higher than the rate claimed in the 2006 hearings. The industry also used the hearings to announce formation of its survivors' working group, a group that ostensibly attempted to supplant ICV.

Less than a week after the hearings, the House Committee on Homeland Security approved by voice vote inclusion of language in the Coast Guard Authorization Act requiring cruise lines to notify the Department of Homeland Security Secretary of security-related incidents involving U.S. persons when it advises its next port of call of its arrival. Incidents required to be reported under the legislation include any act that results in death, serious bodily injury, sexual assault, a missing person, or that poses a significant threat to the cruise ship, any cruise ship passenger, any port facility, or any person in or near the port. Unlike Representative Shays' Cruise Line Accurate Safety Statistics Act, the reports would not be made public.

At the same time there was a move involving Senator John Kerry and Representatives Matsui, Shays, and Maloney to write legislation that would require cruise ships to immediately notify the FBI about crimes, suicides, and disappearances. The legislation would also provide protocols for collecting evidence. The legislation in many ways is like the agreement announced in March 2007 between CLIA and the FBI would be mandatory. A key requirement of any legislation or regulation, if it is to be useful to the public, is public disclosure. Passengers should know the history of problems and incidents on a cruise ship, much the same as they can view reports

¹⁶Dale, T. 2007. "Cruise Ship Security Practices and Procedures," Testimony Before the Committee on Transportation and Infrastructure, United States House of Representatives, Subcommittee on Coast Guard and Maritime Transportation, September 19.

of sanitation inspections conducted on cruise ships by the Centers for Disease Control.

The Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security of the Senate Committee on Commerce, Science, and Transportation held hearings in June 2008. The hearings heard from ICV; CLIA; the Rape, Abuse, Incest and Neglect Network (RAINN); and a sociologist reporting on analysis of sexual assault data and on persons overboard. The information presented was similar to previous hearings in the House of Representatives, however RAINN discussed the need and methods for providing support to victims of sexual assault on cruise ships. The CVSSA was introduced shortly after the hearings.

1. From Hearings to Legislation

A key advocate for legislation was the International Cruise Victims Association, formed when its founders (Ken Carver whose 40 year old daughter mysteriously went missing in 2004 from *Mercury*, a Celebrity ship; Bree Smith whose 26 year old brother mysteriously went missing in on his honeymoon in 2005 from *Brilliance of the Seas*, a Royal Caribbean ship; Son Michael Pham whose parents aged 67 and 71 mysteriously went missing in 2005 from *Carnival Destiny*; the parents of 23 year old Amy Bradley who mysteriously went missing in 1998 from *Rhapsody of the Seas*, a Royal Caribbean ship; and the parents of 22 year old James Scavone who mysteriously went missing in 1999 from *Carnival Destiny*) met at the 2005 hearings. The sponsor of the CVSSA in 2008 in the U.S. House of Representatives was Doris Matsui (HR 6408); in the U.S. Senate John Kerry (S 3204). The legislation was reintroduced in 2009 as HR 3360 and S 588 and subsequently passed, becoming Public Law 111-207.

The initial version of the CVSSA reflected concerns raised in hearings and contained solutions to identified problems. However, a number of provisions of the Act when it was first introduced in 2008 and in March 2009 were changed when introduced in the Senate in June 2009, presumably partially in response to lobbying by the cruise industry or others. These changes and other elements of the legislation will guide this discussion.

2. Persons Overboard

The number of people going overboard from cruise ships is significant: between 20 and 25 a year since 2009. It is known that in 9.5 percent of cases the person fell overboard, however if we trust cruise industry claims—they often say a passenger has fallen or jumped even if the assertion cannot be independently corroborated—then the percentage is much higher. With that in mind, it is curious that the original version of the CVSSA stated, “The vessel shall be equipped with ship rails that are located not less than 4½ feet above the deck” (§3507 (a)(1)(A)). However the legislation passed set the height one foot lower at 42 inches. In retrospect, it would appear the original provision of 54 inches (4½ feet) may be more reasonable as an impediment to passengers falling overboard.

A second change is seen in §3507(a)(1)(D). The original proposed legislation stated, “The vessel shall integrate technology that can be used for detecting passengers who have fallen overboard, to the extent that such technology is available.” Such technology is available, but there are cost implications.

The revised legislation states, “The vessel shall integrate technology that can be used for capturing images of passengers or detecting passengers who have fallen overboard, to the extent that such technology is available.” While close-circuit television (CCTV) technology (used to capture images of persons going overboard) may be effective if it were monitored in real-time, it is of little use when tapes are reviewed only after it is known a person has disappeared. In addition, there are issues with whether CCTV cameras cover all relevant areas where a person may go overboard, and whether images are readily made available when requested. In a recent case in which I was retained as an expert witness we found that the CCTV images were recorded using old technology (not in a format easily viewed) and when converted the images were of limited probative value. Again, it would appear that the original legislation proposed in 2007 was more effective in identifying when a person goes overboard and in causing a response that is more likely to lead to a live rescue. Many of the 16.7 percent of cases where a person is rescued alive is when their disappearance is observed and reported to officers who immediately execute rescue procedures.

Data also indicates there is sufficient number of cases of persons going overboard when they are intoxicated. In two known cases the person was bending over the railing while throwing-up over the side of the ship. This is further reason for raising railing height, but also reinforces the need for stringent rules for the responsible service of alcohol; not just training, but practice.

One other concern is the way the FBI interprets the CVSSA. International Cruise Victims Association reports they have been told by the FBI that a person overboard is not necessarily a crime and thus will not be investigated and not included in the FBI's official statistics. It is difficult to understand how a determination can be made about whether a case of a person overboard is not a crime without a proper investigation. Even if CCTV videotapes show a person falling overboard, an investigation may be warranted to determine the conditions surrounding the incident, for example whether intoxication is an issue and whether the cruise ship was responsible in serving alcohol. Current wording of the CVSSA does not classify a person overboard as a crime.

Recommendation #7: *Original provisions of the CVSSA regarding railing height and technology to detect passengers who have fallen overboard be reconsidered.*

3. Sexual Assaults

Contrary to cruise industry claims, sexual assaults are an ongoing problem on cruise ships. Just in the past couple of months there have been media reports of a 12-year-old girl groped on *Celebrity Century* by a 30-year-old male passenger, and an 11-year-old girl molested by a crew member on *Disney Dream*. In neither case was the perpetrator arrested or prosecuted; in the latter, the crewmember was offloaded by the cruise line in the Bahamas and flown home to India at the cruise line's expense. Data from the FBI for October 2007 through September 2008 reveals that at least 18 percent of sexual assault victims are younger than age 18. The data was secured through a freedom of information request.

Unfortunately, reliable data is hard to come by. No comprehensive FBI data has been available since 2008. The only other data available for analysis was provided in the discovery phase of lawsuits, yielding incident reports from 1998 through 2002 for one cruise line; 1998 through 2005 for another. In a recent lawsuit involving the sexual assault of a minor a cruise line was ordered by the judge to disclose to the plaintiff's attorney all reported cases of sexual assault for the previous five years. The cruise line settled the case out of court in order to avoid complying with the court order.

There is much to be learned from incident reports of sexual assault. We know that the most frequent perpetrator among crewmembers (between 50 percent and 77 percent of sexual assaults on passengers are perpetrated by a crew member) is a room steward (34.8 percent) followed by dining room waiter (25 percent) and bar worker (13.2 percent). We also know that the most frequent location for the assault is a passenger cabin (36.4 percent) and that alcohol is a factor in 36 percent of incidents involving minors. Having detailed data permits identification of risk and of potential solutions or means for ameliorating the problem. However, changes to the CVSSA between the first versions to the version passed make this data much more difficult to access and thus more difficult for proper prevention and intervention. The following discussion will be organized around prevention, intervention, investigation, and prosecution.

Prevention

The best way to deal with sexual assault is to have methods of primary prevention. One of the most effective methods is for passengers to know the risk. That is why the initial version of the CVSSA not only required all sexual assaults to be reported to the FBI but that "The Secretary shall maintain, on an Internet site of the department in which the Coast Guard is operating, a numerical accounting of the missing persons and alleged crimes . . ." (§ 3507(c)(4)(A)). But the section was changed in the final version to read, "The Secretary shall maintain a statistical compilation of all incidents described in paragraph (3)(A)(i) on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed under paragraph (3)(A)(i) that are no longer under investigation by the Federal Bureau of Investigation" (§ 3507(e)(4)(A)).

The result is that the FBI only publicly discloses those cases where they have opened a case and they have subsequently closed the case. Those incidents judged to be he said-she said, or where sufficient evidence is not available, do not have an investigation so appear to be not reported. Unlike crimes on land that are included in Uniform Crime Statistics and that reflect all complaints of a crime, crimes on cruise ships are only publicly recorded when the FBI has decided first that an investigation is warranted and second when the investigation is closed. The result is that the number of publicly reported sexual assaults on cruise ships is grossly under-reported. The one-year data for 2007-08 reported 154 sex-related incidents. In stark contrast, the FBI dataset on the U.S. Coast Guard website (which is difficult to find) reports 11 incidents in 2012 (data for 2010 and 2011 was not accessible). More illu-

minating is a recent case I was involved with. The FBI indicated that the cruise line (NCL) had one case of sexual assault in 15 months, but records disclosed in discovery indicated the cruise line had received (and we assume reported to the FBI in compliance with the CVSSA) 23 complaints. The change in the language of the Act effectively makes invisible the true scale of the problem of sexual assault and undermines passenger awareness of the need to protect themselves and their children.

Recommendation #8: *The CVSSA should require reported cases of sexual assault committed on a cruise ship be displayed online and broken down by cruise line and cruise ship. In addition, the raw data of cases should be made available upon request for statistical/sociological analysis in order to permit a social epidemiology of the problem.*

A provision that was not changed, but that may need to be revisited relates to crew access to passenger cabins. § 3507(f)(1) states that a cruise ship shall “establish and implement procedures and restrictions concerning—(A) which crewmembers have access to passenger staterooms; and (B) the periods during which they have access; and (2) ensure that the procedures and restrictions are fully and properly implemented and periodically reviewed.” While this provision is clear in its intent, it may not be specific enough in its statement. I am not sure if it effectively addresses certain incidents of sexual assault. Take for example the teenage daughter left in her parent’s cabin who is walked in upon and sexually assaulted by a crew member gaining access with a room key; or the adult woman who returns to her room in the middle of the afternoon and when she walks out of the shower finds a crew member in her room and is raped; or a woman who wakes in the middle of the night and finds a crew member standing over her and is assaulted. These cases are not anomalies, but even if they were they demonstrate why there is clear need for strict restrictions on crewmember access to passenger cabins. As it stands, restrictions on access to passenger cabins by room stewards, maintenance people, minibar stockers, and others are unclear. This may be addressed in legislation that more clearly identifies parameters for when crew members have access to passenger cabins (e.g., between 9:00 AM and 11:59 AM, and between 6:00 PM and 9:00 PM). At the very least, passengers should be told what hours of the day a crewmember may have access to their cabin.

Recommendation #9: *The CVSSA should require passengers to be advised of the hours during which crewmembers may access their cabin without specific permission from the passenger.*

Another strategy for prevention, as well as useful for investigation, is CCTV cameras. There are two issues. One is that cruise ships often have real cameras and dummy cameras around the ship. Consequently, a crewmember may take a passenger to an area with no camera or a dummy camera and then assault them. This was the case when an 8-year-old girl was molested on a cruise ship: a cleaner led her down a hallway with the promise he would help her find her way back to her family’s cabin. He knew where there were active cameras and where there were dummy cameras.

A second related issue is where live cameras are located. In a recent case in which I served as an expert witness I raised concern about where cameras were and were not located, pointing out that cameras were not directed toward areas that I believed were high risk. The cruise line’s attorney countered that the CVSSA only requires that “The owner of a vessel . . . shall maintain a video surveillance system to assist in documenting crimes on the vessel and in providing evidence for the prosecution of such crimes” (§ 3507(b)(1)). In this case the area not being covered was the entrance to public washrooms even though one data set indicates that 4.4 percent (n=14) of sexual assaults occur in public washrooms. While it shouldn’t be necessary for an act to clearly specify where CCTV surveillance should take place, the current language of the Act is so vague that it can be effectively used to counter and/or undermine victim claims when an assault occurs. As has already been mentioned, the videotapes that were provided by the cruise line in this case were of such poor quality that they had no probative value.

Recommendation #10: *The CVSSA more clearly and specifically state requirements for CCTV surveillance and the quality and format of tape recordings.*

A final method of prevention is making passengers aware of the risk of crime on cruise ships. I have already discussed the quality of information reported on the website maintained by the U.S. Coast Guard, however the website is difficult to find and for most passengers does not alert them to the risk. Perhaps a better way to alert passengers of onboard risk is through the “Security Guide” required under

§ 3507(c)(1)(A) of the Act. Presently the Act requires the guide to be available for each passenger, but doesn't specify how availability is achieved. The Act requires the guide to "provide a description of medical and security personnel designated on board to prevent and respond to criminal and medical situations with 24 hour contact instructions" and to describe the jurisdictional authority applicable and the law enforcement process available with respect to reporting a crime. However there is no requirement for the guide to include a clear statement of what crimes occur on cruise ships, nor for it to educate passengers in methods and/or strategies for reducing vulnerability to crime. The guide could be an effective method for forewarning passengers of known dangers.

Ironically, passengers are often advised in port lectures of things they can do to reduce the likelihood of becoming a victim to crime ashore, but there is no parallel information for how to reduce the likelihood of crime onboard the ship. It is reasonable to expect a cruise ship to alert parents to the need to supervise their children and to be aware of the risk of child sexual assault onboard, to advise adult passengers of the risk of sexual assault and the most common places and scenarios where these occur—this may include advice to keep track of one's drink to be sure it is not drugged or otherwise tampered with. The data on sexual assaults provides considerable insight into where and when sexual assaults occur; information that passengers would benefit from knowing.

Recommendation #11: *The CVSSA explicitly require the "Security Guide" be placed in plain sight in every passenger cabin and that the content of the guide include information about the types of crimes on cruise ships, where they commonly occur, and steps a passenger can take to decrease the likelihood of becoming a victim of crime.*

Intervention

Despite best efforts, it is likely some sexual assaults will occur on cruise ships. The issue then is how victims will be treated. Again, there was a critical change from early drafts of the CVSSA and the Act that subsequently passed into law. § 3507(e)(3) stated,

. . . make available on the vessel at all times an individual licensed to practice as a medical doctor in the United States to promptly perform such an examination upon request and to provide proper medical treatment of a victim, including antiretroviral medications and other medications that may prevent the transmission of human immunodeficiency virus and other sexually transmitted diseases.

This was replaced with § 3507(d)(3) that reads:

(3) make available on the vessel at all times medical staff who have undergone a credentialing process to verify that he or she—(A) possesses a current physician's or registered nurse's license and—(i) has at least 3 years of post-graduate or postregistration clinical practice in general and emergency medicine; or (ii) holds board certification in emergency medicine, family practice medicine, or internal medicine;. . .and (C) meets guidelines established by the American College of Emergency Physicians relating to the treatment and care of victims of sexual assault.

The most significant change is the required qualifications of the person providing medical care to a sexual assault victim. The original draft clearly required a physician who is licensed to practice in the United States; the change permits either a doctor or a nurse and makes no reference to where that person was trained or where they are licensed. This change is significant.

There are several reasons why this change may be of concern. First, some may believe a physician would be better able to deal with a medical issue. But more importantly is where that doctor was trained and is licensed. There has traditionally been a wide variation in medical care on cruise ships. Some cruise lines have chosen only physicians trained and licensed in the U.S., Canada, or U.K.; others have drawn physicians from a variety of countries because they are able to pay significantly less. This is not to impugn the competence of all foreign-trained physicians, but there may be issues around language (competence in English, which is important given the nuances and emotions at play in a sexual assault), issues around culture and different views about women and sexuality, and differences in knowledge of clinical guidelines common in the U.S. Perhaps more important is that when there is malpractice a physician in the U.S., Canada, or the U.K. may be easy to find, but a physician from a developing country or a non-English speaking country may be exceedingly difficult for a patient to track down.

The reference in the CVSSA to guidelines established by the American College of Emergency Physicians may be seen as a way of dealing with some of these concerns. However a review of the Policy Compendium (2013 Edition) of the American College of Emergency Physicians (ACEP) brings other issues to the forefront. The Compendium reads:

The sexually assaulted patient, who may be an adult or child of either sex, presents special medical, psychological, and legal needs. ACEP believes that all patients who report a sexual assault are entitled to prompt access to emergency medical care and competent collection of evidence that will assist in the investigation and prosecution of the incident. ACEP has therefore developed the following guidelines:

- With the cooperative efforts of local governments, law enforcement agencies, hospitals, courts, and other relevant organizations, each county, state or other geographic area should establish a community plan to deal with the sexually assaulted patient. The plan should ensure that capable, trained personnel and appropriate equipment are available for treating sexual assault patients.
- Each community plan should address the medical, psychological, safety, and legal needs of the sexually assaulted patient. The plan should provide for counseling, and should specifically address pregnancy and testing for and treatment of sexually transmissible diseases, including HIV.
- Each hospital should provide for access to appropriate medical, technical, and psychological support for the patient. A community may elect to establish, under the supervision of a physician, an alternative medical site, which specializes in the care of the sexually assaulted patient and provides medical and psychological support capabilities when no other injuries are evident.
- A victim of sexual assault should be offered prophylaxis for pregnancy and for sexually transmitted diseases, subject to informed consent and consistent with current treatment guidelines. Physicians and allied health practitioners who find this practice morally objectionable or who practice at hospitals that prohibit prophylaxis or contraception should offer to refer victims of sexual assault to another provider who can provide these services in a timely fashion.
- Specially trained, nonphysician medical personnel should be allowed to perform evidentiary examinations in jurisdictions in which evidence collected in such a manner is admissible in criminal cases.
- Physicians and trained medical staff who collect evidence, perform in good faith, and follow protocols should be immune from civil or criminal penalties related to evidence collection, documentation of findings, and recording of the patient's subjective complaints.
- For the special diagnostic and therapeutic needs of the pediatric patient, a community plan should provide for primary referral centers with expertise and ancillary social services that support a multidisciplinary approach.
- As part of its ongoing quality management activities, the hospital should establish patient care criteria for the management of the sexually assaulted patient and monitor staff performance.
- ED staff should have ongoing training and education in the management of the sexually assaulted patient.
- ACEP supports appropriate measures to prevent sexual assault in the community.

First, and perhaps most important, is the guidelines place the emergency care physician as the primary care provider to a victim of sexual assault. Nonphysician medical personnel may be allowed to perform evidentiary examinations, however the guidelines do not contemplate a nurse being responsible for the care received by a sexual assault victim. The CVSSA contradicts this by permitting it.

Second, the guidelines set expectations on the community, including ongoing quality management activities, however these do not appear to be part of what a cruise ship does, especially with physicians typically working a four-month (or less) contract. The infirmary on a cruise ship is not comparable to a land-based hospital and it is difficult for it to comply with the guidelines.

One guideline that is of particular note is that the ACEP expects the physician to support appropriate measures to prevent sexual assault in the community. As has already been discussed, there is much more a cruise ship can do to prevent sexual assault and to, in turn, comply with this guideline. One has to wonder whether an

under-contract physician who is considered an independent contractor is in a position to effectively advocate on such a matter.

Finally, the guidelines are explicit that the psychological and safety needs of a sexual assault victim be addressed. It also has very specific expectations for how the pediatric patient will be treated, including referral centers and ancillary social services. These “best practices” are not available on a cruise ship. There are no psychological services available onboard, and cruise ships do not typically take responsibility for referring the sexual assault victim (especially a child) to appropriate therapeutic and support services. As well, a victim of sexual assault will often see their perpetrator wandering freely on the cruise ship, which seriously questions the commitment to the victim’s need for feeling safe. In both cases discussed above, of the 11-year-old and 12-year-old girls recently sexually assaulted, the perpetrator was not apprehended in a timely manner (in one case the perpetrator was not apprehended at all).

While the intent of the CVSSA in referencing the ACEP guideline is laudable, it is an empty gesture when the guidelines do not fit with the setting. More appropriate would be language that addresses: (1) the qualifications of the physician charged with treating sexual assault victims; (2) the appropriate role played by non-physician medical personnel; and (3) the provision of psychological and therapeutic services both onboard and appropriate referrals for when the victim returns home from the ship. These latter requirements may be met through a partnership with land-based organizations such as RAINN or with land-based service providers. Interestingly, based on the landscape of onboard sexual assaults I advocated in my 2002 book, *Cruise Ship Blues: The Underside of the Cruise Industry*, that cruise ships invest in having a counselor onboard a ship, both for passengers and crew. I write:

The counselor would be someone competent in dealing with cases of sexual assault, who could serve as an ombudsperson in matters arising between passengers and staff or between shipboard employees. If a counselor is to be effective and seen as someone to turn to, it is essential that he or she be independent of the ship’s hierarchical structure—a status similar to the ship’s physician who on medical matters essentially answers to no one onboard, not even the captain. Counselors would need to be independent, and independently available. The simple fact is that abuses are known to occur on ships, but the information is kept within the shipboard community. The only way that information gets out is by having an outsider brought in (p. 161).

I know this was read by cruise industry executives and their lawyers, but it had no apparent effect.

Recommendation #12: *The CVSSA should require onboard physicians to be board certified in emergency medicine, family practice medicine, or internal medicine in the U.S., U.K., Canada, Australia, France, or Germany. Further, there should be clear statements about how cruise ships will treat the psychological and safety needs of sexual assault victims, especially victims who are minors.*

Investigation

Proper investigation of cruise ship crimes and preservation of evidence is critical, especially in a case of sexual assault. In addition, there needs to be proper procedures for ensuring chain of evidence requirements. Though beyond my expertise, I have to wonder whether evidence collected and secured by a shipboard safety officer will stand up in a shore side court of law. I suspect a critical issue will also be whether the safety officer is available to testify in a criminal prosecution or a civil case, especially if the case is against his/her employer.

This raises a critical issue with regard to the independence and impartiality of onboard security officers. On land when there is a sexual assault the victim can talk to their local law enforcement office, which is totally independent of the perpetrator, and they receive medical care and support services from professionals who are also independent of the perpetrator. On a cruise ship, a victim’s case is investigated by an employee of the cruise line, a relationship that becomes particularly thorny when the perpetrator is also a cruise line employee—the most recent comprehensive data of sexual assaults on cruise ships indicates that the majority are perpetrated by a cruise ship employee; and then their medical care is provided by another employee of the cruise line. This situation does not engender the same level of trust a victim is likely to have when dealing with the same issue on land.

Recommendation #13: *Cruise ships should be required to have a private, independent law enforcement agent for purposes of crime investigation. These would be similar to the wholly-independent Ocean Rangers placed on cruise ships by the State*

of Alaska to monitor discharge of waste streams while the ship is in Alaska state waters.

Notwithstanding the above, §3508(a) of the CVSSA states that the Secretary “shall develop training standards and curricula to allow for the certification of passenger vessel security personnel, crewmembers, and law enforcement officials on the appropriate methods for prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment.” The intent of this provision is clear, however the execution appears to be problematic. Compliance is ostensibly effected by *Model Course CVSSA 11-01: Crime Prevention, Detection, Evidence Preservation and Reporting*. This is an on-line course that takes eight hours (one day) to complete. Aside from there being no direct contact between an instructor and a student, there is a total of three hours devoted to “Crime Scene Actions,” which includes techniques used by law enforcement, action required to preserve different crime scenes, and access control. There is extremely limited content on collection and preservation of evidence. The stated measure of competence for this three-hour module is that “requirements related to reporting and recording of serious crimes are correctly identified and demonstrated.” It is unclear from the manual how students are tested (although it appears that the most likely method is multiple choice and other closed-choice exams) and whether the student can learn in three hours the skills and knowledge commonly possessed by crime scene investigators on shore. While the course may be useful for training support personnel to a professionally trained investigator, it appears inadequate preparation if the concern is with gathering evidence that will withstand the requirements of land-based law enforcement and a court of law.

Recommendation #14: *In the absence of a professionally qualified crime scene investigator, a cruise ship should be required to have onboard a staff person with more than adequate training in all facets of crime scene preservation, collection of evidence, and methods to ensure proper chain of evidence.*

Prosecution

The final area to consider regarding sexual assault is prosecution of the perpetrator. I have already addressed the need for evidence to facilitate prosecution. Another critical issue is to detain the offender. This may be more easily done when the perpetrator is a crewmember, however when a passenger perpetrates a sexual assault he or she should also be detained for law enforcement personnel at the next U.S. port. It is unfortunate when a crewmember is flown to his home country from a foreign port rather than having to face prosecution, especially when the crime is irrefutably caught on videotape, as was the case of the 11-year-old girl molested on *Disney Dream* in May 2013. It is equally sad that a 30-year-old man who groped a 12 year old girl can wander freely on the ship while the girl and her family are reminded of the ordeal every time they see him.

Recommendation #15: *Cruise ship personnel should take more seriously their responsibility to detain perpetrators of sexual assault until the ship arrives at its next U.S. port. Further, Congress should contemplate whether there needs to be a legislated requirement to ensure perpetrators are isolated from the general public onboard the ship and held for delivery to land-based law enforcement personnel.*

4. Other Crimes

There are two crimes for which the FBI collected data in 2007–08, but that are not required to be reported under the CVSSA. One is a theft of less than \$10,000—there were 89 in the one year period 2007–08. The other is simple assault—there were 115 in the same one year period. It doesn’t seem right that these crimes are not recorded and that victim rights are apparently truncated.

As regards theft, there is the obvious fact that crew members know that a theft of less than \$10,000 will not only not be prosecuted, but will not be recorded. This seems like an open door for a permissible level of crime. Why \$10,000 rather than \$9,800? The amount appears arbitrary. However, more importantly, by not collecting data there is no ability for analysis to discern patterns or trends that might inform interdiction or prevention. As well, there is no way to know whether the problem is increasing or decreasing, and whether the problem on cruise ships is greater or lesser than on land.

Judge Thomas A. Dickerson of the New York State 9th Judicial District makes the same point, but more eloquently:

[The Act does not] . . . require the reporting of thefts which are between \$1,000 and \$9,999 in value. These problems may be resolved as follows. First, requiring owners to report thefts less than \$10,000 would allow local law enforcement to

investigate and deter future crimes. Second, mandating owners to include the recorded thefts of property valued between \$1,000 and \$9,999 on the USCG website would allow prospective cruise passengers to better appreciate the risks associated with cruises. An even more effective method would be to breakdown the USCG online reporting by individual cruise ships, rather than by cruise lines, as is currently required.¹⁷

There are similar concerns with regard to simple assault. What if the assault is a case of domestic violence (a fair proportion of which do fall within this category)—why would this not be reported and considered for prosecution, especially if the victim decides to press charges. Also, what is the fine line between a simple assault and an assault with serious bodily injury? Are cruise ship personnel expert in making this determination? I think not. But most importantly is the fact that having this data is useful both to determine changes over time as well as to compare the situation between different cruise ships and between cruise ships and incidence on land. It would seem it is in the interest of the cruise industry to have this data collected, unless they are concerned that the rate onboard their ships is higher than the rate onshore.

Recommendation #16: *The CVSSA should require reporting to the FBI of all onboard crime, including thefts less than \$10,000 and simple assaults.*

III. Consumer Rights and Cruise Ship Liability

The issue of consumer rights was directly addressed by CLIA's recent announcement of its Passenger Bill of Rights. This will be discussed first. I will then shift to the broader issue of liability as it applies to cruise ships and cruise lines.

A. CLIA Passenger Bill of Rights

The CLIA Bill of Rights is as interesting for what it includes as for what it does not include. It was announced May 22, 2013 just five days before a fire on *Grandeur of the Sea*; probably motivated in large part by a series of problems before and following the media-focused fire on the *Carnival Triumph* and by Senator Schumer's stated intent to develop a passenger bill of rights. In the month before the *Carnival Triumph* fire, five ships experienced propulsion problems causing delay and/or requiring itinerary changes: *Carnival Splendor*, *Carnival Destiny*, *Carnival Legend*, *Carnival Triumph*, and P&O Cruises' *Aurora* (all ships operated by Carnival Corporation). In the several months following the *Carnival Triumph* fire there were the following:

- *Seabourn Odyssey* had a power failure and was towed to port in New Zealand;
- Cunard Line's *Queen Elizabeth* had a collision with a tug boat packed with pleasure seekers in New Zealand;
- Hurtigruten's *Kong Herald* ran aground and the cruise was canceled;
- Coastal and Maritime Voyage's *Marco Polo* was holed and canceled its cruise;
- *Carnival Dream* had generator problems and ended a cruise early, flying passengers home from Saint Maarten;
- *Carnival Legend* had propulsion problems and was stuck for a day in Costa Maya; the ship altered the itinerary on this cruise and the next because of continuing problems;
- *Carnival Elation* had steering problems and required assistance of a tug to navigate to New Orleans;
- P&O's *Ventura* had propulsion problems transatlantic and changed its itinerary;
- Regent Seven Seas' *Voyager* had propulsion problems causing significant delays;
- *Carnival Sunshine* canceled two cruises because of longer-than-anticipated time in dry dock; when the ship finally left dry dock passengers complained that work was still being done and some ship services are unavailable;
- *Celebrity Millennium* had propulsion problems that caused itinerary changes, at one point being dead in the water for three hours in the South China Sea;
- *Carnival Ecstasy* experienced a power failure;
- *Coral Princess* experienced a fire;

¹⁷Dickerson, T.A. and S. L. Sgroi. 2012. "Recent Developments in Maritime Law." Presented at the Joint Judicial Seminar Program for the Appellate Divisions for the First and Second Judicial Departments, April 25. Available at: <www.nycourts.gov/courts/9jd/TacCert_pdfs/Dickerson_Docs/recent_dev_maritimelaw.pdf>

And then comes the Passenger Bill of Rights—no doubt a public relations initiative to counter the wave of bad publicity (notably, all but three of the problems occurred on ships operated by Carnival Corporation). In announcing the Bill of Rights CLIA stated that they detail CLIA members’ “commitment to the safety, comfort and care of guests.” CLIA also stated the Bill of Rights “codifies many longstanding practices of CLIA members and goes beyond these to further inform cruise guests of the industry’s commitment to their comfort and care.” The obvious question then is what is new about the Bill of Rights. I will address this and then consider what isn’t contained in the Bill of Rights.

1. *The right to disembark a docked ship if essential provisions such as food, water, restroom facilities and access to medical care cannot adequately be provided onboard, subject only to the Master’s concern for passenger safety and security and customs and immigration requirements of the port.*

This Right makes perfect sense if a ship is alongside a pier, however it does not consider the issue of passengers who are stranded on ships without electrical power, propulsion, toilets, air conditioning and adequate food for three to five days. What are the rights of those passengers? Getting off a ship when it is docked is an easy Right to guarantee. However there are still questions. As Senator Schumer observes in his May 21, 2013 letter to CLIA, who determines that essential provisions cannot be adequately provided? If someone on the ship or the cruise line is the decision maker, how can passengers appeal that decision? But there is also the issue of disembarking in a port that requires clearance by customs and immigration officials. A cruise ship can prevent disembarkation if local port authorities do not cooperate. What are the rights of passengers then?

The issue of landing and needing clearance from immigration officials was raised as a potential concern when *Carnival Triumph* had its fire and the company decided to tow the ship to a U.S. port rather than to a closer Mexican port. The explanation given was that many passengers didn’t have passports, so disembarking in Mexico and repatriating to the U.S. could be problematic. Does the location of a ship truncate one’s rights? On surface the Right sounds reasonable, but in the concrete situation with a range of conditions it isn’t as straightforward.

2. *The right to a full refund for a trip that is canceled due to mechanical failures, or a partial refund for voyages that are terminated early due to those failures.*

Again, the Right is straightforward and sounds reasonable. If a product paid for is not delivered there will be a refund. But the Right does not indicate whether the refund is in cash and how long it will take for the refund to be processed—the passenger paid for their cruise 60–90 days in advance of the cruise so shouldn’t they be entitled to the income generated by the cruise line for the period of time it held the money on deposit? As well, how is a partial refund calculated and what mechanism is in place for a passenger to challenge the entitlement offered by the cruise line.

But there is a larger issue. What is a passenger’s Right when they fly to a distant port and learn upon arrival that their ship will not depart? Will the cruise line reimburse their travel costs to the port on top of refunding the cruise fare? This is not clear from the Passenger Bill of Rights. The Passenger Bill of Rights is also not clear about a passenger’s rights if a cruise line leaves port with a cruise ship that it is known will not be able to fulfill the published itinerary, as was the case on a couple of cruises listed in Appendix 2.

A related issue is how the Passenger Bill of Rights applies to a missed port and/or changed itinerary. There is a significant number of these as noted in Appendix 2 (see for example *Aurora* (March 2009), *Seven Seas Voyager* (April 2009), *Pacific Dawn* (February 2010), *Artemis* (May 2010), *Infinity* (June 2010), *Pacific Sun* (February 2011), *Enchantment of the Seas* (February 2012), *Carnival Legend* (March 2013), *Seven Seas Voyager* (March 2013), *Crown Princess* (April 2013)). Do passengers have the right to be refunded port fees, taxes, and port related services for which they have already paid when a port call skipped, and is this payment in cash rather than the typical practice of an onboard credit? Are they entitled to an additional payment for failure to deliver the published itinerary, especially when the change is due to a mechanical problem or failure? And should passengers have a right to be reimbursed for costs associated with an independently arranged shore excursion in a port call that is skipped or canceled? Finally, how are these refunds computed and by what means does a passenger have a right to dispute that computation? As the saying goes, the devil is in the details.

While the Passenger Bill of Rights appears to address canceled cruises, albeit without sufficient clarity, it does not address the much more common occurrence of port calls that are canceled. What rights do passengers have in these cases?

3. *The right to have available on board ships operating beyond rivers or coastal waters full-time, professional emergency medical attention, as needed until shore side medical care becomes available.*

Having on board professional emergency medical attention has been a long-standing practice on cruise ships—in fact it is required by International Labor Organization Convention 164, entitled “Health Protection and Medical Care for Seafarers,” requiring that ships “engaged in international voyages of more than three days’ duration shall carry a medical doctor as a member of crew responsible for providing medical care.” However the qualifications of medical personnel has varied widely. In most cases a physician and/or a nurse provide medical services. Some cruise lines have a policy of only using medical professionals trained and board certified in the U.S., Canada, or U.K. Other cruise lines, in part because the fee paid is less, draw medical professionals from a range of countries. In all cases, medical professionals are considered independent contractors—they are paid a fee by the cruise line and receive a commission based on charges for medical services and prescriptions/supplies. Though the physician wears a senior officer’s uniform and is considered a member of the crew, she or he is not a cruise line employee and the cruise line claims no liability for his or her medical practice.

While the Right states a standard practice, and reiterates a requirement of the CVSSA, it does not indicate a substantial fee is charged for emergency medical attention. The Passenger Bill of Rights should have greater transparency, clearly indicating that medical services on board a ship are fee-for-service. In addition, passengers have the Right to know the limitations on medical services on board a ship. One issue is the scope of practice of the individual physician. An equally, if not more important issue, is the limited nature of a ship’s infirmary. There may be limited diagnostic facility (*e.g.*, no X-rays or complex blood tests) and there is no surgical theatre. As an experienced emergency physician on board a cruise ship told me, “my greatest fear is an ectopic pregnancy that needs emergency surgery—there is very little I can do in the middle of the ocean.”

What this suggests is that the Passenger Bill of Rights should include useful information about the limits of medical care on a cruise ship so a passenger can make an informed decision and not go onboard expecting services that will not be available. In the absence of such information, the obvious question is whether a cruise ship, by the Passenger Bill of Rights, is accepting liability for cases where emergency medical attention may be inadequate or otherwise lacking in an emergency medical situation. What recourse is available to a passenger in such a case?

4. *The right to timely information updates as to any adjustments in the itinerary of the ship in the event of a mechanical failure or emergency, as well as timely updates of the status of efforts to address mechanical failures.*

On surface this right sounds ideal—what else could a passenger expect? However the term “timely” is subjective. I have been on cruises where timely was measured in hours (sometimes many hours) whereas I as a passenger measure timely in quarter hours. It would be helpful to a passenger in understanding the Right to know what is meant by timely. Aside from that, how will these information updates be provided—via public announcements on board or by written notifications? And what recourse does a passenger have if information updates are not timely? Are they entitled to compensation or some other consideration? In many ways the Right can easily become an empty promise.

Another term requiring definition is “mechanical failure or emergency.” This presumably includes a situation where a ship is dead in the water or has an extended power loss. But does it also apply to a ship that has a propulsion problem causing it to sail at reduced speeds, or a medical emergency that delays a ship and causes a change in itinerary. It would seem that what the industry should be stating is that a passenger has a Right “to timely information updates as to any adjustments in the itinerary of the ship”—full stop.

The Right leaves unstated what compensation, if any, is available to passengers when a port call is dropped or an itinerary is changed. Will they be refunded all port fees, taxes and other port use expenses associated with that port? This was addressed above. In any case, the Passenger Bill of Rights should be explicit about the parameters for what their rights are and what their rights are not.

5. *The right to a ship crew that is properly trained in emergency and evacuation procedures.*

This is certainly a fair expectation on the part of passengers. However, there is a huge chasm between being properly trained in emergency and evacuation procedures—there may not be basis to argue that crewmembers aren’t trained—and those

same crewmembers demonstrating through behavior competence in executing emergency and evacuation procedures.

Unfortunately, there is a track record of crewmembers not demonstrating this competence, not only in emergency situations but in periodic inspections by the U.S. Coast Guard and in annual U.S. Coast Guard Control Verification exams. The report of the *Carnival Splendor* fire is a good example of the point I am making. Officers were likely properly trained, however the reports says that one reason for the catastrophic nature of the fire was human error—when the fire alarm first went off on the ship's bridge, a crew member reset it, leading to a 15-minute delay in the activation of an automatic fire-suppression system. The report also faults the crew's "lack of familiarity with the engine room," which hampered their ability to locate and fight the fire, and the captain's decision to "ventilate" the compartment where the fire began before it was fully extinguished, allowing the flames to flare again.¹⁸

Two questions derive from these points. First, what will the cruise industry require to ensure that all crewmembers are properly trained—will current regimes of training be augmented or bolstered? How will proper training in emergency and evacuation procedures be verified? Second, what recourse does a passenger have when crewmembers do not demonstrate competence in emergency and evacuation procedures? Will the cruise line waive damage limits contained in the Passenger Contract and/or permit a passenger to file a lawsuit (including for emotional distress, mental suffering/anguish or psychological injury, presently excluded from the cruise line's liability) for demonstrated failure of competence in emergency and evacuation procedures? These should be explicitly laid out in the Passenger Bill of Rights.

6. *The right to an emergency power source in the case of a main generator failure.*

Like other items in the Passenger Bill of Rights, the obvious question is what is included under "main generator failure" and what is excluded? We can point to *Carnival Splendor*, which had six diesel engines—a fire in one engine caused extensive damage to cables in the aft engine room that meant vessel engineers were unable to restart the unaffected main generator.¹⁹ How can CLIA guarantee that a similar or more catastrophic event wouldn't happen on another ship? In the case of the *Carnival Splendor* it wasn't that the main generator failed, but that the cables carrying power from the generator had been destroyed. Also on the *Carnival Splendor* the emergency generator apparently continued to work, but only provided power to emergency services. Does this technically comply with the right stipulated?

In the case of *Carnival Dream* in March 2013, news reports indicate the main power generator had not failed, but the backup emergency diesel generator had failed, thus causing the cruise to be terminated when the ship was in Saint Maarten. This illustrates the confusion in the language in the Right—what is it actually telling a passenger and whether what is being promised can actually be delivered? And if the Right is not fulfilled, what recourse does a passenger have?

This issue is made even more confusing when considering the number of cruise ships that have lost power and gone adrift—some for short periods of time; others for longer periods of time. How does this Right apply to a passenger in this situation? Does this Right apply to all power outages or only power outages of a certain duration and/or only power outages caused by failure of the main generator? Assuming a passenger has a Right to an emergency power source, what happens if it isn't provided; what recourse or compensation is available to them? There are many questions raised by this Right, which on surface is intended to reinforce a sense of security, but upon reflection is potentially an empty promise.

7. *The right to transportation to the ship's scheduled port of disembarkation or the passenger's home city in the event a cruise is terminated early due to mechanical failures.*

This Right is already a common practice of the cruise industry, however the Passenger Bill of Rights doesn't address two situations. First, what Right does a passenger have when a cruise ends early and passengers are returned to the port of embarkation—does the cruise line assume responsibility for the additional travel costs (and change fees on airline tickets) associated with getting from the port of disembarkation, does the cruise line assume responsibility for lodging and food expenses incurred by the passenger in getting home, and does the cruise line provide

¹⁸ Dolan, J. 2013. "Crew Error Cited in Carnival Ship Fire that Led to Nightmare Tow," *Los Angeles Times* (July 16).

¹⁹ U.S. Coast Guard. 2013. Report of Investigation into the Fire Onboard the *Carnival Splendor* which Occurred in the Pacific Ocean off the Coast of Mexico on November 8, 2010, which Resulted in Complete Loss of Power. MISLE Incident Investigation Activity Number 3897765.

compensation for a passenger who arrives home later than scheduled thereby losing salary from missed work and having expenses for childcare etcetera? The Right to transportation doesn't appear to extend to these issues. Related to this is whether a passenger is accommodated in the same class of service on airlines and the same class of hotel that they normally choose. How long will a passenger wait for reimbursement of these costs and what mechanism is in place if there is a dispute between a cruise line and the passenger about the amount due to the passenger? Does the cruise line waive the Passenger Contract so the passenger can pursue a case in a court of law of their choosing (for example, if they live outside the U.S. or in a location remote from the court specified in the Passenger Contract's forum selection clause)?

Second, the Passenger Bill of Rights does not address the Right a passenger has when a ship arrives late in a port of disembarkation and the passenger has arranged his/her own transportation. Does a passenger in this case have the Right to have the cruise line assume responsibility for all additional travel costs (in the class of service originally booked) as well as lodging and food expenses incurred in getting home, and does the cruise line provide compensation for a passenger who arrives home later than scheduled thereby losing salary from missed work and having expenses for childcare etcetera? This is an area of rights that is not addressed at all in the Passenger Bill of Rights.

8. The right to lodging if disembarkation and an overnight stay in an unscheduled port are required when a cruise is terminated early due to mechanical failures.

Does this Right only apply to a cruise terminated due to a mechanical failure, or to any cruise terminated early? CLIA's choice of more restrictive language suggests there are many situations when a cruise may be terminated in an unscheduled port of call and lodging would not be provided. How does this Right interface with the Passenger Bill of Rights' #1?

This Right also says nothing about the quality of the lodging provided. Does a cot in a high school gymnasium qualify as "lodging"? Does lodging include a private bathroom? Based on past events, it is possible to imagine a range of scenarios. What Right to lodging, precisely, does a passenger have and will the cruise line assume all costs associated with that lodging? What recourse does a passenger have when the lodging provided is unacceptable.

9. The right to have included on each cruise line's website a toll-free phone line that can be used for questions or information concerning any aspect of shipboard operations.

Cruise lines already have toll-free numbers accessible from telephones in the U.S. Will access to these numbers extend to all ports of call on the cruise line's itinerary and to all countries from which passengers are drawn? More importantly, what will be done to ensure that the information provided by an operator at a toll-free number has accurate and correct information? Take for example the following correspondence I received from the parent of a passenger on *Carnival Legend* March 14, 2013:

The ship is disabled and stuck in Costa Maya on March 13, 2013. I spoke with Carnival last night about how this might effect the itinerary because my daughter is on the ship. They told me they did not know anything about an alteration in the cruise schedule and would only tell me the ship was moving. I called the ship to try to speak with my daughter today and while I did not reach her, the ship officer confirmed to me that they were in Costa Maya and not Belize yesterday. Her boyfriend called Carnival this morning as well and they denied the ship was in Costa Maya and called it a rumor. I can understand a mechanical issue that needs to be addressed although this seems to be a big problem with this company. I cannot tolerate flat out lying and misinformation that they are providing about the Legend.

What changes or initiatives are being undertaken by CLIA and its member lines in order to avoid a similar situation? What recourse does a passenger and/or his/her family have when misinformation is provided or information is withheld?

*10. The right to have this **Cruise Line Passenger Bill of Rights** published on each line's website.*

This seems like the easiest Right to realize, however a quick survey of CLIA-member cruise line websites on July 15, 2013, found that the Passenger Bill of Rights was apparently not published on 13 of the 26 member lines' website. CLIA's May 22, 2013, Press Release (Cruise Industry Adopts Passenger Bill of Rights) states that publishing the Passenger Bill of Rights on a cruise line's website is a condition of membership in CLIA. Are these 13 members no longer members of

CLIA? What right or recourse does a passenger have if they have purchased a ticket from one of these lines in the past eight weeks—does the Passenger Bill of Rights apply to them?

CLIA Passenger Bill of Rights and the Cruise Contract

There is one additional issue with the Passenger Bill of Rights. CLIA promised that the Passenger Bill of Rights would be added to Cruise Passenger Contracts. This is laudable, but this is not apparent from Passenger Contracts displayed on cruise line websites, but more importantly there is no mention of how conflicts and contradictions between the Passenger Bill of Rights and the Cruise Passenger Contract are resolved. Which has precedence? According to the standard passenger contract the cruise line has the right to alter a cruise itinerary for any reason and the passenger has no recourse. As Carnival Cruise Lines states in its hard-to-find “Cruise Cancellation and Itinerary Change Policy” states:

In the event an itinerary change becomes necessary while the ship is at sea or when notice prior to sailing is not feasible, Carnival and/or the Master will attempt to substitute an alternative port. Carnival and/or the Master may, in their discretion and for any purpose, deviate in any direction or for any purpose from the direct or usual course, and omit or change any or all ports of calls, arrival or departure times, with or without notice, for any reason whatsoever, all such deviations being considered as forming part of and included in the proposed voyage. Carnival shall have no liability for any refund or other damages in such circumstances.²⁰

In terms of itinerary changes before a ship leaves port, the policy states:

Due to the nature of a cruise vacation, itinerary changes sometimes become necessary for safety, weather or other reasons beyond the control of Carnival. If the itinerary change is for reasons beyond Carnival’s exclusive control, including but not limited to safety, security, weather, strikes, tides, hostilities, civil unrest, port closings, emergency debarkations of guests or crew, late air, sea, car or motor coach departures or arrivals, mechanical breakdowns or problems not known to Carnival, itinerary changes consistent with U.S. State Department travel warnings/advisories or other applicable U.S. or foreign governmental advisories, guests will not be provided any compensation. Guests electing to cancel will be subject to the standard cancellation terms.

And in terms of passenger costs resulting from cruise cancellations or itinerary changes the policy states:

Carnival shall not be liable to guests for any charges, fees or expenses paid or owed to third parties by guests (such as air travel booked by a guest directly with an airline) in connection with a cancelled cruise or an itinerary change for any reason.

Carnival Cruise Lines’ Passenger Contract is even more restrictive:

(c) If the performance of the proposed voyage is hindered or prevented (or in the opinion of Carnival or the Master is likely to be hindered or prevented) by war, hostilities, blockage, ice, labor conflicts, strikes on board or ashore, restraint of Princes, Rulers or People, seizure under legal process, *breakdown of the Vessel*, congestion, docking difficulties or any other cause whatsoever or if Carnival or the Master considers that for any reason whatsoever, proceeding to, attempting to enter, or entering or remaining at the port of Guest’s destination may expose the Vessel to risk or loss or damage or be likely to delay her, *the Guest and his baggage may be landed at the port of embarkation or at any port or place at which the Vessel may call, at which time the responsibility of Carnival shall cease and this contract shall be deemed to have been fully performed, or if the Guest has not embarked, Carnival may cancel the proposed voyage without liability to refund passage money or fares paid in advance.* (emphasis added)

These statements appear at variance with a number of items in the Passenger Bill of Rights. It appears disingenuous to promote a Passenger Bill of Rights without also clarifying how conflicts between those rights and the cruise passenger contract are to be resolved.

A common theme across all elements in the Passenger Bill of Rights is how a passenger deals with a Right that has not been fulfilled or has been directly violated. Are these rights ultimately governed by the cruise passenger contract that sets clear terms about when and how complaints and legal action must be filed, and where law

²⁰ See <http://www.carnival.com/about-carnival/legal-notice/port-cancellation-policy.aspx>

suits must be filed? Forum selection clauses effectively truncate a passenger's rights under the Passenger Bill of Rights given the requirement that legal action can only be taken in a court located in the state where the cruise line's corporate headquarters is located (most frequently Florida). The cruise passenger contract also includes a "class action waiver," prohibiting a passenger from taking any legal action as a member of a class or as a participant in a class action. For many passengers these are impediments to taking any action and they often resign to accepting whatever the cruise line offers, if anything.

B. What the CLIA Passenger Bill of Rights Does Not Include

1. Passenger Rights

There are a number of things obviously missing from the CLIA Passenger Bill of Rights. Some of these have already been mentioned:

- There is no mention of the recourse a passenger has if one of the Rights is not fulfilled or realized.
- There is no indication of how a partial refund will be computed and whether that refund is provided in cash or, as common in the industry, as a discount on a future cruise or an onboard credit.
- There is no mention of whether the cruise line is responsible for ancillary costs when a cruise is cancelled, including change fees for airline tickets and for the costs of the tickets themselves, the cost of lodging required in travel to the passenger's home city, and support for food and incidentals associated with delays in getting from the ship to the passenger's home city.
- There is no mention of what rights a passenger has when a port of call is canceled. Some cruise lines refund "port fees and taxes," however these are given as an onboard credit rather than as a cash refund. As well, there is no transparency with regard to the amount refunded. Some cruise lines average the cost of port fees and taxes so a refund for one port is the same as the other even though actual fees can vary widely from one port to another. Also, it isn't transparent whether costs other than port taxes and fees that are not paid by the cruise line because of the canceled port call are also refunded to the passenger. There is considerable need for greater clarity and transparency around passenger rights when a port call is canceled.
- There is no mention of what rights a passenger has when a cruise itinerary is changed, such as a cruise sailing the Eastern Caribbean instead of the Western Caribbean because of propulsion problems, or a cruise going to Canada instead of the Caribbean because of weather. The Passenger Cruise Contract is clear that the cruise line has no obligation or responsibility to provide compensation in these situations. This absence of rights should be clearly articulated in the Passenger Bill of Rights.
- There is no mention of the rights a passenger has when embarkation is delayed. Does a passenger have a Right to meal vouchers or compensation for meals purchased (as is common in airline travel)? Also, after how many hours of waiting in a cruise terminal is the cruise line obligated to provide either lodging or a comfortable setting to wait? A comprehensive Passenger Bill of Rights would address these situations given the frequency of delayed embarkations.
- There is no mention of a passenger's rights when a cruise arrives late in its port of disembarkation, causing the passenger to miss transportation arrangements for their trip to their home city.

In addition there are some rights that should be directly addressed.

The Passenger Bill of Rights should clearly articulate the rights of a passenger who is "bumped" from a cruise because of overbooking or other issues. The most recent cases involve *Carnival Sunshine*, which bumped passengers on its June 7, 2013, cruise because a number of cabins were needed for contractors completing work that was not completed while the ship was in dry dock. Similarly, passengers in 78 cabins on *Grandeur of the Seas* were bumped from the July 12, 2013 (and perhaps the July 19th), sailing because cabins were needed for workers who were still making repairs following the fire earlier in the year. Some of these bumped passengers had their cruise canceled because the ship had been out of service for repairs, and here they were bumped from their replacement cruise.²¹

²¹It is worth mention that Royal Caribbean Cruises Limited, in anticipation of these hearings and concern that the facts might paint an unkind picture, sent an e-mail to all employees asking them to write their Senator with the following text: Dear Senator, As one of your constituents

Similarly, the Passenger Bill of Rights should discuss a passenger's rights when they are expelled from a cruise ship, often for questionable reasons and the result is loss of cruise fare and their having responsibility for transportation from the port where they are left. Between January 2009 and June 30, 2013, there are eight cases list on my website where a passenger has been evicted or expelled (these are only ones reported in the media). These passengers have no right to appeal or recourse. The cruise line Cruise Passenger Contract gives them this unilateral, uncontestable Right to evict or expel, without liability.

The Passenger Bill of Rights does not address a passenger's rights when they miss the ship because of flight delays or because of weather conditions (such as Hurricane Sandy in the fall of 2013 when passengers lost their cruise fare because they couldn't get to the ship). The cruise lines generally take the position that this type of situation is not their problem. A passenger without trip insurance is responsible for lost cruise fares and/or additional travel costs to join the ship at a later point. Further, if there are reports that some benefits under trip insurance policies offered by the cruise line are more restrictive in the benefits they provide than insurance policies offered independent of the cruise line.

The Passenger Bill of Rights does not address a passenger's rights to have safety concerns taken seriously. Though not the first time I have received this sort of information, on June 21, 2013, I received the following from a cruise passenger:

We have just disembarked after a 7-day Alaskan cruise aboard Celebrity Solstice. We frequented the quasar dance club each night. On night two I noticed at 2300 (11pm), when the club only allows 18 and over, a crew member used a small rope to tie the handles of one of the two exits closed to prevent access. Not must looped but tied in a fashion that untying would be impossible in a smoke filled environment or panic. This room is required to have two emergency exits and this exit was clearly marked "emergency exit". This happened three nights in a row. I brought my concerns to the attention of guest services requesting to speak to the ships Safety Officer. I was told that another passenger had requested to speak with him also but he stated that he was "too busy with paperwork to speak to anyone". The guest services person apologized and drafted an e-mail to him explaining my concerns and that I am a 28 year firefighter. That night in quasar the doors were once again tied closed. As of this writing no staff or crew has contacted me. I would encourage that all passengers be aware of their surroundings. It appears Celebrity is not concerned with safety and if this blatant example of reckless disregard for its passengers and crew in a public space is allowed to exist, then I am wondering what other safety issues exist that we did not see.

It would seem this passenger's expectations were realistic, but they were ignored. Did he have any rights? And what rights were available for this disregard of concern for fire safety?

Finally, the Passenger Bill of Rights does not address the Right to be free of sexual assault by crewmembers or cruise ship employees, or the Right to be free of other types of crime. This type of assurance seems only natural given the rate of sexual assault on cruise ships, but it is obviously one that would be difficult to fulfill (although no less difficult than some of the other rights included in the Passenger Bill of Rights). In this line of thought, the Passenger Bill of Rights should also contain a Right to contact the FBI directly from the ship when a victim of a crime. This Right is accorded by the CVSSA, so it should be provided, however most victims will be unaware of what is available to them without it explicitly being stated in something like a Passenger Bill of Rights. Alternatively, a cruise ship may be required to provide a crime victim with an information sheet outlining the rights and the options available to them, including the telephone numbers for relevant law en-

and an employee of _____, one of the major cruise lines serving North America, I am contacting you today out of concern regarding the July 24 Senate Commerce Committee hearing regarding the cruise industry. As an individual who is intimately familiar with cruising, it is apparent to me that there has been a great deal of misinformation and distortion regarding the industry in recent months. As one of your constituents, I am concerned that the industry will be unfairly portrayed at this hearing. As someone that works in the cruise line industry, I know firsthand that cruising is extremely safe and well regulated at the national level, by the U.S. Coast Guard, and by international authorities. Additionally, the cruise industry directly benefits businesses in all 50 states, generating over 355,000 jobs and over \$42 billion in economic impact. It provides \$17.4 billion in wages to American workers each year. I would greatly appreciate your support to ensure that the cruise industry receives a fair and balanced hearing. Thank you for your time and attention to this matter and your service to our Nation.
Sincerely, Your Name

forcement agencies, and agencies that provide direct services or referral to services that are likely to be needed by the victim.

In sum, it appears the Passenger Bill of Rights is a public relations initiative that on its face accords more rights and protection to a passenger than is realistically the case. One problem is the many empty or nonspecific promises contained in the Passenger Bill of Rights, but a larger problem is there is no clear recourse for a passenger who believes the rights promised have not been provided. This is all based essentially based on a matter of trust, however as was observed by the Organization for Economic Co-operation and Development (OECD) in 2003, trust (or voluntary approaches) does not substantively change the status quo of the way things are done. Focusing specifically on environmental policy, the OECD notes few cases where voluntary approaches have improved the environment beyond a business as usual baseline.²²

Recommendation #17: *Given the imprecise nature of the CLIA Passenger Bill of Rights, there is an obvious need for a legislated solution. Passenger rights can only be achieved by legislation that puts into place clear and specific measures for consumer protection, similar to those available to passengers of other modes of commercial transportation.*

This recommendation for greater consumer protection may help level the field between the rights of cruise passengers in the U.K. versus in the U.S. Unlike the U.S., there have been a number of successful lawsuits in the U.K. for “cruises from hell,” with problems ranging from illness outbreaks, lapses in service, and ships having facilities that are not in proper repair or that remain under construction following time in dry dock.

2. Cruise Line Rights

While the typical Passenger Cruise Contract accords few rights to the cruise passenger, it gives many rights to the cruise line. Unfortunately, the cruise passenger contract is rarely given to the passenger when they make their booking and put down a deposit. Further, they are not usually given a copy of the passenger contract before making full payment for their cruise 60–90 days before the cruise. Most frequently a copy of the cruise passenger contract is provided in small print on the back of the tickets sent to a passenger to be used for boarding. By accepting the ticket the passenger acknowledges receipt of applicable brochures and agrees to abide by the terms and conditions of the cruise line’s brochures and website, including but not limited to the information contained in the “Frequently Asked Questions” and “Embarkation Information” sections.²³ At this point the passenger’s rights have already been compromised—he or she cannot cancel the cruise without losing all monies paid. A cruise line would likely say that the passenger could have downloaded the passenger contract from the company’s website, however a more proactive approach by the cruise line would make sense. When I buy an airline ticket I receive the passenger contract when I print or receive the ticket and I have 24 hours to cancel that ticket without loss of funds. It only seems reasonable that a cruise passenger should receive a copy of the cruise passenger contract before his or her Right to a refund passes.

As regards rights, there is an asymmetric power relationship between a passenger and a cruise ship. As already seen, the cruise line holds all of the power when it comes to itinerary changes and canceled cruises, and when it comes to crime. The cruise line similarly has full control over how to resolve customer service issues—not just evictions and expulsions, but lapses in providing the services and care a passenger is led to believe will be provided by advertising and promotional materials. The cruise contract either truncates a passenger’s rights in most situations, or reinforces the cruise line’s Right at the detriment of the passenger.

Some of the cruise line’s rights appear unreasonable. For example, Carnival Cruise Line’s contract states:

Carnival reserves the right to increase published fares and air fare supplements without prior notice. However, fully paid or deposited guests will be protected, except for fares listed, quoted, advertised or booked in error, fuel supplements, government taxes, other surcharges and changes to deposit, payment and cancellation terms/conditions, which are subject to change without notice. In the event that a cruise fare listed, quoted or advertised through any website, Carnival sales person, travel agent or any other source is booked but is incorrect

²²Organization for Economic Co-operation and Development. 2003. *Voluntary Approaches to Environmental Policy: Effectiveness, Efficiency, and Usage in Policy Mixes*, Paris:OECD.

²³See section 2(d) of Carnival Cruise Lines’ passenger contract.

due to an electronic error, typographical error, human error or any other error causing the fare to be listed, quoted or advertised for an amount not intended by Carnival, Carnival reserves the right to correct the erroneous fare by requesting the Guest to pay the correct fare intended, or by canceling the cruise in exchange for a full refund, but in no event shall Carnival be obligated to honor any such booking resulting from the error or otherwise be liable in such circumstances.

Thus, a passenger can book a cruise only to be told later that they owe additional funds for a fuel supplement, surcharge, or government taxes. As well, if the company makes an error in booking a cruise at a fare it didn't mean to, the passenger has no right to receive the fare advertised and under which the cruise ticket was issued. This is another stark contrast with the airline industry.

The passenger contract also gives the cruise line the right to cancel the cruise contract at its discretion (and without the passengers consent)—the passenger has no reciprocal right. The cruise line also has no obligation to provide a passenger the cabin reserved when a reservation was made. As Carnival Cruise Lines' contract states, "Carnival reserves the right to move Guests to a comparable stateroom for any reason, including but not limited to, instances in which a stateroom is booked with fewer than the maximum number of Guests the stateroom can accommodate." Again, the passenger has no recourse.

Finally, the cruise line retains an exclusive right to use photographs and videotapes of a passenger onboard a ship with no limitation (including in advertising and publicity) and without the passenger's consent. Imagine taking a cruise and some time later seeing an advertisement or video with your image in a photograph or videotape (including when doing something silly or foolish). To some of us, this would be construed as a violation of privacy. Rightfully, consent should be required for use of anyone's image in a public forum.

3. Issues of Liability

In addition to issue of the cruise line's rights is the extreme limits placed on the company's liability. For claims not involving personal injury, illness, or death a passenger must give notice of claim within 30 days of disembarkation from the vessel. Claims involving personal injury, illness or death must be filed with the company within 6 months of the injury, event, illness or death and a lawsuit must be filed within a year. In all cases that legal action is taken, it must be filed in the U.S. District Court or state court where the cruise line's headquarters is located (referred to as a forum selection clause). As already mentioned, this severely limits the option available to many passengers.

Baggage and Personal Effects

Even when legal action may be initiated, there are other limits. Many passenger cruise contracts limit the liability of the cruise line for lost or damaged luggage and personal effects. For example, Carnival Cruise Lines' passenger contract states ". . . that the aggregate value of Guest's property does not exceed \$50 USD per guest or bag with a maximum value of \$100 USD per stateroom regardless of the number of occupants or bags." Consequently, a family of four whose luggage is lost by the cruise line is due only \$100—this doesn't even cover the cost of the luggage, much less the contents. A passenger can increase these limits by declaring a higher value and paying 5 percent of the declared value to the cruise line. In contrast, the passenger contract for an air carrier limits liability to approximately \$1,500 per passenger.²⁴ A family of four on a cruise would have to pay \$280 to the cruise line for the same level of coverage provided automatically by an air carrier.

Illness Outbreaks

Cruise lines operating out of U.S. ports and serving U.S. ports have successfully avoided liability for illness outbreaks. This has not consistently been the case in the U.K. where there are stronger consumer protection laws. Part of the cruise industry's defense is their mantra that "passengers bring the illness with them," thereby coloring itself as an unwilling victim. As Rose Abello, vice president of Public Relations of Holland America Line stated, "The ship is not sick. There are sick people getting on the ship."²⁵ This mantra was first used in late-2002 when there was a wave of very visible norovirus outbreaks on cruise ships, and it proved effective. In-

²⁴ Coverage under the Warsaw Convention is approximately US\$1,663; under the Montreal Convention US\$20 per kg for loss of or damage or delay to checked baggage, and US\$400 for unchecked package.

²⁵ LaMendola B. and T. Steighorst. 2002. "Cruise Lines Blame Passengers for 3rd Viral Outbreak on Ship," *Sun—Sentinel* (November 12).

terestingly, The International Council of Cruise Lines (ICCL) laid out its strategy at the 2003 World Cruise Tourism Summit on March 3, 2003. An almost-inspirational video was shown about the situation in which the industry found itself and the way that it successfully responded on the public relations front.

At the start of the video, the industry was depicted as receiving an inordinate amount of attention for a series of norovirus outbreaks on cruise ships. Illness on cruise ships had been the topic of stories on mainstream television: Inside Edition, CNN, NBC, and many others. The industry had even become the brunt of jokes on late night television—Jay Leno and David Letterman among others. Evening news with increasing frequency showed people who had become sick on board ships.

The video described the industry's media strategy had three elements: provide talking points to cruise executives and others in a position to present the industry's position, arrange as many media interviews as possible, and flood the media with positive information about the cruise industry. It proactively distributed pictures and video footage showing ships being disinfected, and engaged in positive messaging. Carnival Cruise Lines' president, Bob Dickinson, framed the problem as part of a national epidemic and said there was no cause-and-effect with regard to norovirus on cruise ships. Colin Veitch, NCL's CEO, pointed to the incidence of norovirus in the general population to minimize the problem as unique to cruise ships. The industry also enlisted the help of third parties in its campaign, most significantly the Centers for Disease Control. It helped promote the idea that people get sick on airplanes too, but they don't experience symptoms until they get home so they don't associate it with air travel.

ICCL's video concluded with "Smooth Seas Ahead." The industry successfully fought off the negative media attention and reframed the issue. Its message was two pronged: cruises are a great vacation at a good price, and why worry about norovirus—it is as common as the common cold. You can't argue with that. The media became desensitized to the issue and most of the 79 outbreaks affecting 6,630 people in 2003 and 2004 went unnoticed. The problem continues: in 2012 there were 34 known outbreaks affecting 5,542 passengers.

When an outbreak does happen ill passengers often are quarantined in their cabin for days; whether they receive any compensation is wholly at the cruise line's discretion. However, cruise lines are not as innocent or defenseless as they would like to appear. In 2005 and again in 2008 I argued in my books, in response to claims by the industry that the low incidence among prove that norovirus is largely a passenger problem, that there are systemic disadvantages for crewmembers to report when they are ill. This position appears to be supported by recent CDC health inspections that have identified cases where crewmembers have continued to report to work despite being ill, including in positions of food handling and food service.

The problem for passengers is that cruise lines have effectively escaped liability for illness among passengers. To my knowledge there have been no successful lawsuits in the U.S. for these outbreaks even though similar lawsuits have been successful under consumer protection laws in the U.K.

Independent Contractors

A cruise ship is populated with many independent contractors whose behavior and practice the cruise line assumes no liability. Most visibly these include medical services (physician(s) and nurse(s)), but spa and personal care services (including health and beauty staff), photographers and video diary staff, retail shop personnel, casino workers, art auctioneers, and all other concessionaires. Even though many of these people wear clothing with the cruise line's logo, and in the case of medical personnel officer uniforms, they are not considered cruise line employees. Unbeknownst to most passengers, the cruise ship has no liability for services provided and billed to the passenger's onboard account. The status of these groups as independent service providers over whom the cruise line has no authority, control, or responsibility (even though tacitly endorsed by the cruise line) needs to be more clearly visible to passengers. At the very least, there should be signage or formal notification to passengers of this fact.

Medical Care

Medical services are a bit different. In an emergency situation, the passenger has no choice but to accept the service of medical personnel who the cruise line has judged to be appropriate for medical care on its ship. But the cruise ship has no liability for their practice. It is a hard concept to get one's head around given the service is offered by the cruise line and the cruise ship collects the fees. But the nature of this arrangement was supported by the Florida Supreme Court in February 2007 and by the U.S. Supreme Court in October 2007.

The case began ten years before in March 1997. Fourteen-year-old Elizabeth Carlisle was on a Caribbean cruise on *Carnival Destiny* with her family. On the second night out of Miami she developed severe abdominal pain. She consulted the ship's physician, Dr. Mauro Neri, who had finished medical school in his native Italy in 1981 and had held nine medical jobs in Italy, Africa and England in the fifteen years before joining Carnival Cruise Lines. His salary was \$1,057 a month. Dr. Neri advised that Elizabeth was suffering from the flu and sent her on her way. But her pain became worse. On the third visit to the infirmary, after Elizabeth's parents specifically asked whether the problem could be appendicitis, Dr. Neri conducted his first physical exam. He responded that he was sure the problem was not the girl's appendix.

When the pain continued to grow worse Elizabeth's parents called their family physician in Michigan, who advised they return home. The family took the advice, and shortly after arriving home Elizabeth underwent emergency surgery to remove her ruptured appendix. The infection had rendered the fourteen year old sterile and caused lifelong medical problems. Elizabeth sued Carnival Cruise Lines in Florida state court, a case she lost on Carnival's motion for summary judgement. The cruise line claimed it was not responsible for the medical negligence of the doctor on board and pointed to the fine print in the passenger cruise contract to support its position.

The family appealed the Circuit Court's decision to Florida's Third District Court of Appeal, where the parents argued the cruise line was vicariously liable for the doctor's negligence. Judge Joseph Nesbitt agreed and reversed the lower court's decision. The judge held that the cruise line had control over the doctor's medical services for agency law purposes; the doctor was to provide medical services to passengers and crew in accordance with the cruise line's guidelines. And as it was foreseeable that some passengers at sea would develop medical problems (and that the only realistic alternative for such a passenger was treatment by the ship's doctor) the cruise line had an element of control over the doctor-patient relationship. As such, the cruise line's duty to exercise reasonable care under the circumstances extended to the actions of a ship's doctor placed onboard by the cruise line. The doctor was an agent of the cruise line and his negligence was imputed to the cruise line. This invalidated the cruise ticket's purported limitation of the cruise line's liability for the negligence of its agents.

Judge Nesbitt's decision was groundbreaking. It was likely the very first case where a cruise line was held responsible for the care provided by a ship's physician. Not surprisingly, Carnival appealed the case to the Florida Supreme Court. While the court almost agreed with the lower court's assertion that times had changed and that a doctor's negligence at sea also shows negligence by the cruise line, it ultimately found in favour of Carnival. Justice Peggy Quince wrote in her opinion:

We find merit in the plaintiff's argument and the reasoning of the district court. However, because this is a maritime case, this Court and the Florida district courts of appeal must adhere to the Federal principles of harmony and uniformity when applying Federal maritime law.²⁶

The case was appealed to the U.S. Supreme Court and the court refused to hear it. The Florida Supreme Court's decision was the final word. If the Carlisle family wanted to pursue the case they would have to sue the physician directly. But this would be difficult in their case, and in most involving medical malpractice on cruise ships, given that they'd first have to locate the physician in his present home. Cruise lines historically have not provided assistance with locating former staff members. In addition, malpractice cases involving treatment in international waters must be filed in the courts of the physician's country of origin, which is both difficult and expensive.²⁷

Shore Excursions

Shore excursions are a major source of income for a cruise ship—the cruise ship retains 50—70 percent or more of what a passenger pays for the tour. These tours are sold onboard at a Shore Excursion Desk by staff members wearing the cruise line's uniform. But when something goes wrong on a shore excursion, the cruise line is quick to remind the passenger that they are not liable; shore excursions are provided by independent contractors. Appendix 1 indicates 14 known deaths on shore excursions (these are only incidents that have been reported in the media; there are many more than this) and five robberies ashore (some at knife or gun point) on

²⁶ Supreme Court of Florida. 2007. *Carnival Corporation vs. Darce Carlisle, Case No. SC 04-393*, February 15.

²⁷ Chen, S. 2007. "Trouble at Sea: Free-Agent Doctors," *Wall Street Journal* (October 24).

shore excursions affecting dozens of passengers—these again are only those that have been reported in the media so they underrepresent the true number.

If there is an injury or death on a shore excursion, the cruise passenger's options are limited in U.S. courts. Their options in a court in the country where the shore excursion was offered may also offer few options. The problem is that shore excursions are largely unregulated, except by the cruise line itself, and some can be quite dangerous.

While the cruise line has no liability for shore excursions, they tend to dissuade passengers from taking tours that are independently available. They may talk about safety concerns for a tour that is not approved, and will often warn passengers that the advantage of the ship-sponsored tour is that if they are delayed the ship will wait for them. In contrast, the ship will not wait for a passenger delayed on an independent tour. While more and more passengers are choosing to make private arrangements for land-based tours, those who make advance plans may find they are out money when a ship alters its itinerary or cancels a port call.

Sexual Assaults

The issue of liability for sexual assaults reached public attention in the mid-1990s. A tort reform measure attached to the Coast Guard Reauthorization bill had passed on May 9, 1995. The amendment, for the most part written by the ICCL, was introduced by Representative Don Young. He referred to it as a “noncontroversial manager’s amendment.”²⁸ It passed the House by a vote of 406 to 12. Only afterwards did people read the final print.

One provision, directed at mounting claims from injuries and sexual assaults, limited liability to passengers and crew for “infliction of emotional distress, mental suffering or psychological injury” unless negligence or an intentional act can be proven. The American Trial Lawyers Association characterized the amendments as “dangerous legislation” that “jeopardized the safety of women on cruise ships.” Opposition also came from the Women’s Defense Fund, the National Organization for Women’s Legal Defense Fund, the Maritime Committee of the AFL–CIO, and rape treatment centers.²⁹

The amendment languished for more than a year waiting to go to a House–Senate conference where lawmakers would resolve the House and Senate versions of the Coast Guard Reauthorization Bill. Lobbying by the industry continued, including a delegation of cruise line executives led by Micky Arison in March 1996. He and Celebrity Cruise’s president Richard Sasso met with Senator Larry Pressler and separately with other members of the Senate Committee on Commerce, Science, and Transportation. Pressler chaired the Committee and would serve on the conference committee charged with reconciling the House and Senate versions.³⁰ By October 1, 1996, a compromise had been negotiated. Ernest Hollings, from the Senate’s Commerce, Science, and Transportation Committee, observed before the Conference Committee that no one knew if the cruise ship people had enough votes to push the amendments through, but the cruise industry figured they were 50 percent there and didn’t have much to lose.³¹ When the Conference Committee convened, Senator Hollings threatened to kill the entire reauthorization bill if ICCL’s amendments remained. In the end he capitulated after amended language was adopted for the two provisions.

In the final version, ship owners were prohibited from limiting their liability in cases involving sexual harassment, sexual misbehavior, assault, or rape in cases where the victim is physically injured. Limitations were allowed in all other situations.³² Current passenger cruise contracts read, as does Carnival Cruise Line’s, the cruise line shall not be liable to the passenger for damages for emotional distress, mental suffering/anguish or psychological injury of any kind under any circumstances, except when such damages were caused by the negligence of Carnival and resulted from the same passenger sustaining actual physical injury, or having been at risk of actual physical injury, or when such damages are held to be intentionally inflicted by the cruise line. Consequently, unless a cruise line can be found negligent, a victim of a sexual assault, whether be a crew member or a fellow passenger, has no claim for emotional distress, mental suffering/anguish or psychological injury. This position appears insensitive, especially to those (including children) victimized by a cruise ship employee.

²⁸ Glass, J. 1996. “Compromise on U.S. Cruise Tort,” *Lloyd’s List* (October 1), p. 1.

²⁹ Fox, L. and B. R. Fox. 1995. “Anchored in the Docks,” *Washington Post* (October 8), p. E4.

³⁰ Rowe, S. 1996. “There Oughta Be a Law,” *Miami New Times* (March 21).

³¹ *Ibid.*

³² Glass, J. 1996. “Compromise on U.S. Cruise Tort,” *Lloyd’s List* (October 1), p. 1.

Limit of Liability

In addition to the issues already discussed, there is one other limitation on a cruise line's liability that is worth mention; specifically that the cruise line is not liable for the intentional or negligent acts of any persons not employed by the cruise line (including independent contractors and other passengers) nor for any intentional or negligent acts of cruise ship employees committed while off duty or outside the course and scope of their employment. This last exclusion is a huge loophole given the cruise line has no responsibility when a crewmember commits a sexual assault when off duty. As well, they are not responsible when the sexual assault is not part of the scope of their employment—by its very nature, an assault would be outside the scope on one's employment. While there are a large number of lawsuits filed against cruise lines for sexual assaults, the vast majority of these are settled out of court, presumably because the cruise line wishes to avoid negative publicity. However, in how many of these cases can the cruise line effectively use the disclaimer in the passenger cruise contract?

Recommendation #18: *Given the many limits on cruise line liability, there should be a requirement that cruise lines provide passengers, in advance of when penalties accrue for cancelation, a clear statement in plain, clear English (and French or Spanish as required) of all limits on liability and laying out all rights that can be freely exercised, without limitation, by the passenger.*

Recommendation #19: *That consumer protection legislation be promulgated that extends to cruise passenger common rights and opportunities for complaint or other action similar to those available to consumers of other services, especially transportation services such as train, airlines, and other commercial carriers.*

IV. In Closing

Thank you again for the opportunity to share my observations and insights generated from my 17 years as an academic whose research has focused on the cruise industry. I welcome your questions.

V. Summary of Recommendations

Recommendation #1: *There is need for systematic reporting of all cruise ship incidents to an independent, central authority charged with responsibility for data analysis and policy and operational recommendations.*

Recommendation #2: *Similar to data maintained on airlines documenting "on time" performance, there should be a mechanism whereby cruise ships and cruise lines have reported their adherence to itineraries and on time performance.*

Recommendation #3: *There is need for greater oversight and monitoring of the cruise industry in order to monitor changing trends and to determine whether these changes are related to changes in safety and/or casualties.*

Recommendation #4: *Ships operating from U.S. ports should be obligatorily subject to accident investigations by the National Transportation Safety Board as a condition of using U.S. ports, and should be subject to fines and other administrative actions the NTSB is empowered to take with other modes of commercial transportation.*

Recommendation #5: *There needs to be funded research, ideally provided by the cruise industry to a wholly independent body, to learn from those cruise lines that appear to be effective in reducing incidents and accidents.*

Recommendation #6: *Ships should have thorough and exhaustive safety inspections by the U.S. Coast Guard without advance warning. Full reports (including all details) of cruise ship inspections by the U.S. Coast Guard should be available online.*

Recommendation #7: *Original provisions of the CVSSA regarding railing height and technology to detect passengers who have fallen overboard be reconsidered.*

Recommendation #8: *The CVSSA should require reported cases of sexual assault committed on a cruise ship be displayed online and broken down by cruise line and cruise ship. In addition, the raw data of cases should be made available upon request for statistical/sociological analysis in order to permit a social epidemiology of the problem.*

Recommendation #9: *The CVSSA should require passengers to be advised of the hours during which crewmembers may access their cabin without specific permission from the passenger.*

Recommendation #10: The CVSSA more clearly and specifically state requirements for CCTV surveillance and the quality and format of tape recordings.

Recommendation #11: The CVSSA explicitly require the "Security Guide" be placed in plain sight in every passenger cabin and that the content of the guide include information about the types of crimes on cruise ships, where they commonly occur, and steps a passenger can take to decrease the likelihood of becoming a victim of crime.

Recommendation #12: The CVSSA should require onboard physicians to be board certified in emergency medicine, family practice medicine, or internal medicine in the U.S., U.K., Canada, Australia, France, or Germany. Further, there should be clear statements about how cruise ships will treat the psychological and safety needs of sexual assault victims, especially victims who are minors.

Recommendation #13: Cruise ships should be required to have a private, independent law enforcement agent for purposes of crime investigation. These would be similar to the wholly-independent Ocean Rangers placed on cruise ships by the State of Alaska to monitor discharge of waste streams while the ship is in Alaska state waters.

Recommendation #14: In the absence of a professionally qualified crime scene investigator, a cruise ship should be required to have onboard a staff person with more than adequate training in all facets of crime scene preservation, collection of evidence, and methods to ensure proper chain of evidence.

Recommendation #15: Cruise ship personnel should take more seriously their responsibility to detain perpetrators of sexual assault until the ship arrives at its next U.S. port. Further, Congress should contemplate whether there needs to be a legislated requirement to ensure perpetrators are isolated from the general public onboard the ship and held for delivery to land-based law enforcement personnel.

Recommendation #16: The CVSSA should require reporting to the FBI of all onboard crime, including thefts less than \$10,000 and simple assaults.

Recommendation #17: Given the imprecise nature of the CLIA Passenger Bill of Rights, there is an obvious need for a legislated solution. Passenger rights can only be achieved by legislation that puts into place clear and specific measures for consumer protection.

Recommendation #18: Given the many limits on cruise line liability, there should be a requirement that cruise lines provide passengers, in advance of when penalties accrue for cancellation, a clear statement in plain, clear English (and French or Spanish as required) of all limits on liability and laying out all rights that can be freely exercised, without limitation, by the passenger.

Recommendation #19: That consumer protection legislation be promulgated that extends to cruise passenger common rights and opportunities for complaint or other action similar to those available to consumers of other services, especially transportation services such as train, airlines, and other commercial carriers.

Appendix 1: Summary of Cruise Ship Incidents, January 2009–June 2013¹

<i>Cancellations, Itinerary Changes, Missed Port Calls (N=271)*</i>	
Cruise with Media-Reported Canceled Port Calls	104
Cruise with Media-Reported Itinerary Changes	69
Cruise with Media-Reported Canceled Cruises	25
Cruise with Media-Reported Delayed Embarkation and/or debarkation:	73
*Does not include changes caused by a hurricane or tropical storm	
<i>Mechanical Problems (N=353)</i>	
Aground	19
Collision	37
Collision with Pier	15
Damage in Storm	5
Detained for Safety	5
Electrical Problems	8
Engine Problems	26
Fire (6 evacuation; 4 power loss)	61
Generator Problems	5
Lifeboat Failure	7

¹Data based on media and other reports as recorded at Cruise Junkie dot Com

Maneuverability/Steering Problems	15
Material Failure	53
Power Loss (7 adrift, 1 towed)	21
Propulsion Problems (7 adrift)	62
Severe List	11
Technical Problems	8
<i>Deaths on Shore (N=37)</i>	
Dive/Scuba (1 on Shore Excursion)	4
Jet Ski	1
Parasailing (3 on Shore Excursion)	3
Snorkeling (3 on Shore Excursion)	8
Swimming (7 on Shore Excursion)	13
Other	8
<i>Miscellaneous (N=269)</i>	
Accidents Ashore (8 on Shore Excursion)	10
Bomb Threats:	14
Child Pornography Seized	8
Illness Outbreaks	189
Injuries on Shorex (n=52)	5
Passengers expelled/evicted	11
Robberies Ashore (5 on Shore Excursion)	13
Onboard Falls (3 deaths)	9
Thefts > \$10K	10

Appendix 2: Ships with Two or More Mechanical Incidents, January 2009–June 2013

A. Carnival Corporation (7 companies, 45 ships, 145 incidents)

Carnival Cruise Lines (19 ships, 74 incidents)

Carnival Destiny (n=6)

11/18/2009	Primary motor unit 1 tripped due to malfunction
1/26/2010	Propulsion problems; itinerary changed, cruises canceled
10/22/2010	Propulsion problems; primary motor two faulty
9/10/2011	Lifeboat damaged—removed for repair
1/7/2012	Material failure
1/24/2013	Problem with stern thrusters; itinerary changed

Carnival Dream (n=3)

7/6/2011	Propulsion problems; change from Western Caribbean to Eastern Caribbean itinerary
10/7/2012	Fire
3/14/2013	Malfunction of backup emergency diesel generator, power outages and plumbing issues; cruise canceled in St. Maarten

Ecstasy (n=5)

1/19/2009	Propulsion problems; operating on half power
2/13/2009	Fire
1/28/2010	Collision with gangway
4/22/2010	Severe list to avoid buoy; damage and 60 injuries
4/18/2013	Power failure; some onboard attribute it to a fire

Elation (n=3)

10/20/2009	Propulsion problems as a result of failure with electronic control system
1/13/2011	Technical problem with propulsion system; port call skipped
3/14/2013	Steering problems; tugboat escort required

Fantasy (n=4)

1/29/2009	Equipment failure in steering system
1/5/2010	Lifeboat failure/material failure
7/27/2011	Collision with <i>Imagination</i> ; minor damage
10/17/2011	Vessel maneuverability problem; arrives in port late

Fascination (n=3)

7/1/2010	Loss of power for several hours, adrift; late arrival
2/27/2011	Material failure
1/19/2013	Late return from dry dock; 7 hour delay

Carnival Freedom (n=3)

2/6/2010	Fire in crew cabin
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6/27/2011	Blackout due to generator failure; fuel oil filters cleaned, fuel oil purifiers started and chemical treatment added to the both service tanks.
8/21/2011	Material failure
<i>Carnival Glory</i> (n=3)	
5/15/2011	Vessel maneuverability
11/14/2012	Material failure
12/2/2012	Propulsion problems
<i>Holiday</i> (transferred to Iberocruises in 2010) (n=4)	
1/20/2009	Material failure
2/6/2009	Technical problem causing reduced speeds; dropped port call on this and next cruise
3/9/2009	Material failure
4/11/2009	Material failure
<i>Imagination</i> (n=3)	
7/13/2010	Fire in the elevator machinery room leaving two passenger elevators and one crew elevator inoperable
7/27/2011	Collision with <i>Fantasy</i>
9/28/2011	Toilets in front and midship inoperable for day
<i>Carnival Legend</i> (n=10)	
3/21/2009	Smoke and fire system on Deck B-A-1 in fault and not operating properly
6/21/2009	Unpalatable water in cabins
9/30/2009	Collision with <i>Enchantment of the Seas</i> ; minor damage
2/7/2010	Maneuverability problems given malfunctioning azipod
2/14/2010	Mechanical problems cause seven-hour delay leaving Tampa, itinerary changed; vessel pitched when leaving Roatan, maybe caused by touching channel wall
7/11/2010	Loss of propulsion on port azipod while entering port; faulty circuit breaker tripped
1/17/2012	Material failure
1/29/2012	Technical problem with starboard azipod causes late arrival (5 hours) and delayed embarkation (2 hours)
3/14/2013	Disabled and stuck in Costa Maya; a day later underway with reduced speed and changed itinerary
3/16/2013	Propulsion problems; changed itinerary
<i>Carnival Liberty</i> (n=4)	
4/26/2010	Problems with palatable water in cabin
11/5/2010	Two diesel generators shutdown because of malfunction
1/15/2012	Technical problem, severe list
11/25/2012	Loss of electrical power
<i>Carnival Miracle</i> (n=3)	
1/10/2010	Lifeboat material failure
1/28/2010	Collision with pier at Port Zante (St. Kitts); stay overnight for repairs and arrive late for disembarkation
1/18/2011	Lifeboat material failure
<i>Carnival Paradise</i> (n=2)	
8/31/2012	Material failure
10/1/2012	Partial loss of propulsion; power loss
<i>Carnival Pride</i> (n=2)	
5/16/2009	Fire in battery room
3/31/2011	Blown from mooring at Port Canaveral; delayed departure
<i>Sensation</i> (n=2)	
2/9/2012	Burst pipe floods 10–20 cabins; departure delayed 4–5 hours
5/22/2012	Fire
<i>Carnival Splendor</i> (n=7)	
11/8/2009	Delay in Long Beach (7 hours) to repair fire door
11/25/2009	Collision with <i>Radiance of the Seas</i> in Puerto Vallarta
12/17/2009	Collision with pier in Puerto Vallarta, stayed until 3:30PM next day for repairs; next port call canceled
2/18/2010	Sharp turn (radar missed some small yachts in path) causes flooding onboard
11/8/2010	Fire lasting several hours knocks out all power, ship towed back to San Diego; this and next 8–10 cruise canceled
1/6/2013	Itinerary changed to permit two days in Puerto Vallarta for repair of damage to propulsion system
1/13/2013	Cruise delayed one day given repair of propulsion system; itinerary changed

Carnival Triumph (n=4)

- 3/14/2010 Vessel maneuverability
- 11/18/2010 Oil leak from shaft seal of forward bow thruster; disabled until repairs made
- 1/27/2013 Technical problem with propulsion system affecting cruising speed; 6 hour delay in return to port
- 2/10/2013 Disabling fire, adrift for days with no power/electricity, towed to port; cruise canceled

Carnival Victory (n=2)

- 1/17/2010 Failure of UPS battery charger
- 1/20/2013 Propulsion problem; leaves port almost 24 hours late, itinerary change

Costa Cruises (1 ship, 2 incidents)**Costa Europa** (n=2)

- 3/5/2009 Propulsion problems lead to passenger revolt; ports missed
- 2/26/2010 Collision with pier in Sharm-el-Sheikh killing three crew and injuring four passengers; cruise canceled

Cunard Line (1 ship, 6 incidents)**Queen Mary 2** (n=6)

- 7/22/2009 Broke from mooring lines; damage to stern, four hour delayed departure
- 9/23/2010 Loss of electric and all power for an hour after explosion in electric panel
- 10/5/2011 Fire causes power loss in major storm, damage onboard; arrive in NYC 2 hours late
- 10/17/2011 Went “dead in the water” twice during transatlantic cruise
- 2/4/2012 Total power failure, “dead in the water”
- 10/23/2012 Material failure

Holland America Line (7 ships, 21 incidents)**Maasdam** (n=4)

- 3/17/2009 Fire in crew galley
- 5/22/2009 Severe list caused by pilot error
- 8/8/2012 Sewage and refuse from ship washes up on shore at Nahant, MA
- 6/13/2013 Port forward propulsion system malfunctioning; 2.5 hour delayed departure and sailing at reduced speed

Prinsendam (n=2)

- 9/11/2010 Major damage from storm—50 windows blown out (with flooding) and dent in prow of ship
- 12/17/2010 Lifeboat failure

Ryndam (n=2)

- 11/18/2012 Material failure
- 6/8/2013 Fire—40 minute wait for all clear after initial alarm

Statendam (n=2)

- 12/21/2009 Engine problems, changed itinerary
- 9/22/2012 Fuel pump explosion causes two hour power outage

Westerdam (n=2)

- 5/11/2011 Collision with ice; damage 15 feet below water line
- 10/28/2011 Fire

Zaandam (n=6)

- 1/13/2009 Alternator of #5 generator exploded causing switchboard to ground out; emergency generator started 43 second later
- 7/13/2010 Fire
- 7/28/2010 Loss of electrical power
- 8/11/2010 Material failure
- 6/7/2011 Material failure
- 10/19/2012 Mechanical problems and/or flooding onboard

Zuiderdam (n=3)

- 7/8/2010 Material failure
- 2/9/2012 Fire in engine room
- 9/25/2012 Material failure

P&O Cruises (4 ships, 12 incidents)**Artemis** (n=2)

- 4/7/2010 Engine problems, skipped St. Barts
- 5/8/2010 Engine problems, itinerary changed from 10 ports to 4 ports (Pax advised when boarding that there were engine problems and 1 port would be skipped)

Aurora (n=4)

- 3/3/2009 Propulsion problems—Broke down 4 hours after leaving Sydney. Stuck in Auckland (with passengers aboard) for five days for repairs. Itinerary changed
 9/18/2009 Mechanical problems and loss of bow thruster; changed itinerary
 9/30/2011 Electrical problems delay for three hours departure from Portland, ME
 2/8/2013 Fault with port propeller shaft. Delayed in Auckland, dropped two port calls

Oriana (n=4)

- 8/5/2010 Delayed four hours in Dubrovnik; computers crash causing loss of steering system
 8/7/2010 Fire on tender
 11/30/2010 Engine breakdowns; missed port call
 6/2/2011 Collision with pier

Ventura (n=2)

- 10/18/2012 60 mm crack on full width of deck 14; passengers advised to not use balconies
 3/17/2013 Propulsion problems cause missed ports and itinerary changes

P&O Australia (3 ships, 10 incidents)*Pacific Dawn* (n=3)

- 1/8/2009 Engine problems; arrival in Sydney 10 hours late
 2/15/2010 Propulsion and maintenance problems cause 18 hour delayed departure; itinerary changed
 4/10/2010 Loss of power and propulsion; near miss collision with bridge

Pacific Pearl (n=2)

- 2/2/2011 Three-meter-across chandelier falls three storeys into café area in atrium
 2/3/2011 Lack of running water and working toilets

Pacific Sun (Left fleet in 2012) (n=5)

- 11/10/2009 Cruise canceled to permit repair of propulsion system
 3/13/2010 Mechanical problems cause canceled port calls at Suva and Denarau
 4/21/2010 Engine problems; cruise canceled
 11/2/2010 Propulsion problem; 10 hour delayed arrival at Melbourne
 2/28/2011 Engine problems, 24 hour delayed arrival at Newcastle; several ports canceled

Princess Cruises (10 ships, 34 incidents)*Caribbean Princess* (n=9)

- 10/16/2009 Severe list, storm damage
 4/5/2010 Severe list, steering malfunction
 5/9/2010 Collision with gangway; departure delayed several hours
 8/8/2010 Material failure
 2/4/2012 Engine problems—delays
 2/25/2012 Material failure
 3/12/2012 Engine problems—next two cruises canceled
 6/8/2012 Technical fault; remain in port overnight, itinerary changed
 12/15/2012 Loss of electrical power

Coral Princess (n=3)

- 3/19/2009 Propulsion problems; missed port
 8/19/2011 Turbine oil system failure; switch to diesel electric power
 5/2/2013 Fire

Crown Princess (n=3)

- 6/20/2009 Fire in passenger cabin
 7/17/2012 Electrical fire in passenger cabin
 4/13/2013 Toilets in 410 cabins not operational

Dawn Princess (n=3)

- 6/15/2010 Propulsion breakdown, adrift for 2.25 hours; restored and sailing at reduced speed
 7/16/2010 Engine problems; missed port call
 10/27/2011 Mechanical problem; missed port call

Emerald Princess (n=2)

- 7/26/2010 Electrical failure leads to propulsion problems; no A/C; repaired in 6 hours
 5/17/2011 Collision with fuel barge damages several lifeboats

Golden Princess (n=3)

- 1/22/2009 Near-collision with fishing vessel
 3/22/2009 Fire in engine room
 3/28/2012 Vessel maneuverability

Royal Princess (n=2)

- 6/18/2009 Fire in engine room as leaving Port Said, passengers called to muster stations; cruise and next cruise canceled

4/9/2010 Break in fire hose fitting causes extensive damage to restaurants; water leaked all the way down to crew decks

Sapphire Princess (n=4)

7/12/2010 Severe list to avoid collision with whale
 2/4/2011 Loss of electrical power
 2/26/2011 Material failure
 9/7/2011 2 pleasure boats swamped and float dock damaged by ship's wake when maneuvering in Ketchikan Harbour

Star Princess (n=3)

3/21/2011 Material failure
 7/1/2012 Material failure
 8/2/2012 Material failure

Sun Princess (n=2)

7/25/2012 Material failure
 8/27/2012 Transformer blown leading to loss of power adrift for 3.5 hours

B. Royal Caribbean Cruises Limited

Celebrity Cruises (4 ships, 13 incidents)

Century (n=4)

10/15/2010 Rudder damaged, stranded in Villefranche-sur-Mer; cruise canceled
 10/22/2011 Vessel maneuverability problems
 3/25/2012 Engine problems, late departure and late arrival
 10/28/2012 Fire

Infinity (n=3)

6/22/2010 Material failure
 6/26/2010 5–6 hour delayed departure because of engine problems, canceled port call; five days later an electrical fire causes power loss for several hours
 8/23/2012 Material failure

Millennium (n=2)

3/9/2009 Cruise canceled to allow repair of problem with bearing on propeller shaft
 4/9/2013 Electrical problem adversely affects propulsion, dead in water for 3 hours; port call at Hanoi canceled

Summit (n=4)

1/10/2009 Electrical problem causes cruise to be shortened by one day and itinerary changed
 2/27/2010 Material failure
 4/9/2011 Loss of electrical power
 10/5/2012 Tender runs aground with 93 passengers and 2 crew, sustains major damage

Pullmantur (1 ship, 2 incidents)

Zenith (n=2)

8/18/2009 Fire while docked in Stockholm, evacuated; departed one day late, itinerary changes
 6/25/2013 Fire in engine room disables ship; towed to port

Royal Caribbean International (10 ships, 32 incidents)

Allure of the Seas (n=2)

1/29/2012 Fire in incinerator area
 4/12/2012 Fire in engine room, section 6 of ship evacuated; drift 1–2 hours and then operated on 1 engine

Brilliance of the Seas (n=2)

10/13/2009 Windows broken out in storm and 35 passenger cabins flooded, delayed departure from Barcelona
 12/12/2010 Severe list while entering Alexandria, Egypt; 30 passengers injured

Enchantment of the Seas (n=5)

7/21/2009 Material failure
 3/23/2010 Load sharing problem shuts down engine 4
 7/27/2011 Steering gear pump failure on pump #4
 2/20/2012 Propulsion problems—one propeller broken; delayed departure by 24 hours, changed itinerary, sailing at half speed
 3/10/2012 Propulsion problems; spent 27 hours in Port Canaveral to accommodate repairs, itinerary changed

Explorer of the Seas (n=7)

2/5/2009 Propeller damaged causes change in itinerary on this cruise and next
 4/14/2009 Changes in itinerary for several upcoming cruises; too late to cancel, no explanation

9/30/2009	Collision with <i>Carnival Legend</i> ; minor damage
1/13/2010	Delayed departure because delayed arrival from drydock
3/14/2010	Severe list due to human error; injuries and considerable damage
9/14/2012	Collision with <i>Norwegian Star</i> when mooring line breaks; minimal damage
10/29/2012	Sailed into Hurricane Sandy
<i>Grandeur of the Seas</i> (n=3)	
2/26/2009	Loss of two engines; material failure
7/30/2009	Loss of power due to malfunctioning power inverter; loss of electrical power
5/27/2013	Fire; cruise canceled
<i>Jewel of the Seas</i> (n=3)	
8/3/2010	One hydraulic motor not working forcing reduced speeds; itinerary changes
12/7/2010	Collision with 500 meter long 2 foot wide flexible plastic pipe, becoming wrapped around front of ship
9/6/2012	4.5 hour delay leaving Cape Liberty; no reason given
<i>Legend of the Seas</i> (n=2)	
2/9/2009	Pulled into Key West for unscheduled stop because of faulty azipod and leaking oil (needed boom around ship); repaired by day's end
1/30/2012	Fire in bar (Café Promenade)
<i>Majesty of the Sea</i> (n=4)	
8/13/2010	Lifeboat malfunction when lowered; damaged and release of oil
9/30/2011	Vessel maneuverability
11/2/2011	Material failure
11/7/2011	Material failure
<i>Oasis of the Seas</i> (n=2)	
5/7/2010	Emergency generator damaged; given three months to repair
11/16/2012	Vessel maneuverability
<i>Radiance of the Seas</i> (n=2)	
11/25/2009	Collision with <i>Carnival Splendor</i> in Puerto Vallarta; minor damage
1/27/2011	Ship is operating under USCG COTP due to one of two main propulsion azipods not working; repairs anticipated in fall 2011
C. Prestige Cruise Holdings (3 companies, 5 ships, 14 incidents)	
Norwegian Cruise Line (2 ships, 4 incidents)	
<i>Norwegian Dawn</i> (n=2)	
11/27/2009	Loss of power for hours (no A/C), ship disembarks in San Juan instead of Miami; this and next cruise canceled
8/27/2010	Leaves Bermuda 11 hours early because engine problems cause slower speeds; want to arrive in NYC on time
<i>Norwegian Star</i> (n=2)	
4/28/2012	Collision while docking
9/14/2012	Collision with <i>Explorer of the Seas</i> when mooring line breaks; minimal damage
Oceania Cruise (1 ship, 3 incidents)	
<i>Regatta</i> (n=3)	
6/20/2011	Material failure
7/24/2011	Material failure
10/19/2012	Electrical outage; delayed return to port (NYC) by several hours
Regent Seven Seas Cruises (2 ships, 7 incidents)	
<i>Seven Seas Navigator</i> (n=2)	
10/25/2011	Material failure; one day delayed departure from Charleston, itinerary change
11/9/2011	Material failure
<i>Seven Seas Voyager</i> (n=5)	
3/22/2009	Propulsion problems (fishing net caught in azipod), reduced speed; many ports canceled
4/1/2009	Passengers told upon embarkation that most port calls canceled from Dubai to Rome because of propulsion problems; following two cruises canceled
12/14/2009	One azipod fails so sailing at reduced speed; port call canceled
10/4/2010	Podded propulsion system fails; passengers flown home from Athens, 2 cruises canceled
3/17/2013	Propulsion problem; skipped ports and itinerary changes
D. Independent Cruise Lines	
Avalon Waterways (1 ship, 3 incidents)	
<i>Avalon Tranquility</i> (n=3)	
7/23/2009	Collision with the tall ship Schoenbrunn, a 1912-built paddlesteamer

9/5/2011 Collision with cargo ship—holed, cruise ended
 12/13/2011 Fire in generator room

Celebration Cruises (1 ship, 2 incidents)

Bahamas Celebration (n=2)
 2/1/2012 Maneuverability problems
 3/30/2012 Maneuverability problems

Fred Olsen Cruises (1 ship, 2 incidents)

Black Watch (n=2)
 10/21/2009 Severe list—navigational error while entering La Coruna Harbour (Spain)
 8/12/2010 Collision with iceberg—damage superficial

Mediterranean Shipping Company (MSC) (2 ships, 5 incidents)

Opera (n=3)
 3/30/2011 Collision with pier (twice), damage to several cabins; delayed 10 hours for repairs
 5/15/2011 Failure of an electric panel causes power loss for 8.5 hours; towed to port and cruise canceled
 5/27/2011 Detained by UK authorities for noncompliance with safety regulations

Poesia (n=2)

1/7/2012 Ran aground in Bahamas; waited for high tide to refloat
 1/10/2012 Collision with pier while leaving Jamaican port

Saga Cruises (1 ship, 3 incidents)

Saga Ruby (n=3)
 10/12/2009 Collision with pier, emergency repairs to bow; itinerary changes
 11/11/2012 Engine problems; remainder of cruise canceled
 1/7/2013 Mechanical problems with crankshaft; current world cruise delayed ten days

Silversea Cruises (1 ship, 2 incidents)

Silver Shadow (n=2)
 3/19/12 Collision with container ship off Vietnam; major damage to container ship, minor damage to cruise ship
 9/9/2012 Material failure

Thomson Cruises (1 ship, 3 incidents)

Thomson Dream (n=3)
 7/25/2010 Plumbing/sewage problems
 1/17/2011 Starboard engine fire
 5/20/2012 Severe list following two maneuvers caused by “slip of the hand”; major damage

Travel Dynamics International (1 ship, 3 incidents)

Clelia II (n=3)
 12/26/2009 Propeller damaged, loss of power; escorted to port, next cruise canceled
 9/1/2010 Loss of electrical power (human error)
 12/9/2010 Wave in storm breaks bridge window; damage to electronics, affecting engine performance

Voyages of Discovery/Coastal and Maritime Voyages (1 ship, 4 incidents)

Discovery (n=4)
 10/15/2009 Engine problems; port missed
 12/05/2009 Delayed return from drydock; itinerary changed
 3/4/2013 Ship detained in UK for safety issues; cruise canceled
 5/7/2013 Deep cleaning after illness outbreak delays departure; itinerary change

Appendix 3: Summary of Persons Overboard, January 1995–June 2013 (n=210)*

A. Gender
 Male 73.8%
 Female 26.2%

B. Age by Gender

Total		Male		Female	
Mean	Range	Mean	Range	Mean	Range
39.82	14–90	38.85	14–90	42.11	15–79

*The data contained in this table is based on available information. Details were not consistently available for each incident. See www.cruisejunkie.com/Overboard.html for details.

C. Vessel	
Cruise	91.4%
Ferry	8.6%
D. Passenger vs Crew	
Passenger	75%
Crew	25%
E. Rescued	16.7%
F. Alcohol	6.2%
G. Suicide	11.0%
H. Murder	3.3%
I. Fall	9.5%
J. Casino loss	2.4%
K. Fight	7.1%

Appendix 4: Drug Busts, January 2009–June 2013 ¹

A. Gender	
Male	83.33%
Female	16.66%

B. Age by Gender

Total		Male		Female	
Mean	Range	Mean	Range	Mean	Range
38.5	19–74	38.6	19–74	38.25	20–54

C. Drug Busts by Country (N=53)

Bermuda	27
U.S.	8 (27 persons)
Belize:	6
UK	6
St. Kitts-Nevis	2
Jamaica	1
Cayman Islands	1
Australia	1
Spain	1 (9 persons)

D. Drug Busts by U.S. State/City

Florida	3 (17 persons)
Baltimore	2
Alaska	1
U.S. Virgin Islands	1
Puerto Rico	1

E. Ships with 2 or More Drug Busts

Norwegian Dawn	9
Explorer of the Seas	6
Black Watch	3
Enchantment of the Seas	3
Summit	3
Allure of the Seas	2
Bahamas Celebration	2
Grandeur of the Seas	2
Grand Princess	2
Norwegian Gem	2
Poesia	2

¹Data based on media and other reports as recorded at Cruise Junkie dot Com

Appendix 5: Klein, R.A. and J. Poulston. 2011. "Sex at Sea: Sexual Crimes Aboard Cruise Ships," *Journal of Tourism in Marine Environments*, 7:2, pp. 67–80.

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SEX AT SEA: SEXUAL CRIMES ABOARD CRUISE SHIPS

ROSS A. KLEIN* and JILL POULSTON†

*School of Social Work, Memorial University of Newfoundland, St. John's, NL, Canada
 †School of Hospitality and Tourism, AUT University, Auckland, New Zealand

Incidents of sexual assault and sexual victimization are significantly more common on cruise ships than on land. Analysis of data from three major cruise lines, comprising more than 50% of the North American-based cruise industry, reveals that perpetrators are most often male crewmembers, victims are most often female passengers (over 17.5% younger than age 18), and that the assaults occur almost anywhere, though most frequently in passenger cabins. This article examines factors that may be related to the incidence of sexual assaults on cruise ships and concludes with a discussion of the steps cruise lines can take to address the problem.

Key words: Cruise ship; Cruise industry; Sexual assault; Sexual harassment; Rape

Introduction

In a survey reputedly conducted by the Royal Caribbean International (RCI) cruise line some years ago (exact details are elusive), 95% of respondents rated cruises as "extremely or very romantic." Nearly half said they had sex up to six times during a cruise compared to their usual once or twice a week at home, 80% said they felt more amorous at sea, and 58% said they had sex within 10 hours of embarking ("Sex Is Good at Sea," 2007). Unfortunately, these amorous feelings, supported by the images of romance and adventure portrayed by cruise lines, may be among the major causes of the unusually high incidence of sexual assaults and unwanted sexual contact on cruise ships—a problem that is considerably greater on cruise ships than on land (Klein, 2009). Data for the two largest cruise lines, RCI and Carnival

Cruise Lines (CCL), indicate the rate of sex-related incidents on cruise ships is almost 50% higher than the rate of sexual assault on land in Canada. This article reviews statistics about sexual assaults on cruise ships collected from the Federal Bureau of Investigation (FBI), RCI, and CCL, and analyses these in a search for the underlying reasons for the problem and to offer possible solutions.

Background

Cruise Ships

Cruise ships have become increasingly large over the past two decades, and now resemble small towns, except of course they have no elected governance. In 1985, CCL unveiled the 46,000-ton *Holiday*, proclaiming it the largest cruise ship ever built, carrying 1,450 passengers and 660

Address correspondence to Ross A. Klein, Professor of Social Work, School of Social Work, Memorial University of Newfoundland, St. John's NL, A1C 5S7, Canada. Tel: 709-747-2177; Fax: 709-737-2408; E-mail: rklein@mun.ca

crewmembers (Smart Cruiser, 2010). Just 15 years later, RCI introduced the *Oasis of the Seas*, a 225,282-ton ship accommodating more than 6,000 passengers and more than 2,000 crew (Royal Caribbean, 2009). This ship has amphitheatres the size of football fields, parks, sandy beaches, ice-skating rinks, and all the usual entertainment and shopping facilities. At full capacity it will have the same population as Banff (Canada) during the off season, but unlike Banff, it is controlled by an appointed manager (i.e., the ship's captain) rather than by an elected council. The management of this artificial community is a shipping company registered in the Republic of Liberia (RCL Investor, 2010), that controls the daily lives of the hundreds of thousands of people who work and holiday on its cruise liners. The company has also paid out millions of dollars to settle claims of sexual assaults by crew on passengers (although this can be substantiated by one of the authors from extensive work with lawyers and victims, individual amounts and details cannot be published because of confidentiality clauses in the settlements).

Cruising Holidays

Cruising is an increasingly popular style of vacation enjoyed by millions of people. The cruise industry is currently experiencing 3.4% annual passenger growth, with an estimated 13,445 million passengers in 2009 (Florida-Caribbean Cruise Association, 2010). A market report produced to assist shipping companies with their occupancy projections (Cruise Lines International Association, 2008) states that 94.8% of cruisers report satisfaction with their cruising experience. In 2007, global passengers reached 12.56 million people (Business Research & Economic Advisors, 2008), which means there were an estimated 653,120 dissatisfied passengers. Although the number of dissatisfied passengers is relatively small, apart from the obvious causes such as bad weather and seasickness, an unsettling question remains, of what went wrong.

Google searches reveal a plethora of sites devoted to cruising: sites detailing the sizes and shapes of the liners, the onboard pleasures, and an array of romantic and interesting destinations to

visit. An interesting phenomenon quickly emerges, in that most sites are either strongly for or against cruising, and the criticisms are many. Entire sites are devoted to problems around cruising, such as rape (e.g., Cruiserape.com, 2011; International cruisevictims.org, 2011), environmental issues (e.g., Friends of the Earth, 2011; Klein, 2010), and holiday annoyances such as food poisoning, bed-bug infestations, deaths, and abuse (Cruisebruce.com, 2011), to name a few.

This article focuses on one of many problems with the cruise industry: the frequency of rapes and sexual assaults on cruise ships. While cruise vacations are often sold as voyages of romance and adventure, a significant number of passengers have very different and very unpleasant experiences.

Sexual Assault

Although at first glance the apparent risk of crime on a cruise ship is remarkably low, this is also remarkably deceiving (Panko, George, & Henthorne, 2009). In fact, the risk of sexual assault on a cruise ship is almost twice that of forcible rape in the US, and calculated as 48,065 per 100,000 (Klein, 2007). The debate over the calculations used to determine the rate of assaults is explained in the testimony provided to the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security (see Klein, 2008a), and is not further explored here. However, it is worth noting the challenges of comparing cruise ship statistics on assault with those from land. The rate of sexual abuse in the 2007 testimony before Congress was compared to land-based rape data, as the US Criminal Code does not specify sexual assault as a specific category of data. Throughout this article, therefore, Canadian data are used for comparison as Canada has a clear definition of sexual assault in law (see Department of Justice, 2009) and there is a rate of sexual assault for the country and each of the provinces.

A meta-analysis based on 86,578 respondents in 55 samples showed that 24% of women overall reported having been sexually harassed at work (Illies, Hausman, Schwochou, & Stibal, 2003).

The lowest levels of harassment (16%) occurred in universities, and the highest levels (36%) in the military, which were attributed to the explicit power relationships in the armed services. Environmental factors and the demographic characteristics of a population are therefore shown to have a considerable effect on sexual behavior.

Definitions

In its policy on harassment, the United Nations note that harassment includes incidents in which "improper and unwelcome conduct" occurs, "which might reasonably be expected or be perceived to cause offence or humiliation" (OSAGL, 2008). Sexual harassment is therefore construed as any "sexual advance, request for sexual favor, verbal or physical conduct or gesture of a sexual nature" that is not welcomed. In contrast, an assault is an actual and violent attack, defined in Canadian law as force applied intentionally to another person without their consent (Department of Justice, 2009), and in the US as an attack with intent to inflict bodily injury (U.S. Department of Justice, 2005). Assault implies physical force, whereas sexual harassment implies unwanted sexual advances that may not necessarily be physical, but may be repeated. Rape and sodomy are forced acts of sexual intercourse. In this article, all are considered as aggressive sexual behaviors.

Possible Influences on Aggressive Sexual Behaviors

While cruise holidays may be perceived by families as safe forms of travel and adventure, they are perceived by some crew and passengers as opportunities to party, find love, or express themselves sexually. This is a dangerous combination that is not explicit in advertisements, nor even implied, and is very likely a major cause of the many assaults and rapes. Causes of sexual aggression by Royal Caribbean crew include the types of passengers in group bookings (swingers, bikers, etc.), the length of cruise (weekend cruises tend to attract those looking for a party), the onboard culture and management style set by management, and the cultural backgrounds of the crewmembers, which may differ from the types of behaviors ac-

cepted by passengers of Westernized cultures such as the US and Canada (Klein, 2008a).

The influence of uniforms and the manifestation of power relationships are also considered significant, as are the effects of the artificial lifestyle on board, where no one goes to the supermarket, drops their children off at school, or visits their mother on Sundays. An examination of these and other possible influences reveals a mix of ingredients that are destined to wreak havoc unless the component parts can be separated.

Characteristics of the Crew

Remarkably little is known about the lives of cruise ship employees (Dennett, Cameron, Jenkins, & Bamford, 2010). In Europe, the cruise industry supported 226,000 jobs in 2007, an increase of 20% from the previous year (Passenger Shipping Association, 2008), but it is difficult to determine the profiles of cruise ship workers. The social networking site Facebook, shows people of all ages from around the world have worked for Carnival Cruise Lines and Royal Caribbean International and joined crewmember networks. The number of vacancies on cruise line job sites suggests companies are constantly looking for new recruits, and a lack of education and relevant experience do not present barriers to employment in junior positions. Although agents act as intermediaries, it is also possible to apply directly to some cruise lines through on-line recruitment pages. Life as a crewmember seems similar to that of a hotel worker, of long hours, and hard work.

There are frequent rough seas, inconsiderate guests at times, very strict ship rules and regulations, sexual harassment incidents, long working hours, . . . inconsiderate bosses, crew food which may either be of poor quality or totally foreign to your taste. (Sison, 2009)

A story in the *New Miami Times* reveals the realities of crew life. The longer version of this article explains that the crew interviewed were working on cruise liners and sending money to their families.

For the 98 hours (Jacques) clocks weekly, he earns \$150. That translates to approximately

\$1.50 an hour, about one-fourth the average wage of a burger flipper at a fast-food joint. François's schedule is similar, except his fifteen-hour shift begins at 7:00 a.m. and ends at 10:30 p.m., with a half hour off for lunch. François, who will complete his fifth year with Carnival in March, earns about \$150 for his 105-hour week, or \$1.45 an hour. That will amount to \$6500 over the course of his ten-month contract. Like Jacques he communicates with his family by spending a small fortune calling from pay phones while in port. (Nielsen, 2000)

Crewmembers on ships operating out of the US must hold an American seafarer's visa, which is issued only after a State Department background check (Cruise Lines International Association, 2010), which would presumably detect arrest, court history, or criminal convictions within the last 7 years. However, it is not known if a conviction would prevent an applicant from obtaining a seafarer's visa, and media reports of recidivist sexual offenders on board cruise ships suggest it is not difficult to evade restrictions.

Cruise ship employees have no home or family life, and nowhere to go when off duty; in effect they may as well be on duty as long as they are at sea. The restlessness or "cabin-fever" caused by these living conditions, along with the ages, cultural backgrounds, and general characteristics of the crew may provide clues to the numbers of assaults. Eriksen (2006) comments that most crewmembers are men, and because of their differing backgrounds, some may be "culturally inclined toward aggressive sexual behavior or have a low regard for the status of women" (p. 49; see also Greenwood, 1999, cited in Klein, 2008a). Comments on cruise ship forums suggest that the darker racial features of some crewmembers are attractive to some women, encouraging them to form onboard relationships with crewmembers. Crewmembers hopeful of sexual liaisons on board are unlikely to be disappointed, and various media reports and websites (e.g., Cruisebruce.com, 2011; Cruiserape.com, 2011) indicate that some are prepared to take them forcibly. The problem is even more complex. According to Greenwood (1999, as cited in Klein, 2008a), some travel agents sell passengers the idea that crew are available for intimacy, even mentioning specific crew members by name.

Customer Contact

Eriksen (2006) suggests that most crewmembers who commit sexual offenses against passengers work in front-of-house hospitality positions, where there is maximum passenger contact. On land, around 24% of British and New Zealand hospitality workers can expect to be sexually harassed, and customer contact is a significant predictor of sexual harassment (Hoel, 2002; Poulston, 2008b). Although the comparison with sexually aggressive behaviors on cruise liners suggests an inherent sexualization of the relationship between customers and service providers, an interesting role reversal occurs. On land, data show that harassment is primarily caused by customers (Poulston, 2008b) whereas problems with sexual behavior at sea are primarily caused by staff (Klein, 2009).

Crew and Passenger Attitudes

Not just the passengers are on board to have a good time. As many crewmembers are also on working holidays, the atmosphere and general environment on a cruise ship provides further clues to the high incidence of assaults and rapes. The mood of passengers on vacation, the types of people they are, and the sudden change from normal life to life aboard a floating pleasure cocoon are all likely to affect their behavior, increasing their vulnerability.

The demographic characteristics of cruise passengers are changing. The average age of British cruise passengers fell to 53 years old in 2007 compared to 55 years a decade ago (Passenger Shipping Association, 2009), and more recent data show the median age of cruisers as 46 (Cruise Lines International Association, 2008). Children (under 18) are now a growing market, representing 25% of total cruisers (Cruise Lines International Association, 2008).

Cruise liners as depicted on the movie *Titanic* were once the domain of the bored and wealthy, whereas now they are accessible to anyone who can afford a short holiday, with weekend cruises often priced to compete with hotel stays. The changing characteristics of passengers means cruise lines now attract not just retirees, but families, young couples, single pleasure seekers, and

adventurers, which may represent an increased risk of crime on board, as involvement in criminal activities decreases with increased age (Brame & Piquero, 2003; Tittle, Ward, & Grasmick, 2003).

Hayner (1928) observed that otherwise normally upright citizens often take a "moral holiday" when staying in a hotel, perhaps influenced by an enhanced sense of anonymity while away from home. This effect is exacerbated on cruise ships, as most passengers are on holiday, whereas business hotel guests are at work during the day. The effect, naturally enough, will be a heightened sense of freedom, with the prospects of being observed by family, business associates, and friends substantially reduced.

In their pursuit of enjoyment, some passengers may break with their normal behavior codes in order to ensure a good time. Those responsible for children can leave them in supervised activity programs, but many young people wander around a ship on their own. There is an overarching assumption of safety. However, in contrast to home where one knows most of those in their immediate environment, on a cruise ship there are hundreds of crewmembers with access to passenger areas and cabins.

Some cruise staff may be attracted to the holiday atmosphere on board ships. One cruise line job website promises a "self-contained floating community that provides pleasure and services to up to 3000 passengers" (Cruise Ship Job, 2010b) with no accommodation or food costs, and the excitement of travel and being paid for living a life of luxury. This same site promotes life aboard as "an adventures job and a great way to save money and meet people from many different cultures" and notes that as staff turnover is high, plenty of jobs are available. On land, hospitality staff turnover is significantly associated with poor training and poor working conditions (Poulston, 2008a), so similar problems are likely to exist at sea. However, a more likely cause of turnover may be the "working holiday" nature of cruise ship jobs. These are jobs that only a few want permanently, because they limit the ability to have a normal family and social life. Many websites promote life on board as full of adventure and romance, which is somewhat beyond what one might generally expect from a normal day's work. The overall pic-

ture to emerge is of both crew and passengers attracted to an atmosphere of fun and pleasure.

The Sexualization of Romance

A further ingredient to enter the developing mix is the sexualization of romance. Cruises are often touted as romantic getaways, no doubt creating the expectation that not just the entertainment and scenery will be good: it will also be romantic. However, the lines between sex and romance are difficult to determine. "Romance" is defined as the "sense of wonder or mystery surrounding the mutual attraction in a love affair" (Shorter Oxford English Dictionary, 2003, p. 2605), and "romantic," as having an "idealized, fantastic, and sentimental view of life" (p. 2606). Both definitions have resonances of sexual fantasy, which may be an implicit add-on to the romantic holidays touted by cruise liner companies and travel agents.

In a discussion about love and sex on cruise ships, Chin (2008) cites an informal poll posted on the Cruise Critic forum in which members were asked to respond about sexual encounters (described as "flings") at sea. Of the 108 participants, 48% described encounters with crew, and 64% of all respondents said their relationships did not continue after the cruise.

Chin (2008, p. 99) notes that posters to the forum cited locations for sexual encounters as crew quarters, passenger rooms, elevators, hot tubs, closets, dining room, pool, and discos after hours. One poster advised "if you go to cruise . . . do it . . . screw it . . . as much as you can and leave after a day . . . a week . . . that easy." Chin also notes the popular genre of cruise advertisements with photographs of couples hugging each other as they gaze out to sea, suggesting that cruise ships are an ideal playground for "emotional and sexual intimacy among strangers" (p. 99). This overt sexualization is reinforced with advertising campaigns, such as that used by P&O Australia as recently as 2003. This campaign used a postcard that displayed "a prostrate row of four tanned women, like so many sausages on a spit, with the line: 'Seamen (sic) wanted' . . . along with a photograph of the *Pacific Sky*, P&O's advertisement featured the slogan: 'More girls. More sun. More fun. There's nothing else a guy needs to know'"

(Devine, 2006, p. 15). It would be difficult to be more explicit.

Uniforms, Power, and Harassment

Like hotels, hospitals, and prisons, cruise lines use uniforms to identify staff and reinforce their image. The word "uniform" means unity, standardized, or part of a group; a person in a uniform therefore creates the effect on others of believing that the uniformed person is part of a group, and will therefore exhibit similar behaviors to others in the group, and have similar levels of authority. While cruise ship and hotel uniforms enable easy differentiations to be made between staff and customers, the colors and styles may also influence customers' perceptions of staff. Hotel staff on land who need to appear authoritative (such as duty managers and receptionists) often wear quasi-management blazers or jackets, and women are generally expected to look business-like and efficient if they work with bookings or money, and "cute" if they serve food or liquor. Photographs of cruise ship hotel staff show they wear similar uniforms to staff on land, but with more trim and shiny buttons, perhaps to mimic Navy and military uniforms. On some ships, non-hotel crewmembers are also uniformed in quasi-Navy uniforms replete with badges and epaulettes.

While research in this area is limited, color and style of uniforms appear to be significant influences on perceptions. Bickman (1974) found that a police-styled uniform produces obedient behaviors in pedestrians, and in a study of 737 citizens, Johnson (2005) found that black connotes unfriendly, aggressive, and corrupt behaviors, whereas light blue and navy connote warmth, honesty, and generally nice behaviors. A more recent study of 200 students (Nickels, 2008) found that black uniforms were perceived more positively than white ones, which the author considered to be in conflict with Johnson's findings. However, Nickels noted that factors such as posture, race, and the characteristics of respondents may have skewed the data, and rating a uniform "positively" may just mean that respondents favored black uniforms, which may be an aesthetic rather than emotional reaction to the uniform.

Overall however, it seems likely that the white navy-style uniforms of crewmembers may impart a sense of security, trust, and safety to passengers, a distinct advantage to crewmembers seeking favors or perhaps obedience from passengers. While this is useful in an emergency, sexual predators can misuse the power implicit in their uniform.

Crewmembers also enjoy power accrued through their familiarity with their environment, having access to parts of the ship not normally accessible to passengers, and understanding the emergency procedures. Warhurst and Nickson (2007) describe service workers in luxury hotels and restaurants as being more comfortable in these environments than the customers they stoop to serve. For staff in potentially daunting environments, it is comparatively easy to manipulate guests, as they have the advantage of knowledge power and are in control of the guest experience. Similarly, it is relatively easy for crewmembers on board a ship to manipulate their passengers.

Harassment is more common where there are power inequalities (European Commission, 1998; Illies et al., 2003). Uggen and Blackstone (2004) explored the relationship between harassment and power, largely using MacKinnon's (1979) theory of sexual harassment, but also Connell's (1987) theory of gender relations. They concluded that sexual harassment is an expression of "power and masculinity" (p. 88), noting that men who were harassed at work generally had less powerful roles than others. An earlier study examining sexual harassment in organizations (De Coster, Estes, & Mueller, 1999) found that guardianship (i.e., a supervisory relationship) was a strong predictor of sexual harassment, but that vulnerability to harassment could be reduced by training the supervisors. Other predictors included male-dominated environments, larger work locations, and working in the public eye. Powerful women were also found to be targets of harassment, which the authors suggested might be caused by attempts to reduce the power of women who encroach on traditional male-dominated work roles. Sexual harassment, almost by definition, is an expression of a power. If there is no perceived expression of power, potentially harassing activities lack the ability to control the victim and, therefore, have little effect.

Alcohol

Around half of all sexual assaults are associated with alcohol consumption (e.g., Abbey, Zawacki, Buck, Clinton, & McAuslan, 2001; Finn, 2010) of either the perpetrator or victim. Profit on alcohol sales is excellent. In a restaurant, a customer will pay around double the bottle store price for wine, and even more in a bar, yet the cost of labor is relatively low. Although most cruise ships prohibit the consumption of alcohol purchased elsewhere (Cruise Mates, 2010), alcohol is also a major factor in sexual crimes committed on cruise ships (Hernandez, 2001).

Summary of Possible Causes

The artificial community and holiday atmosphere on board a cruise liner create an environment in which pleasure-seeking thrives, and in which most crew and passengers get what they were looking for in their cruise experience. For some, however, alcohol and the sexualization of romance may shift their experience from a kind of acquiescent hedonism to a hunger for physical satisfaction and adventure that must somehow be satisfied. When this is added to the effect of the power base held by crewmembers, it is hardly surprising that so much sexual gratification is taken by force.

Research Method

The authors draw on two sets of statistical data to examine the incidence and dynamics of sexual assaults on cruise ships. The first set of data was compiled from disclosures by RCI in the discovery phase of lawsuits filed against the carrier for sexual assault (see Klein, 2008a). These data cover two cruise lines, RCI and Celebrity Cruises, and include incident reports. For RCI, the data cover 1998 through to 2005. During this period, RCI received 451 complaints of sexual assault and sexual harassment involving physical contact. The yearly average was 56 with the highest incidence rate per year being 2004 ($n = 113$), followed by 2003 ($n = 80$), and 2002 ($n = 76$). Data for Celebrity Cruises (which has nine ships, compared to RCI's 18) cover 1998 through 2002 with an average of 16

incidents per annum. Celebrity Cruises' bleakest years were 2001 ($n = 27$) and 2002 ($n = 19$). Where the source is unclear, data from this set are referenced as "Cruise Ship Safety."

The second set of data was extracted from a compilation of crimes reported by cruise ships to the US Federal Bureau of Investigation (FBI) from October 1, 2007 through September 30, 2008, and secured through a Freedom of Information request by Kendall Carver, president of the International Cruise Victims' Association. This dataset is referenced as "FBI report" where the source is unclear.

Data on the relationship between the victims and perpetrators (Table 1), work roles of the perpetrators (Table 2), location of incidents (Table 3), and victimization of minors and the role of alcohol were extracted from these data sets (Table 4), to reveal the nature and severity of crimes on board cruise ships, as well as to examine the influence of potential factors identified in the literature search. The reports to the FBI include statements by investigators, victims, perpetrators, and witnesses, if any. A selection of victims' statements is presented to illustrate the nature of the assaults.

Results

Profile of Cruise Lines

Of particular interest are the two largest cruise lines: CCL and RCI. During the 1-year period up to September 2008, CCL reported 92 sex-related incidents: 48 of sexual contact, 40 of sexual assault, and three of sexual harassment (FBI report). Over 22 ships, this represents an average of four incidents per ship, although the actual range was from a nil on *Carnival Miracle* to 11 on *Carnival Victory*. By comparison, RCI reported 36 sex-related incidents, representing an average of 1.8 incidents per ship (half the average number recorded in 2003–2005) with no incidents on six of its 22 ships, and a high of five on *Freedom of the Seas* (Cruise Ship Safety).

The rate of sexual assault on RCI ships is a considerable improvement over the period 2003–2005, down from 111.97 to 45 per 100,000 (see Klein, 2008b). For CCL in 2007–2008, the rate for all sex-related incidents was 115 per 100,000 (50 per 100,000 for sexual contact, 60 per 100,000

for sexual assault, and five per 100,000 for sexual harassment). The overall rate for CCI is not significantly different than that of RCI for 2003–2005. Both rates compare poorly against the land rate of sexual assault (including sexual contact and assault) in Canada of 72 per 100,000 population in 2005 (StatsCan, 2006) and 68 per 100,000 in 2007 (StatsCan, 2008). There are no comparable statistics for the US or for Celebrity Cruises.

The Perpetrators

Consistent with findings in sexual harassment studies (e.g., Illies et al., 2003), perpetrators of sex-related incidents on cruise ships in these data sets were almost exclusively male. Data for Celebrity Cruises and RCI contained only one identifiable incident in which the perpetrator was female, and reports to the FBI indicated only one case in which a female initiated unwanted sexual contact. As presented in Table 1, crewmembers were perpetrators in 85.6% of the incidents on RCI between 1998 and 2005, and 10% of the incidents on Celebrity Cruises between 1998 and 2002. However, FBI data for 2007–2008 reveal that assaults perpetrated by crew decreased to 49.1%, indicating increasing problems among passengers. Passenger initiated assaults (most often against another passenger) more than doubled from 22.2% in the 2003–2005 period to nearly 51% between 2007 and 2008. While it is possible that cruise lines may have improved training and supervision of crewmembers, it is also possible that data are skewed by nondisclosure of incidents noted in other reports (e.g., Ehline, 2007; Panko et al., 2009). Although only incidents involving US citizens are required to be reported to the FBI, the

data set does include a significant number of incidents involving non-US citizens.

Although data are not available from all cruise lines (i.e., incident reports were available only from RCI and Celebrity Cruises), it is interesting to note the work role of perpetrators. As seen in Table 2, service workers accounted for about two thirds of sex-related incidents, including room stewards, waiters, and bar workers. Officers ranked fourth worst in both RCI and Celebrity Cruises data, accounting for 8.1% of incidents on RCI and 18.2% of incidents on Celebrity.

The Victims

Victims were overwhelming but not exclusively female; males were victims in about 13% of cases, most involving unwanted same-sex contact. Most alarming was the proportion of incidents in which the victim was a minor (i.e., younger than age 18). The age of victims is discernible in less than half of the reported incidents; nonetheless, 11.4% of all victims on Celebrity Cruises were minors, 17.5% of all victims on RCI were minors, and 17.7% of incidents reported to the FBI in 2007–2008 dataset were minors. The proportion of victims who are minors could be twice as high, and the nature of the incidents is alarming, as the following extracts show.

Minor female, 14, was reported missing by her father at approximately 4:00 AM. Upon returning to her cabin she advised her parents that she had been with the 2nd officer: they had kissed and participated in inappropriate touching on an open deck area. Her friend, also 14, claims she also met the same 2nd officer during the cruise, and that she had also kissed and inappropriately tou-

Table 1
Sex-Related Incidents by Perpetrator and Victim

Source (n)	Period	Crew on Crew	Crew on Passenger	Passenger on Crew	Passenger on Passenger	Total
Celebrity (79)	1998–2002	37.3%	62.7%	0	0	100%
RCI (451)	1998–2005	8.4%	77.2%	1.4%	13.0%	100%
RCI (249) ^a	2003–2005	10.7%	67.1%	0	22.2%	100%
FBI (154)	2007–2008	22.5%	26.6%	7.3%	43.5%	99.90%

Note: Totals do not add to 100 due to rounding. Sources: Cruise Ship Safety and FBI report.
^a2003–2005 data correspond to testimony given in the U.S. House of Representatives (Klein, 2007) and U.S. Senate (Klein 2008a).

Table 2
Work Role of Perpetrator

Work Role	RCL, 1998–2005 (n = 136) ^a	Celebrity, 1998–2002 (n = 33) ^a
Room steward ^b	34.8%	18.2%
Waiter ^c	25.0%	21.2%
Bar worker ^b	13.2%	24.2%
Officer	8.1%	18.2%
Musician/entertainer	5.1%	6.1%
Cleaner	2.9%	3.0%
Youth staff	2.9%	—
Security officer	2.2%	3.0%
Casino worker ^c	2.2%	—
Galley worker	1.5%	—
Other	2.9%	6.1%
	100.8%	100.0%

Note: Totals do not add to 100 due to rounding. Source: Cruise Ship Safety.

^aAs the identity of the perpetrator is not known in all cases, the count is less than that of the total dataset.

^bRoles with particularly high customer contact.

ched while on the bridge couch behind some curtains. (Source: FBI Report, Risk Management Department Incident Report)

While in the bathroom [my minor daughter] hears a knock on the door and assumes it is a family member coming back so she opens the door partially and sees it is the room steward. He forces his way into the cabin and holds on to her and asks her to kiss him. She responds 'NO' and tells him her parents are coming and he better get out of there now! He continues to try to kiss her using his tongue and begins to open her blouse. . . . (Source: FBI Report, Father's letter to cruise line about attempted rape)

A minor female passenger was out on the open decks on Deck 8 where she met one of our cabin attendants. They were having an innocent conversation when they both went inside. . . . The crewmember followed the girl down the corridor where he led her into a crew stairs area away from the passenger areas. When they were in the crew area he had her up against the wall with his arms on either side of the wall to hold her there. He proceeded to kiss her and pull down her tank top to kiss her right breast. Another crewmember was coming up the crew stairs . . . [The girl] was able to get away and run to her cabin. (Source: FBI Report, Security Officer Incident Report)

Not only minors are victimized. Data indicate the age of victims ranges from 6 months to 80

years. This account comes from a 28-year-old female teacher:

I was walking down the sixth floor hallway at about 8:00 PM, in a hurry as I wanted to make an appointment in the salon, which closed at 8:00 PM. A crewmember was standing in the hallway and greeted me by saying hello, as he did all week. He then told me to come here, he had to tell me something. He went down a side corridor and I followed. . . . He then [assault description]. I could taste alcohol in his mouth. As I tried to get away he grabbed my hand. . . . I woke up early the next morning to avoid him and showered at the spa. When I came back to my cabin at 10:45 AM he was in the hall and told me he was waiting for me all morning. When I opened my door he followed me in. . . . (Source: FBI Report)

And the account of a 37-year-old woman traveling with her husband:

I went down the long corridor passing the library and was looking for my cabin. Two employees were at the end of the hallway, I asked where my cabin was located; one man said, "I will walk you there." I said, "thank you" and proceeded with him. I handed him my room key, he opened the door, and said "let me help you." He came in my room. I sat at the edge of my bed; he then sat on the bed. I told him to leave. He then said, "let me help you change into your nightgown"—it was on the couch and he grabbed it. I said, "no thanks, please leave" [assault description]. I started yelling at him and pushing him away from me. I told him to get out of my room—I was very scared. . . . (Source: FBI Report)

The Locations

As presented in Table 3, more than one third of sex-related incidents occurred in passenger cabins, but the reality is that they can occur almost anywhere, as the following extracts from reports to the FBI show.

On the very first day of the cruise, shortly after boarding the ship, [my fourteen year old male client] was victimized by an unidentified employee in the sauna. The employee sexually assaulted, molested, accosted, and abused him.

And the following account contained in a memo from the Hotel Manager to the Captain:

Table 3
Location of Incident (Where Known)

Location of Incident	RCI, 1998–2005 (n = 316)	Celebrity, 1998–2002 (n = 37)
Passenger cabin	36.4%	40.5%
Crew cabin/crew area	7.3%	27.0%
Bar	7.3%	5.4%
Dining room	6.6%	13.5%
Spa	5.7%	2.7%
Corridor	5.7%	2.7%
Deck	5.4%	2.7%
Public area	5.4%	—
Disco	5.1%	—
Public bathroom	4.4%	2.7%
Ashore	4.1%	2.7%
Youth program	3.2%	—
Elevator	1.9%	—
Pool	1.6%	—
Total	100.1%	100.1%

Note: Totals do not add to a 100 due to rounding. Source: Cruise Ship Safety.

This female guest had booked an appointment for a foot, ankle, and shoulder massage. While she was having the treatment by the spa therapist she claims that the therapist intentionally touched her on the vagina area. . . .

Even public bathrooms are unsafe:

Around 12:00–1:30 AM I was approached by an employee in the restroom next to the bar . . . he offered me oral sex. . . . I pushed him away and left the restroom and sat down at the bar. . . . [When I left the bar], I arrived at my floor and was walking down the hallway; then the same guy came out of an employee door and tried to pull me in by my right arm saying, "come, come" and still offering me oral sex. He tried pulling me into another room but I got away. (Source: FBI Report, 23 year old female passenger)

A crewmember asked a 14-year-old female passenger to go to the ladies room to see if anyone was there. Once inside, she told him no one was there, and he came in, locked the door, and began to kiss and fondle her. (Source: FBI Report, Parent's call to corporate office)

It is easy to assume a passenger shares responsibility for an assault given the frequency of incidents occurring in cabins. However, crewmembers

often gain access without permission, as the following testimonies show.

About 3:00 to 3:30 PM I went to my cabin to have a shower. I had taken off my swimming suit and was next to the door to the bathroom. Without knocking a . . . [crewmember] entered the room. He said, "Do you want me to fuck you." . . . (Source: FBI Report, 44 year old female)

At about 6:00 PM, after her husband and son went for dinner, this female passenger remained behind in the cabin, was undressed and was going to take a shower. At that time she thought she heard her cabin steward in the passageway; she wanted some ice so she opened the cabin door slightly, she could see her cabin steward in the passageway, so she attracted his attention by going, "psst, psst." The steward then asked if her husband had gone, she replied yes, and with that he entered the cabin . . . [rape description]. As soon as it was over he left. (Source: FBI Report, Memo from Security Officer to Captain about a rape)

My cabin steward, on the 5th night, opened the door to my room (without knocking) at around 12:30 AM. I sat from the light, and he looked at me and just left. . . . The next night he saw me entering my room at 1:30 AM and followed me part way in and said, "So, are you going to let me sleep with you tonight?" I thought he was joking and I said, "No, I am married." He said, "But you are alone on this ship." I then said, "Do you know you could be fired for talking to me like this?" After that comment he left. (Source: FBI Report, Letter from female passenger to cruise line)

The Influential Factors

Table 4 presents results on two issues discussed above: the sexual victimization of minors and the role of alcohol in crime. While minors are the victims in 18.2% of all sex-related incidents, there is variation by the category of crime and by cruise line. Minors are the victims in the majority of cases of sexual harassment, 18% of cases involving sexual contact, and 13.7% of cases involving sexual assault. More interesting, however, is the variation between the cruise lines. Although CCL has a higher rate of sex-related crimes than RCI, the table reveals that victimization of minors is proportionately a bigger problem on RCI ships. More than one third of sexual assaults on that

Table 4
Incident Analysis Showing Involvement of Minors and Alcohol

Cruise Line	Minors			Alcohol		
	Sexual Contact <i>N</i> (%)	Sexual Assault ^a <i>N</i> (%)	Sexual Harassment <i>N</i> (%)	Assault With		
				Serious Bodily Injury <i>N</i> (%)	Sexual Contact <i>N</i> (%)	Simple Assault <i>N</i> (%)
Carnival	6 (12.5%)	3 (7.5%)	2 (40%)	5 (100%)	47 (97.9%)	6 (66.7%)
Celebrity				1 (100%)		1 (20.0%)
Costa			1 (100%)			
Crystal	1 (100%)					
Disney			1 (100%)			
NCL	1 (100%)	1 (50%)				1 (100%)
Princess	2 (100%)					1 (100%)
RCL	4 (21.1%)	6 (35.3%)		4 (50.0%)	7 (36.8%)	30 (31.3%)
Windstar						1 (100%)
Total	14 (18.0%)	10 (13.7%)	4 (57.1%)	10 (62.5%)	54 (69.2%)	40 (34.8%)

Percentage reflects the proportion of all crimes of that type for that cruise line. Source: FBI report.
^aIncludes rape and attempted rape.

cruise line victimize a minor. This proportion that is almost three times the average for the industry and almost five times the proportion on CCL ships.

There are similar differences with regard to alcohol involvement. Intoxication is known to be present in more than two thirds of cases involving sexual contact, almost two thirds of the cases involving assault with serious bodily injury, and more than one third of incidents involving simple assault. There are again differences by cruise line. As seen, alcohol is present in a considerably larger proportion of incidents on CCL ships than on RCL. Alcohol is present twice as often for simple assault and assault with serious bodily injury, and almost three times more frequently for sexual contact. It is impossible to know whether this accurately reflects what happens on board, or whether it is an artifact of intoxication being more likely to be reported by CCL than RCL.

Discussion

While the demographic characteristics of perpetrators were not apparent in these data sets, several other influences identified as potential problems in the literature review were upheld. Customer contact, identified by Hoel (2002), Eriksen (2006), and Poulston (2008b) as a predictor of

sexual harassment, was also a major predictor of harassment and assault in this study (Table 2). The role of uniforms (see Bickman, 1974; Johnson, 2005) and power (see Illies et al., 2003; MacKinnon, 1979; Uggen & Blackstone, 2004; Warhurst & Nickson, 2007) were not specifically tested in this study, but as crewmembers were largely responsible for harassment and assaults (Table 1), these are considered as potential factors, along with influence of the holiday atmosphere for crewmembers, evidenced in various publicly available blogs, forums, and advertisements (see Cruise Ship Job, 2010a). Alcohol was also shown to be a major factor (Table 4), as suggested by studies on the relationship between alcohol and sexual assaults (Abbey et al., 2001; Hernandez, 2001). The most chilling discovery, however, was that the most dangerous place to be on a cruise ship is in one's cabin (Table 3), and the most likely person to assault a passenger there is a uniformed crewmember (Table 2), in whom the passenger has placed a degree of trust (see above, victims' evidence).

There is little question that sexual assaults and sexual harassment are a problem on cruise ships. Factors such as the uniforms worn by officers and crewmembers, issues of power and control, and the sexualization of romance associated with a cruise certainly play a role, but they do not fully

explain the victimization of minors, nor the wide variations between cruise lines and between ships belonging to the same cruise line.

One possibility is that passengers come on board a cruise ship believing industry claims that they are safe. Indeed, the industry consistently stated during hearings in the US Congress between 2005 and 2008 that a cruise ship is the safest mode of commercial transportation. Passengers relax their usual defenses and allow children to roam freely, falsely assuming that no harm will occur. This makes them more vulnerable to abuse, because they are not on guard against an unpleasant incident or event. For many, it is inconceivable to think a crewmember will use a passkey to enter their room uninvited, or that they will be accosted in the hallway leading to their room or in a public bathroom.

As discussed, RCI had a rate of sex-related incidents in 2003–2005 equal to that of CCL in 2007–2008. There is no way of knowing whether CCL, like RCI, actually reduced their incident numbers during those couple of years, because data are unavailable for earlier periods. However we can report that RCI came under considerable pressure after its record was brought into the limelight by high-profile incidents and congressional hearings that focused more attention on RCI than on CCL or other cruise lines. It was at the height of this pressure that the corporation hired Gary Bald—a high-ranking official with the FBI—to serve as its Vice President for Global Security. Even though the company (like the industry generally) had developed a zero tolerance policy for crime (including sexual assaults) since 1999, and regular training to address the problem, the rate of sexual assaults still increased. Whether the company increased its training efforts under Mr. Bald, or reduced its tolerance for abuses, the result was a reduction in the number of sex-related incidents. The rate of occurrence is still problematic, but has been reduced by about half, while CCL's rate in 2007–2008 is as high as RCI's was in 2003–2005.

Conclusion and Recommendations

There are ways to directly address the problem. Better training and supervision of staff (including managers and officers) is one strategy, although most perpetrators already know such behavior is

not permitted and that it may lead to immediate dismissal. The worst that can happen is that they will lose their job and be sent home. In view of this, cruise lines need to adhere to the zero tolerance policy developed in 1999 (see Cruise Industry Facts, 2010) and rather than just dismissing employees accused of sexual misconduct, also ensure they are prosecuted. They must take victim accusations seriously, collect needed evidence, and cooperate with law enforcement agencies. However, these seemingly simple and logical recommendations are in contrast with what is often done, and with what seems fair. For example, one of the authors was an expert witness for a case about an 8-year-old girl who alleged she was molested by a cleaner. When the incident was reported to security, and in the deposition hearing before the trial, the child was accused of lying and of fabricating the whole story. Criminal prosecution was not pursued, although a six-figure out-of-court settlement resolved the civil suit.

Focusing on staff training and supervision alone is not enough, given that passengers also perpetrate sexual assaults. There is a need for greater presence of security (including increased real-time video surveillance) and for honest advice to prospective passengers about the risks of sea travel. Information could also be included in cabin guides about the need to take proper precautions for ensuring personal safety, for proper supervision of minors, and instructing what to do should a passenger be sexually harassed or assaulted. Cruise lines need not exaggerate the scale of the problem, but it is unrealistic to pretend there is no problem and continue marketing cruising as “the safest” mode of transportation, as some media reports suggest that they are not (e.g., Silverstein, 2006). Certainly CCL's choice of ship names (e.g., *Fantasy*, *Dream*, *Elation*, *Conquest*, *Freedom*, etc.) may be considered more suggestive of sexual expression than of safety.

Cruise lines are recommended to adopt policies of responsible alcohol service given that the FBI data indicate more than one third of all incidents involve a party that is intoxicated. This is a difficult step, given that the sale of alcohol is one of the largest contributors to onboard revenue, and many bar servers' and waiters' gratuities are based on their volume of sales, but it is an effective means to curb problems with unwanted sexual be-

haviors. Responsible alcohol service will also reduce other onboard crime such as altercations, theft, and domestic violence.

While the elimination of sex-related incidents on board cruise ships is unlikely to be achieved, it is a worthwhile goal to strive for. Passengers go on a cruise ship for a relaxing and enjoyable vacation, often as a family or with family members, and do not deserve or expect to be victimized. It is in the interest of cruise lines to take the problem of aggressive sexual behaviors seriously and take every possible measure to eradicate the problem, including a structured approach to implementing a zero tolerance program.

Biographical Notes

Ross A. Klein is a Professor of Social Work at Memorial University of Newfoundland. He is an internationally recognized authority on the cruise ship industry, having published four books, six reports for nongovernmental organizations, and more than a dozen articles and book chapters. He is regularly called as an expert witness in lawsuits against the cruise industry and is frequently interviewed by media for stories about the cruise industry. Ross is online at www.cruisejunkie.com

Jill Poulston is an Associate Director of the New Zealand Tourism Research Institute, and Head of the Hospitality Department at AUT University's School of Hospitality and Tourism. Prior to joining AUT University, Jill worked in hotel management for over 15 years, and from this, developed an interest in ethical issues in hospitality. Although Jill publishes on hospitality workplace problems generally, she has a particular interest in sexual harassment and sexual behaviors at work.

Coordinating Editor: Michael Lück

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The CHAIRMAN. Thank you very much, sir.

And now we will go to The Honorable Mark Rosenker, who's the former Chairman of the NTSB—that is, the National Transportation Safety Board—and member of the Cruise Line International Association's "Panel of Experts."

Please.

STATEMENT OF HON. MARK ROSENKER, FORMER CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD AND MEMBER OF THE CRUISE LINE INTERNATIONAL ASSOCIATION'S "PANEL OF EXPERTS"

Mr. ROSENKER. Thank you—having trouble getting this—there it goes.

The CHAIRMAN. OK.

Mr. ROSENKER. Thank you, Chairman Rockefeller, Ranking Member Thune, distinguished members of the Committee. Thank you very much for inviting me to testify today.

Until August of 2009, I served as the 11th Chairman of the NTSB. I'm also a retired Major General in the United States Air Force Reserve. Prior to being appointed and confirmed to the NTSB, I served as Deputy Assistant to the President and Director of the White House Military Office for President George W. Bush, with responsibility for all DOD support to the President and Vice President. As part of my responsibilities, I was traveling with the President on September 11, 2001.

I welcome the opportunity to once again testify before this important committee and applaud its focus, not only on cruise ship safety, but safety in all modes of transportation in our Nation.

I'm testifying today in my capacity as a member of the Independent Panel of Experts established by the Cruise Lines International Association. The panel was put in place as part of the Global Cruise Industry Operational Safety Review, launched in January 2012, following the *Concordia* accident. The review was focused on the critical human factors and operational aspects of maritime safety, and was introduced to identify best practices and develop new policies that could be implemented to rapidly further enhance crew passenger and crew safety. The review was led by senior industry executives responsible for maritime safety.

Ultimately, the review resulted in the industry's adoption of 10 policies that were submitted to, and accepted by, the IMO. The IMO is an independent international maritime regulatory body, with 170 member states, including the United States, which mandates global standards for the safety and operation of all ships, including cruise ships.

The Independent Panel of Experts was formally appointed in April 2012 to provide an impartial assessment of the review's recommendations. I took this panel's efforts extremely seriously and approached it with the same unwavering commitment that I had as NTSB Chair, to raise the bar of safety even higher on this already safe industry.

The CHAIRMAN. The Committee was appointed by whom?

Mr. ROSENKER. CLIA. Oh, which committee are you talking about, sir?

The CHAIRMAN. The one you—that you—

Mr. ROSENKER. CLIA. CLIA created this Independent Panel of Experts.

The CHAIRMAN. That's the association, then.

Mr. ROSENKER. Yes, sir.

Each member of the panel has extensive experience in the maritime regulatory and/or accident investigation fields. The other members are Stephen Mayer, a retired Rear Admiral in the Royal Navy and led the U.K. Marine Accident Investigation Branch, the equivalent of their NTSB for marine; Willem de Ruiter—he led the European Maritime Safety Agency; and Dr. Jack Spencer, who led the Office of Maritime Safety at the NTSB when I was there and is also a retired Coast Guard Officer.

The panel deeply examines the issues and policies considered by the industry. We are a deliberative body that is independent of CLIA's technical and regulatory advisory committees. Our advice, counsel, and recommendations cover a wide range of topics and are delivered to CLIA's board of directors, executive committee, and other advisory committees, as appropriate.

We find our views to be well received, and candor is a hallmark of our confidential deliberations. At times, the deliberations among the panel members, themselves, have been very spirited. This has further assisted CLIA in highlighting for its members the various thoughtful perspectives of complex safety issues and the related policy implications.

Every aspect of the cruise industry is heavily regulated and monitored by the United States, EU, and international maritime law to protect the safety of passengers and crew members. The panel has helped to strengthen and improve the wide-ranging policies that were put forth by the industry as part of the review. But, we also provided many new and innovative ideas and recommendations that were incorporated into the final policies as well as other initiatives.

When I was Chairman of the NTSB, I closely monitored trends in safety across every sector of transportation. I applied my experiences and knowledge of transportation safety to the panel as we evaluated and suggested policies and best-practice improvements. I can say, unequivocally, that the cruise industry has been very receptive to our input. I've been impressed with the level of collaboration of this industry with its regulators and other stakeholders. Panel members have been extremely impressed with the speed with which the industry adopted the 10 policies developed by review, all of which exceed current international regulatory requirements.

As an avid cruiser, I also know that cruise vacations are not only quite enjoyable, but, most importantly, extremely safe. The panel's work continues as we are advising and assisting the cruise industry in providing ideas, guidance, and impartial analysis as it reviews and seeks improvements to shipboard operations and safety.

Thank you again, sir, and I look forward to the questions.

[The prepared statement of Mr. Rosenker follows:]

PREPARED STATEMENT OF HON. MARK ROSENKER, FORMER CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD; AND MEMBER, CRUISE LINE INTERNATIONAL ASSOCIATION'S "PANEL OF EXPERTS"

Chairman Rockefeller, Ranking Member Thune and distinguished members of the Committee, thank you for inviting me to testify today. My name is Mark Rosenker and I am a former Chairman of the United States National Transportation Safety Board and a retired United States Air Force Reserve Major General. I also served as Deputy Assistant to President George W. Bush and Director of the White House Military Office. I welcome the opportunity to testify before this committee, which served as my authorizing committee during my tenure as Chairman of the National Transportation Safety Board.

I am testifying today in my capacity as a member of the independent Panel of Experts established by the Cruise Lines International Association, or CLIA. The independent Panel of Experts was put in place as part of the Global Cruise Industry Operational Safety Review, which was launched in January 2012 by the industry in the wake of the Concordia incident. The Review was introduced as part of the cruise line industry's efforts to execute on their stated commitment to continuous improvement and innovation in shipboard operations and safety. It focused on the critical human factors and operational aspects of maritime safety.

The Review was introduced to identify best practices and develop new policies that could be implemented rapidly on an industry-wide basis to further enhance the safety of passengers and crew. It took the lead in identifying additional best practices for industry-wide implementation and ultimately, formal submission to the International Maritime Organization, as appropriate, that could strengthen the cruise industry's safety record. [See appendix] The International Maritime Organization is an international maritime regulatory body with 170 Member States including the United States, which mandates global standards for the safety and operation of cruise ships. The Review was guided by a task force consisting of senior industry executives from CLIA member lines with responsibility for maritime safety. To commence the Review, CLIA's member lines took a detailed look at existing safety procedures and practices. Senior cruise line executives undertook internal reviews of their own operational safety practices and procedures concerning issues of navigation, evacuation, emergency training, and related practices and procedures.

The independent Panel of Experts was formally appointed in April 2012 to provide an impartial assessment of the recommendations developed by the Review. Collectively, those of us on the Panel of Experts bring well over a century of experience in transportation and safety to the table. Our backgrounds include senior positions with a diverse mix of organizations. Each Panel member has deep experience in the maritime, regulatory and accident investigation fields and the Panel is balanced geographically with equal representation from the United States and Europe. The three other members of the panel are Rear Admiral (Ret.) Stephen Meyer, Dr. Jack Spencer, and Willem de Ruiter.

Stephen Meyer is a retired Rear Admiral in the Royal Navy. He is a former commander of a number of Royal Navy Ships and was the former head of the United Kingdom Marine Accident Investigation Branch.

Dr. Jack Spencer is the former Director of the Office of Marine Safety at the National Transportation Safety Board. Dr. Spencer has more than 40 years of experience with the U.S. Coast Guard, American Bureau of Shipping, and National Transportation Safety Board. For 30 years, he has been on United States delegations to the International Maritime Organization.

Willem de Ruiter is former head of the European Maritime Safety Agency (EMSA). In 2003, Mr. de Ruiter was appointed as the first executive director of EMSA and charged with building up the organization. He joined EMSA after a distinguished career in the Dutch government and at the European Commission.

The independent Panel of Experts was formally appointed in April 2012 to provide an impartial assessment of the Review's recommendations. I took this panel extremely seriously and approached it with the same unwavering commitment that I had as NTSB Chair to raise the bar of safety even higher for this safe sector.

The Panel takes a very active view of the issues being discussed and policies being developed by CLIA that relate to all aspects of maritime safety. We are a deliberative body that is independent of CLIA's technical and regulatory advisory committees. Our advice, counsel and recommendations have covered a wide range of topics and are delivered to CLIA's Board of Directors, Executive Committee, and other advisory committees as appropriate. We are all experienced professionals and we find our views to be well-received and that candor is a hallmark of our confidential deliberations. We are a group of highly critical and deeply committed experts and we are never bashful about sharing what we are thinking either as individuals or as a

Panel. At times our deliberations between the Panel members have been very spirited. This has further assisted CLIA in highlighting for their members the various thoughtful perspectives of complex safety issues and the related policy implications.

As someone with four decades of experience in the transportation and technology industries, I've always known that the cruise industry is governed by an extremely extensive framework of safety regulations. Every aspect of the cruise industry is heavily regulated and monitored under United States, European Union, and international maritime law to protect the safety of passengers and crewmembers. Regulations start with the design and construction of the ship and extend to the operation of the vessel, the emergency equipment on board, and scenarios for emergency situations, including the evacuation of a ship. Cruise ships are also subject to multiple layers of enforcement at the international, flag State and port State level.

The Panel played an active role and provided many new and innovative ideas and recommendations that were incorporated into the final policies and other initiatives, in addition to providing independent, expert analysis of proposed policies. As the Panel gained more experience working together, our commitment to the process grew and the value of our role became even clearer over time, as our engagement in the issues and policy development began to produce tangible results. It is without question that we are working with a talented and deeply committed group of cruise industry professionals that share the Panel's values toward maritime safety. If I did not believe this to be the case, I would most certainly not be associated with these efforts, nor would any of my colleagues that serve on the Panel.

During the course of the Review, my fellow panelists and I examined safety-related shipboard systems and observed safety drills aboard one of the world's largest cruise ships. We visited the state-of-the-art full bridge simulator at the Resolve Maritime Academy to see how technology can strengthen safety and supplement training on cruise ships. We held a session with officials at Airbus to draw from their efforts related to Crew Resource Management, Simulation Training, and Safety Culture. We met with leaders of the Review multiple times to review, analyze, and discuss recommended changes to cruise industry safety practices and offered our own ideas based on our individual and collective experiences.

As a member of the Panel of Experts during last year's Review, my role was to provide an impartial assessment of the recommendations developed by the established Task Force of cruise line experts, before they were ultimately implemented and then submitted for formal consideration to the IMO. Additionally, as Panel members we shared numerous, wide-ranging recommendations and suggestions that were incorporated into the industry's policies, as well as into other important ongoing efforts that have not specifically resulted in published industry-wide policies.

All ten policies that resulted from the Review were incorporated into IMO standards. Those ten policies, in the order in which they were introduced, are as follows:

The *Passenger Muster Policy* requires musters for embarking passengers prior to departure from port and was launched with immediate effect on February 9, 2012. On occasions when guests arrive after the muster has been completed, the policy dictates that they are promptly provided with individual or group safety briefings. This practice exceeds existing legal requirements—which require that musters occur within 24 hours of passenger embarkation.

Under the *Passage Planning Policy*, each passage plan is to be thoroughly briefed to all bridge team members who will be involved in execution of the plan well in advance of its implementation. The passage plan will be drafted by the designated officer and approved by the master. This policy was effective upon its announcement on April 24, 2012.

To minimize unnecessary disruptions and distractions on the bridge, the *Bridge Access Policy* requires bridge access be limited to those with operationally related functions during any period of restricted maneuvering or when increased vigilance is required such as arrival/departure from port, heavy traffic, or poor visibility. Further, member lines are to take steps to prevent distractions to watchkeeping during these periods. This policy was effective upon its announcement on April 24, 2012.

The *Excess Lifejackets Policy* ensures that the number of lifejackets carried is far in excess of the number of persons actually onboard a ship. In addition to the statutory requirements of carriage of lifejackets for each person onboard and certain specified extras, the cruise industry adopted a policy of carrying additional adult lifejackets onboard each cruise ship in excess of current legal requirements. As a result, the number of additional adult lifejackets provided must not be less than the total number of persons berthed within the ship's most populated main vertical fire zone.

All of the additional lifejackets addressed in this policy are to be stored in public spaces, at the muster stations, on deck or in lifeboats, and in such a manner as to be readily accessible to crewmembers for distribution as may be necessary in the

event of an emergency. This policy was effective upon its announcement on April 24, 2012.

The *Nationality of Passengers Policy* was developed in response to the request of governments at the May 2012 meeting of the IMO Maritime Safety Committee meeting. This policy prescribes that the nationality of each passenger onboard is to be recorded, kept ashore and made readily available to search and rescue personnel as appropriate. This policy was effective upon its announcement on June 26, 2012.

Under the *Common Elements of Musters and Emergency Instructions Policy*, member cruise lines have specified 12 common elements that are to be communicated to passengers in musters and emergency instructions. In addition to current legal requirements, this policy specifically requires that musters and emergency instructions are to include the following common elements:

1. When and how to don a lifejacket
2. Description of emergency signals and appropriate responses in the event of an emergency
3. Location of lifejackets
4. Where to muster when the emergency signal is sounded
5. Method of accounting for passenger attendance at musters both for training and in the event of an actual emergency
6. How information will be provided in an emergency
7. What to expect if the Master orders an evacuation of the ship
8. What additional safety information is available
9. Instructions on whether passengers should return to cabins prior to mustering, including specifics regarding medications, clothing, and lifejackets
10. Description of key safety systems and features
11. Emergency routing systems and recognizing emergency exits
12. Who to seek out for additional information

This policy was effective upon its announcement on June 26, 2012.

To facilitate training for lifeboat operations, the *Lifeboat Loading for Training Purposes Policy* requires that at least one lifeboat on each ship is to be filled with crewmembers equal in number to its certified number of occupants at least every six months. Under this policy, for safety considerations, the loading of lifeboats for training purposes is to be performed only while the boat is waterborne and the boat should be lowered and raised with only the lifeboat crew onboard essential for safe operation. All lifeboat crew and embarkation/boarding station crew are to be required to attend the lifeboat loading drill. If not participating inside the lifeboat, crew members are to observe the loading of the lifeboat to its certified number of people and its operation. Taking into account safety consideration, the policy also includes specific provisions for ships with crew sizes less than three hundred. This policy was effective upon its announcement on September 20, 2012.

Operational safety can be enhanced by achieving substantive consistency in bridge operating procedures among commonly owned ships, for example by providing that bridge personnel who may rotate among such ships can be familiarized with a common set of procedures. The *Harmonization of Bridge Procedures Policy* requires that bridge operating procedures are to be harmonized as much as possible, both within individual companies and among brands within a commonly owned and operated fleet. Under this policy, each member operating multiple ships and each cruise line brand that is commonly owned and operated with another brand is to harmonize their respective procedures for bridge operations. This policy was announced on November 15, 2012 and its implementation has been completed.

The *Location of Lifejacket Stowage Policy* complements the *Excess Lifejackets Policy* under which oceangoing cruise ships carry additional adult lifejackets onboard far exceeding the number of persons actually onboard the ship. Under this new policy lifejackets equal to or greater than the number required by international regulations and the ship's flag State are to be stowed in close proximity to either muster stations or lifeboat embarkations points on newly-constructed ships. Consequently, lifejackets will be readily accessible by crewmembers for distribution to passengers in the event of an emergency. This policy further enhances shipboard safety as passengers will have even greater access to lifejackets in the event of an emergency. This policy was announced on November 15, 2012 and goes into effect with newly-constructed cruise ships for which the building contract is placed on or after July 1, 2013.

The *Securing Heavy Objects* policy requires that oceangoing members include procedures in their Safety Management Systems to secure heavy objects either perma-

nently, when not in use, or during severe weather. This policy was announced on November 15, 2012 and its implementation is now complete.

When I was Chairman of the National Transportation Safety Board, I closely monitored trends in safety across every sector of transportation. I've been able to apply my experiences and knowledge of transportation safety to the panel as we evaluated the suggested policy and best practice improvements. Each of the individual Panel members brings unique and in-depth strengths to the Panel as a whole; one of my greatest strengths is a broad view of transportation safety that includes but reaches far beyond the maritime sector.

I can say unequivocally that the cruise industry has been very receptive to our input. I've also been impressed with the level of collaboration of this industry with its regulators and other key stakeholders to enhance safety practices and procedures. The cruise industry works continually with the IMO, other global maritime authorities, classification societies, and shipbuilders to implement and enhance what are already stringent safety standards. My involvement on this panel has given me confidence that the industry is engaged in proactive and responsible relationships with regulators across the globe.

Along with the other members of the Panel of Experts, I've been extremely impressed with the speed with which the industry adopted the ten policies developed by the Review, all of which exceed current regulatory requirements. Further, I believe that CLIA's initiative to combine these ten policies related to the Review with an additional ten new and existing industry-wide policies is a very positive and aggressive step for a trade association to take. We specifically advised CLIA as they considered this initiative, including with relation to developing a comprehensive Compendium of Policies; their methods of CEO-level verification of policy implementation; and their use of Safety Management Systems to ensure the sixteen policies related to safety and environmental protection were subject to a regulatory internal and external auditing scheme. These are exactly the types of proactive and innovative actions that I, and my fellow Panel members, have encouraged this industry to take. As an avid cruiser, I also feel it is important that consumers understand that cruise vacations are extremely safe. This industry is highly regulated that is continuously subjected to tremendous oversight, wherever they operate.

As members of the Panel of Experts, our work isn't done because the Operational Safety Review is completed. We continue to advise and assist the cruise industry in providing ideas, guidance and impartial analysis as it continues to review and seek improvements to shipboard operations and safety. We remain actively engaged by providing our advice through CLIA's Board of Directors, Executive Committee and other Advisory Committees. This has ensured that while the formal structure of the Operational Safety Review wound down, the cruise industry could still benefit from our active input and expertise.

So thank you again for the opportunity to testify today and I look forward to your questions.

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MARITIME SAFETY COMMITTEE
90TH Session
Agenda Item 27

MSC/90/27/1
February 29, 2012
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PASSENGER SHIP SAFETY

Cruise Industry Operational Safety Review

Submitted by Cruise Lines International Association (CLIA)

SUMMARY

<i>Executive summary:</i>	This document describes the work undertaken immediately following the Concordia incident, under the leadership of the Cruise Lines International Association, to address operational safety. This work will continue and recommendations will be provided to the industry, IMO, and governments on an ongoing basis.
<i>Strategic direction:</i>	5.1
<i>High-level action:</i>	5.1.1
<i>Planned output:</i>	None
<i>Action to be taken:</i>	Paragraph 16
<i>Related document:</i>	MSC 90/1/Rev.1; MSC 90/27

Background

1. In response to the Concordia incident, and as part of the industry's continuous efforts to review and improve safety measures, the Cruise Lines International Association (CLIA), speaking on behalf of the global cruise lines industry, announced the launch of a Cruise Industry Operational Safety Review on 27 January 2012, although it had begun prior to that date.

2. As best practices are identified via this Review, they will be shared on an ongoing basis among CLIA members and any appropriate recommendations will be shared with the IMO.

Support for the Secretary-General's Efforts

3. In expressing his condolences to the families of those lost in the Concordia incident, the Secretary-General stated his determination to work with others to ensure that such an accident could be prevented in the future and has pledged that the Organization will consider seriously the lessons to be learned and will take action, as appropriate, in the light of those findings.

4. CLIA specifically supports the views expressed by the Secretary-General in his 30 January 2012 press statement on this subject.

5. The Secretary-General indicated in that statement that he had opened a channel of communication with passenger ship operators—through the Cruise Lines International Association (CLIA)—and that he welcomed the response to his request to hold meetings with him to discuss the safety of cruise passenger ships in general and, in particular, any findings and recommendations from their own internal review of current—practices and safety procedures in the operation of passenger ships.

6. This Review is intended to complement the efforts and goals of the Organization and to also be completely consistent with the Secretary-General's description of the on-going communications and operational safety initiatives of the global cruise industry.

Description of the Cruise Industry Operational Safety Review

7. The Review will include a comprehensive assessment of the critical human factors and operational aspects of maritime safety.

8. Key components of the Review include:

.1 An internal review by CLIA members of their own operational safety practices and procedures concerning issues of navigation, evacuation, emergency training, and related practices and procedures.

.2 Consultation with independent external experts.

.3 Identification and sharing of industry best practices and policies, as well as possible recommendations to the IMO for substantive regulatory changes to further improve the industry's operational safety.

.4 Collaboration with the IMO, governments and regulatory bodies to implement any necessary regulatory changes.

9. More specifically, an example of how one major cruise line intends to proceed with their internal review in three distinct phases might be useful for the Committee:

- First Phase: Bridge operating procedures; Emergency response procedures; and Abandon ship
- Second Phase: Lessons learned; Communications shoreside and with local authorities; Remote monitoring of voyages and status of ship; and Newbuild implications
- Third Phase: Emergency responses to fire, flooding, collision, and grounding; Damage control equipment; Training; Safety Management System; Audit procedures; and Corporate emergency response

10. Each cruise line will conduct their internal review in accordance with their own Safety Management System.

Outputs of the Cruise Industry Operational Safety Review

11. The first output of the Review was the cruise industry's Passenger Muster Policy, announced on 9 February 2012 and made immediately effective, serves as an example of the type of best practices and procedures that may be expected as outputs from the Review.

12. That Passenger Muster Policy is offered to this Committee for them to consider and reads as follows:

"Current legal requirements for conducting a muster of passengers are found in the International Convention for the Safety of Life at Sea (SOLAS) and mandate that a muster for embarking passengers occur within 24 hours of their embarkation. Notwithstanding the legal requirement, CLIA's member cruise lines have identified a best practice effective immediately that calls for conducting the mandatory muster for embarking passengers prior to departure from port. On occasions when guests arrive after the muster has been completed, CLIA's policy is that they be promptly provided with individual or group safety briefings that meet the requirements for musters applicable under SOLAS. This practice exceeds existing legal requirements and has been adopted by CLIA's membership as a formal policy to help ensure that any mandatory musters or

briefings are conducted for the benefit of all newly embarked passengers at the earliest practical opportunity.”

13. Additional outputs from the Review will be provided as appropriate to the Organization via its relevant Committees and Sub-committees.

Conclusion

14. CLIA is fully committed to understanding the factors that contributed to the Concordia incident and is proactively responding to all maritime safety issues.

15. The Cruise Industry Operational Safety Review will enable the industry to do so in a meaningful and expedited manner.

Action requested of the Committee

16. The Committee is invited to consider the information provided in this submission and take action as appropriate.

MARITIME SAFETY COMMITTEE
90th session
Agenda item 27

MSC 90/27/2
13 March 2012
Original: ENGLISH

PASSENGER SHIP SAFETY
Cruise Industry Operational Safety Review
Submitted by the Cruise Lines International Association (CLIA)

SUMMARY	
<i>Executive summary:</i>	This document describes certain specific initial outputs from the Cruise Industry Operational Safety Review, which was undertaken immediately following the Concordia incident, under the leadership of the Cruise Lines International Association, to address operational safety. This work will continue and recommendations will be provided to the industry, IMO, and governments on an ongoing basis.
<i>Strategic direction:</i>	5.1
<i>High-level action:</i>	5.1.1
<i>Planned output:</i>	None
<i>Action to be taken:</i>	Paragraph 9
<i>Related document:</i>	MSC 90/1/Rev.1; MSC 90/27; MSC 90/27/1; MSC-MEPC.3/Circ.3; and Res. MSC255(84)

Background

1. In response to the Concordia incident, and as part of the industry’s continuous efforts to review and improve safety measures, the Cruise Lines International Association (CLIA), speaking on behalf of the global cruise lines industry, announced the launch of a Cruise Industry Operational Safety Review on 27 January 2012, although it had begun prior to that date.

2. As best practices are identified via this Review, they will be shared on an ongoing basis among CLIA members and any appropriate recommendations will be shared with the IMO.

3. In CLIA’s previous submission, MSC 90/27/1 we described the basic framework for the Review and reported on the first output, which was our Passenger Muster Policy.

Outputs of the Cruise Industry Operational Safety Review

4. The first output of the Review was the cruise industry’s Passenger Muster Policy, announced on 9 February 2012 and made immediately effective, serves as an example of the type of best practices and procedures that may be expected as outputs from the Review.

5. In the interim, the cruise industry has developed three additional outputs which CLIA wishes to share with this Committee:

- i. The cruise industry is of the view that we, along with the rest of the maritime community, would benefit from increased reliability and transparency with regard to marine casualty information. Specifically, we believed the relevant information contained in the IMO database would benefit from some additional

verification. Accordingly, CLIA recently undertook an effort with the IMO Secretariat to harmonize the information in Annex I of the GISIS Marine Casualties and Incidents module to ensure that no recent and known “very serious casualties,” alternatively referred to as “very serious marine casualties,” involving one or more fatalities on a cruise passenger ship were inadvertently omitted. This action resulted in adding and verifying basic information on a total of fifteen marine casualties in the database, but did not result in the removal of any existing marine casualties or associated data.

- ii. Consistent with the above actions regarding Annex I of the GISIS Marine Casualties and Incidents module, CLIA is of the view that a mandatory obligation to provide information on the occurrence of very serious casualties is beneficial to Member States, the maritime industry, and the public at large. As we worked through reconciling existing IMO casualty data with the best data presently available to our industry, we found substantial inconsistency in reporting. Thus, to assist Member States in their ongoing efforts to consider improvements to maritime safety through examination of casualties, we respectfully wish to draw attention to the existing provisions in the mandatory IMO Casualty Investigation Code (Res. MSC.255(84)) and those in MSC-MEPC.3/Circ.3.
- iii. Thus, recognizing that it is not procedurally appropriate for CLIA to propose an amendment to a mandatory instrument, we request that Member States consider revising SOLAS Chapter XI-1, Regulation 6 to expressly and more clearly emphasize the mandatory reporting requirements regarding “very serious casualties.” We believe that Member States would find this to improve the breadth and depth of reporting, providing them a better foundation for prevention of future casualties.

6. Additional outputs from the Review will be provided as appropriate to the Organization via its relevant Committees and Sub-committees.

Conclusion

7. CLIA is fully committed to understanding the factors that contributed to the Concordia incident and is proactively responding to all maritime safety issues.

8. The Cruise Industry Operational Safety Review will enable the industry to do so in a meaningful and expedited manner.

Action requested of the Committee

9. The Committee is invited to consider the information provided in this submission and take action as appropriate.

MARITIME SAFETY COMMITTEE
90th session
Agenda item 27

MSC 90/27/11
10 April 2012
Original: ENGLISH

PASSENGER SHIP SAFETY
Cruise Industry Operational Safety Review
Submitted by the Cruise Lines International Association (CLIA)

SUMMARY

<i>Executive summary:</i>	This document describes a specific additional output from the Cruise Industry Operational Safety Review, which was undertaken immediately following the Concordia incident, under the leadership of the Cruise Lines International Association, to address operational safety. This particular output relates to the subject of Carriage of Additional Lifejackets onboard. This work will continue and recommendations will be provided to the industry, IMO, and governments on an ongoing basis.
<i>Strategic direction:</i>	5.1
<i>High-level action:</i>	5.1.1
<i>Planned output:</i>	None
<i>Action to be taken:</i>	Paragraph 10
<i>Related document:</i>	MSC 90/1/Rev.1; MSC 90/27; MSC 90/27/1; MSC 90/27/2; and MSC 90/27/12

Background

1. In response to the Concordia incident, and as part of the industry's continuous efforts to review and improve safety measures, the Cruise Lines International Association (CLIA), speaking on behalf of the global cruise lines industry, announced the launch of a Cruise Industry Operational Safety Review on 27 January 2012, although it had begun prior to that date.

2. As best practices are identified via this Review, they will be shared on an ongoing basis among CLIA members and any appropriate recommendations will be shared with the IMO.

3. In the first of CLIA's previous submissions, MSC 90/27/1, we described the basic framework for the Review and reported on the first output, which was our Passenger Muster Policy.

4. In MSC 90/27/2 and 90/27/XX, CLIA reported upon a series of additional outputs of the Review.

Outputs of the Cruise Industry Operational Safety Review

5. The first outputs of the Review, as mentioned above, were reported in MSC 90/27/1, 90/27/2, and 90/27/12.

6. The cruise industry has developed an additional output of the Review, applicable to all of the oceangoing ships we represent, which CLIA wishes to share with this Committee:

Carriage of Additional Lifejackets Onboard:

.1 The International Convention for the Safety of Life at Sea (SOLAS), as well as flag State regulations, require that passenger ships on international voyages carry an approved lifejacket (Personal Flotation Device—PFD) for every person onboard the ship.

.2 SOLAS requires that lifejackets suitable for children must also be carried in a number equal to 10 percent of the number of passengers onboard, provided that the number of children's lifejackets carried must not be less than the number of children onboard.

.3 Lifejackets must also be carried for the persons on watch and must be stored on the bridge, in the engine control room and at any other manned watch station.

.4 An additional number of lifejackets equal to 5 percent of the persons onboard must also be carried and stored in conspicuous places on deck or at muster stations.

.5 Under certain circumstances, additional lifejackets must also be carried, and stored at muster stations or in public spaces, when it is likely that persons may not be able to return to their staterooms to retrieve the lifejacket stored there.

.6 Some flag states have similar requirements for domestic or non-international voyages.

.7 CLIA's members have adopted a policy of carrying additional adult lifejackets onboard each cruise ship in excess of these legal requirements.

.8 Under this policy the number of additional adult lifejackets to be provided must not be less than the total number of persons berthed within the ship's most populated main vertical fire zone.

.9 Implementation of this policy ensures should result in spare lifejackets being carried are far in excess of the number required by SOLAS.

.10 Some smaller cruise ships may be constructed with only one main vertical fire zone that is utilized for accommodation spaces.

.11 For these vessels, CLIA's policy is that the maximum number of excess lifejackets provided need not exceed fifty percent of the total number of persons carried by the vessel.

.12 Extra lifejackets for children in excess of legal requirements, in a number equal to 10 percent of the number of passengers berthed within the most populated main vertical zone, must also be carried on international voyages under this policy.

.13 All of the additional lifejackets addressed in this policy are to be stored in public spaces, at the muster stations, on deck or in lifeboats, and in such a manner as to be readily accessible to crewmembers for distribution as may be necessary in the event of an emergency.

.14 Lifejackets carried for persons on watch, and at remotely located survival craft stations, are to be carried in accordance with SOLAS and other applicable flag State regulations.

7. Additional outputs from the Review will be provided as appropriate to the Organization via its relevant Committees and Sub-committees.

Conclusion

8. CLIA is fully committed to understanding the factors that contributed to the Concordia incident and is proactively responding to all maritime safety issues.

9. The Cruise Industry Operational Safety Review will enable the industry to do so in a meaningful and expedited manner.

Action requested of the Committee

10. The Committee is invited to consider the information provided in this submission and take action as appropriate.

MARITIME SAFETY COMMITTEE
90th session
Agenda item 27

MSC 90/27/12
10 April 2012
Original: ENGLISH

PASSENGER SHIP SAFETY
Cruise Industry Operational Safety Review
Submitted by the Cruise Lines International Association (CLIA)

SUMMARY

<i>Executive summary:</i>	This document describes certain specific additional outputs from the Cruise Industry Operational Safety Review, which was undertaken immediately following the Concordia incident, under the leadership of the Cruise Lines International Association, to address operational safety. These particular outputs relate to the subjects of Passage Planning and Personnel Access to the Bridge. This work will continue and recommendations will be provided to the industry, IMO, and governments on an ongoing basis.
<i>Strategic direction:</i>	5.1
<i>High-level action:</i>	5.1.1
<i>Planned output:</i>	None
<i>Action to be taken:</i>	Paragraph 10
<i>Related document:</i>	MSC 90/1/Rev.1; MSC 90/27; MSC 90/27/1; and MSC 90/27/2

Background

1. In response to the Concordia incident, and as part of the industry's continuous efforts to review and improve safety measures, the Cruise Lines International Association (CLIA), speaking on behalf of the global cruise lines industry, announced the launch of a Cruise Industry Operational Safety Review on 27 January 2012, although it had begun prior to that date.

2. As best practices are identified via this Review, they will be shared on an ongoing basis among CLIA members and any appropriate recommendations will be shared with the IMO.

3. In the first of CLIA's previous submissions, MSC 90/27/1, we described the basic framework for the Review and reported on the first output, which was our Passenger Muster Policy.

4. In MSC 90/27/2, CLIA reported upon a series of additional outputs of the Review, which were all related to reporting of marine casualties.

Outputs of the Cruise Industry Operational Safety Review

5. The first outputs of the Review, as mentioned above, were reported in MSC 90/27/1 and 90/27/2.

6. The cruise industry has developed two additional outputs of the Review, applicable to all of the oceangoing ships we represent, which CLIA wishes to share with this Committee:

Passage Planning:

.1 Since 1999, CLIA's member lines have been subject to international guidance concerning passage planning in accordance with IMO Resolution A.893(21), Guidelines for Voyage Planning, adopted on 25 November 1999.

.2 CLIA has adopted a policy that the guidance elements set forth in this resolution are deemed to be the mandatory minimum requirements in the development of passage plans by all member lines.

.3 In addition, CLIA's policy recognizes the Bridge Procedures Guide published by the International Chamber of Shipping as a compilation of best practices valuable resource that should be utilized by all ship operators, either as a component of their Safety Management Systems or Bridge Resource Management procedures.

.4 Under this policy each passage plan is to be thoroughly briefed to all bridge team members who will be involved in execution of the plan well in advance of its implementation.

.5 The passage plan will be drafted by the designated officer and approved by the master.

.6 CLIA's policy is that all members are to take steps to help ensure bridge team members are asked and encouraged to raise any operational concerns without fear of retribution or retaliation.

Personnel Access to the Bridge:

.7 To minimize unnecessary disruptions and distractions to bridge team members in accomplishing their direct and indirect duties during any period of restricted maneuvering, or while maneuvering in conditions that the master or company bridge procedures/policy deems to require increased vigilance (*e.g.*, arrival/departure from port, heavy traffic, poor visibility), CLIA's members have adopted a policy that bridge access is to be strictly limited to those with operational functions only during these periods.

.8 Further, member lines are to take steps to prevent distractions to watchkeeping during these periods.

.9 Any deviation from this policy requires prior approval of senior management ashore.

7. Additional outputs from the Review will be provided as appropriate to the Organization via its relevant Committees and Sub-committees.

Conclusion

8. CLIA is fully committed to understanding the factors that contributed to the Concordia incident and is proactively responding to all maritime safety issues.

9. The Cruise Industry Operational Safety Review will enable the industry to do so in a meaningful and expedited manner.

Action requested of the Committee

10. The Committee is invited to consider the information provided in this submission and take action as appropriate.

MARITIME SAFETY COMMITTEE
91st session
Agenda item 7

MSC 91/7/1
24 September 2012
Original: ENGLISH

PASSENGER SHIP SAFETY
Cruise Industry Operational Safety Review
Submitted by Cruise Lines International Association (CLIA)

SUMMARY	
<i>Executive summary:</i>	This document provides additional outputs from the Cruise Industry Operational Safety Review and proposes a revision to include these additional outputs in the annex to MSC.1/Circ.1446.
<i>Strategic direction:</i>	5.1
<i>High-level action:</i>	5.1.1
<i>Planned output:</i>	None.
<i>Action to be taken:</i>	Paragraph 14
<i>Related documents:</i>	MSC 90/27

Background

1 In response to the Concordia incident, and as part of the industry's ongoing efforts to review and improve safety measures, the Cruise Lines International Association (CLIA), speaking on behalf of the global cruise lines industry, announced the launch of a Cruise Industry Operational Safety Review (hereinafter "Review") on 27 January 2012, although it had begun prior to that date. As best practices are identified via this Review, they will be shared on an on-going basis among CLIA members and as appropriate to the Organization.

2 In the first paper on this subject (MSC 90/27/1), CLIA provided the Committee with an overview of the basic framework of the Review and also reported on the first output, a CLIA policy on passenger muster prior to departure from port. Since then, we have provided the Committee with additional outputs, including:

- .1 The need for consistent reporting and additional verifying of marine casualties and incidents, in particular very serious casualties, with a concomitant recommendation that Member States consider revising SOLAS regulation XI-1/6 to emphasize the mandatory reporting requirements of very serious casualties (MSC 90/27/2);
- .2 CLIA policies on passage planning and personnel access to the bridge (MSC 90/27/12); and
- .3 CLIA policy on carriage of additional lifejackets on board (MSC 90/27/11).

3 The Committee, having considered the information provided in the Cruise Industry Operational Safety Review, invited Member Governments to recommend that passenger ship companies conduct a review of operational safety measures with the aim to enhance the safety of passenger ships, taking into consideration the recommended interim measures of an operational character listed in the *Recommended interim measures for passenger ship companies to enhance the safety of passenger ships* (MSC.1/Circ.1446), on ships flying their flag, on a voluntary basis and with all possible urgency and efficiency (Resolution MSC.336(90)).

Outputs of the Cruise Industry Operational Safety Review

4 As part of the ongoing Review, the cruise industry has developed three additional outputs as laid out below in paragraphs 5–9.

Common Elements of Musters and Emergency Instructions

5 Regulations 8 and 19 of SOLAS Chapter III require musters and emergency instructions to be provided for passengers. In addition to the legal requirements, CLIA oceangoing members have adopted a policy that musters and emergency instructions are to include the following common elements:

- .1 When and how to don a lifejacket.
- .2 Description of emergency signals and appropriate responses in the event of an emergency.
- .3 Location of lifejackets.
- .4 Where to muster* when the emergency signal is sounded.
- .5 Method of accounting for passenger attendance at musters both for training and in the event of an actual emergency.
- .6 How information will be provided in an emergency.
- .7 What to expect if the Master orders an evacuation of the ship.
- .8 What additional safety information is available.
- .9 Instructions on whether passengers should return to cabins prior to mustering, including specifics regarding medications, clothing, and lifejackets.
- .10 Description of key safety systems and features.
- .11 Emergency routing systems and recognizing emergency exits.
- .12 Who to seek out for additional information.

Recording the Nationality of Passengers

6 Regulation 27 of SOLAS Chapter III requires that all persons on board be counted prior to departure; details of those who have declared a need for special care or assistance in an emergency be recorded and communicated to the Master prior to departure; names and gender of all persons on board, distinguishing between adults, children and infants be recorded for search and rescue purposes; and

*The terms "muster" and "assembly" are used interchangeably and therefore are synonymous for this purpose.

that all of this information be kept ashore and made readily available to search and rescue services when needed.

7 To further facilitate the effective and immediate availability of key information in the event of an emergency situation, CLIA oceangoing members have adopted a policy that, in addition to the information required by SOLAS, the nationality of each passenger onboard is also to be recorded, kept ashore and made readily available to search and rescue services when needed.

Life Boat Loading for Training Purposes

8 To facilitate training for lifeboat operations, CLIA oceangoing members have adopted a policy that at least one lifeboat on each ship is to be filled with crewmembers equal in number to its certified number of occupants at least every six months. Under this policy:

- .1 for safety considerations, the loading of lifeboats for training purposes is to be performed only while the boat is waterborne and the boat should be lowered and raised with only the lifeboat crew onboard;
- .2 lifejackets should be worn;
- .3 all lifeboat crew and embarkation/boarding station crew are to be required to attend the lifeboat loading drill; and
- .4 if not placed inside the lifeboat, those crew members are to observe the filling of the lifeboat to its certified number of people.

9 This policy applies to ships with crew sizes of three hundred or greater, with lifeboats installed. Ships with crew sizes of less than three hundred are to conduct similar and equivalent training evolutions, at appropriate intervals, that are consistent with operational and safety considerations.

Proposed revision to MSC.1/Circ.1446

10 CLIA recommends the Committee consider revising MSC.1/Circ.1446 such that these three additional outputs (paragraphs 5–9) would be included among the other recommended interim measures contained in the annex to that circular.

Conclusion

11 CLIA is fully committed to understanding the factors that contributed to the Concordia incident and is proactively responding to all maritime safety issues. The Cruise Industry Operational Safety Review has enabled the industry to do so in a meaningful and expedited manner.

12 Since the Review began, CLIA has provided the Committee with several outputs, including 7 new policies regarding passenger muster prior to departure from port; passage planning; personnel access to the bridge; carriage of additional lifejackets on board; common elements of musters and emergency instructions; recording the nationality of passengers; and life boat loading for training purposes. In addition, CLIA has provided the Committee with an output of the Review regarding marine casualty reporting.

13 Additional outputs from the Review will be provided as appropriate to the Organization via relevant Committees and Sub-Committees.

Action requested of the Committee

14 The Committee is invited to:

- .1 consider the information provided in this document;
- .2 consider revising the annex to MSC.1/Circ.1446 (paragraph 10); and
- .3 take action as appropriate.

PASSENGER SHIP SAFETY
Cruise Industry Operational Safety Review
Submitted by Cruise Lines International Association (CLIA)

SUMMARY	
<i>Executive summary:</i>	This document provides additional outputs from the Cruise Industry Operational Safety Review and proposes a further revision to include these additional outputs in the annex to MSC.1/Circ.1446/Rev.1.
<i>Strategic direction:</i>	5.1
<i>High-level action:</i>	5.1.1
<i>Planned output:</i>	None.
<i>Action to be taken:</i>	Paragraph 17
<i>Related documents:</i>	None.

Background

15 In response to the Concordia incident, the global cruise industry launched a comprehensive Cruise Industry Operational Safety Review (hereinafter "Review") and identified a number of best practices, which have been shared among CLIA members and with the Organization.

16 In the first paper on this subject (MSC 90/27/1), CLIA provided the Committee with an overview of the basic framework of the Review and also reported on the first output, a CLIA policy on passenger muster prior to departure from port. Since then, we have provided the Committee with additional outputs, including:

- .1 The need for consistent reporting and additional verifying of marine casualties and incidents, in particular very serious casualties, with a concomitant recommendation that Member States consider revising SOLAS regulation XI-1/6 to emphasize the mandatory reporting requirements of very serious casualties (MSC 90/27/2);
- .2 CLIA policies on passage planning and personnel access to the bridge (MSC 90/27/12);
- .3 CLIA policy on carriage of additional lifejackets on board (MSC 90/27/11);
- .4 CLIA policies on musters and emergency instructions (MSC 91/7/1);
- .5 CLIA policy on recording the nationality of passengers (MSC 91/7/1); and
- .6 CLIA policy on life boat loading for training purposes (MSC 91/7/1).

17 The Committee, having considered the information provided, invited Member Governments to recommend that passenger ship companies conduct a review of operational safety measures with the aim to enhance the safety of passenger ships, taking into consideration the recommended interim measures of an operational character listed in the *Recommended interim measures for passenger ship companies to enhance the safety of passenger ships* (MSC.1/Circ.1446/Rev.1), on ships flying their flag, on a voluntary basis and with all possible urgency and efficiency (Resolution MSC.1/Circ.1446/Rev.1(91)).

Outputs of the Cruise Industry Operational Safety Review

18 As part of the Review, the cruise industry has developed three additional outputs as laid out below in paragraphs 5–13.

Securing Heavy Objects

19 CLIA's oceangoing members have adopted a policy to incorporate procedures into their Safety Management Systems (SMS) to help ensure the securing of heavy objects either permanently, when not in use, or during heavy/severe weather, as appropriate. Under this policy, a person or persons are to oversee a deck by deck inspection to identify unsecured and potentially hazardous heavy objects. Integral to the procedures is a list of identified objects which have a significant potential to cause injury.

20 Shipboard personnel should apply good seamanship in identifying additional items to be secured. Attention should be given to muster* stations, evacuation routes, and lifeboat embarkation stations as a ship emergency could give rise to conditions that differ from ship motions caused by heavy/severe weather.

21 Consideration should also be given to development of a guidance document to assist in the identification of heavy objects and the most adequate methods for securing them. An example of this guidance document is attached in the annex. This annex is only intended to provide an example for one method of implementing this policy.

22 Practices and procedures for securing heavy objects should be monitored by each Head of Department and/or as otherwise specified by the ship's command structure, and during routine shipboard inspections and audits.

23 Heavy/severe weather should be clearly defined under the company policy taking into account the size of the ship, operational profiles, and other information. In defining heavy/severe weather, appropriate deference should be given to the judgment of the Captain.

Harmonization of Bridge Procedures

24 Operational safety can be enhanced by achieving substantive consistency in bridge operating procedures among commonly owned ships, for example by providing that bridge personnel who may rotate among such ships can be familiarized with a common set of procedures.

25 CLIA's oceangoing members have adopted a policy that bridge operating procedures are to be harmonized as much as possible, both within individual companies and among brands within a commonly owned and operated fleet. Under this policy and best practice, each CLIA member operating multiple ships and each cruise line brand that is commonly owned and operated with another brand is to harmonize their respective procedures for bridge operations, taking into account any unique operating characteristics of specialty ships (e.g., expedition ships; sail powered ships; etc.)*

Location of Lifejacket Stowage

26 In addition to CLIA's policy on excess lifejackets (MSC 90/27/11), CLIA's oceangoing members have adopted an additional policy to reflect best practices for the stowage of lifejackets onboard newly-constructed cruise ships (e.g., cruise ships for which the building contract is placed on or after 1 July 2013). Under this policy, a number of lifejackets equal to or greater than the number required onboard under the relevant international and flag State regulations, are to be stowed in close proximity to either muster† stations or lifeboat embarkation points, and be readily available for use in case of emergency.

27 Implementation of this policy will continue to result in spare lifejackets being carried in excess of the number required by the International Convention for the Safety of Life at Sea (SOLAS).

Proposed revision to MSC.1/Circ.1446/Rev.1

28 CLIA recommends the Committee consider revising MSC.1/Circ.1446/Rev.1 such that these three additional outputs (paragraphs 5–13, annex) would be included among the other recommended interim measures contained in the annex to that circular.

Conclusion

29 Since the Review began, CLIA has provided the Committee with several outputs, including 10 new policies regarding various operational safety matters. In addition, CLIA has provided the Committee with an output of the Review regarding marine casualty reporting.

30 CLIA is fully committed to understanding the factors that contributed to the Concordia incident. Ongoing innovation in safety has been a hallmark of our industry for decades and we are fully committed to continuous improvement of shipboard operations and safety. The global cruise industry continuously reviews operational safety and works closely with the Organization as well as flag States, Recognized Organizations and others to enhance maritime safety.

*The terms "muster" and "assembly" are used interchangeably and therefore are synonymous for this purpose.

†And giving due regard to any relevant flag State requirements.

‡The terms "muster" and "assembly" are used interchangeably and therefore are synonymous for this purpose.

Action requested of the Committee

- 31 The Committee is invited to:
- .1 consider the information provided in this document;
 - .2 consider revising the annex to MSC.1/Circ.1446/Rev.1 (paragraph 14); and
 - .3 take action as appropriate.

ANNEX

**SAMPLE STRUCTURE OF A GUIDANCE DOCUMENT
TO ASSIST IN THE IDENTIFICATION OF HEAVY OBJECTS
AND THE MOST ADEQUATE METHOD FOR SECURING THEM**

Guidance document(s) should consider the following three elements, in addition to any other relevant information.

1 *Heavy Objects.* The following list is an example of some heavy objects that may be identified and secured in accordance with company policy. In this sample listing, the objects are grouped by those that should be permanently secured, always secured when not in use, and those to be secured in heavy weather. Heavy objects that have been identified include, but are not limited to, the following:

- 1.1 Heavy objects that should be permanently secured.
 - 1.1.1 Heavy plant pots, sculptures, TVs, cash machines, laundromat equipment, slot machines, and game machines such as in teen recreation areas.
 - 1.1.2 Display stands and racks.
 - 1.1.3 Treatment tables, heavy standalone product displays, treadmills, exercise weight racks, and weight lifting machines.
 - 1.1.4 Pianos, lounge speakers, and back-stage scenery equipment.
- 1.2 Heavy objects that should be secured at all times when not in use.
 - 1.2.1 Trolleys and forklift trucks.
 - 1.2.2 Paint rafts, gangways, and deck trash containers.
 - 1.2.3 X-ray scanners.
 - 1.2.4 Cylinder heads, pistons, charge air coolers, heavy chemical containers, and heavy fan impellers.
 - 1.2.5 Gas bottles (refrigerant, oxygen, acetylene, CO₂, etc.)
- 1.3 Heavy objects not otherwise secured that should be secured for heavy weather.
 - 1.3.1 Loose objects on display.
 - 1.3.2 Temporary decorations.
 - 1.3.3 Items brought aboard temporarily as part of shows.
 - 1.3.4 Materials/equipment onboard as part of repairs/refurbishment.

2 *Securing Methods.*

2.1 Consideration should be given to the strength and appropriateness of each point of attachment to which the heavy objects are secured.

2.2 Consideration should be given to the following list of securing methods. Additional securing methods appropriate to the objects to be secured should be identified and used as necessary. Examples are as follows; however, additional methods should be identified and included as appropriate.

- A—Latch type gate hook and eye bracket mounted on bulkhead or vertical surface.
- B—Ratchet strap and eye brackets mounted on bulkhead or vertical surface.
- C—Rope secured to object and adjacent suitable securing surface.
- D—Contained in metal rack-type shelving system.
- E—Suction cup and bracket, ratchet strap, chain, etc.
- F—Permanent securing such as bolting to bulkhead or deck.

3 *Various.* A list of specific heavy objects that have been identified by the company during surveys and inspections and that require particular attention.

PASSENGER SHIP SAFETY

Comments relating to the Costa Concordia incident:

The importance of shoreside management to maintaining shipboard safety

Submitted by Cruise Lines International Association (CLIA)

SUMMARY

<i>Executive summary:</i>	This document provides comments relating to the Costa Concordia incident.
<i>Strategic direction:</i>	5.1, 5.2, 5.4
<i>High-level action:</i>	5.1.1, 5.1.2, 5.1.3, 5.2.1, 5.2.2, 5.4.1
<i>Planned output:</i>	None
<i>Action to be taken:</i>	Paragraph 25
<i>Related documents:</i>	MSC 92/6/1; MSC 92/6/3; MSC 91/7/1; MSC 90/27/1; MSC 90/27/2; MSC 90/27/11; MSC 90/27/12

Background

1 This document is submitted in accordance with paragraph 6.14 of the *Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.4/Rev.2), and provides comments relating to the Concordia incident and in particular the importance of shoreside management to maintaining shipboard safety.

2 Comments related to Italy's report on the safety technical investigation regarding the Concordia marine casualty investigation are in document MSC 92/6/10.

Discussion

3 The role of shoreside management is critical to the proper development and function of an effective Safety Management System. An integrated approach is used by the cruise industry to maintain shipboard safety; one that recognizes an essential connection with senior shoreside officials.

4 Notwithstanding substantive progress made to date, the cruise industry continues to establish and implement operational and management measures that are robust enough to minimize the potential for a recurrence of the type of navigational incident recounted in document MSC 92/6/3. For example, the cruise industry takes very seriously its responsibility to address issues surrounding the authority of the Master with regard to maneuvering a large cruise ship and the naturally related responsibility in management of the company to ensure safety. These efforts are ongoing and take the form of both industry-wide cooperation and company-specific actions.

5 Some specific elements that have already been addressed and will continue to be evaluated on an ongoing basis via the cruise industry's efforts include:

- .1 senior management level of engagement in safety-related matters;
- .2 senior management commitment to a company-wide culture of safety;
- .3 integration of shoreside management responsibilities into the company's Safety Management System; and
- .4 CEO-level direct engagement in CLIA's Member Policy Verification Program.

6 Recall the prior CLIA submissions to the Committee on various outputs from the Cruise Industry Operational Safety Review.⁵ As part of the cruise industry's ongoing efforts to continually improve operational safety, a wide range of additional items were also considered but have not to this point resulted in industry-wide policies. Instead, with regard to these items, information and best practices have been

⁵ See MSC 92/6/1; MSC 91/7/1; MSC 90/27/1; MSC 90/27/2; MSC 90/27/11; and MSC 90/27/12 (CLIA).

shared among our members and incorporated into their own relevant policies and procedures as appropriate.

7 Efforts to evaluate and improve in these areas remain ongoing within our standing committee structure and other appropriate mechanisms within our industry. Examples of areas, closely related to the role of shoreside management, that continue to be under consideration include:

- .1 discretion of the Master with regard to non-safety related voyage modifications;
- .2 bridge procedures during maneuvering and shipboard emergencies;
- .3 voyage plan change and general bridge procedure review practices and policies;
- .4 hiring, evaluation, and training practices for Masters; and
- .5 expectations and policies on when a Master may personally abandon their ship.

8 It is the cruise industry's approach that these types of issues are very much the responsibility of shoreside management to develop and successfully implement via effective shipboard practices and procedures. For a Safety Management System to be genuinely effective and within the true spirit of the ISM Code, it must carefully integrate the roles carried out by both professional shipboard staff and the shoreside management that both lead and support them. The cruise industry continues to fully embrace such an approach and commits to continuous improvement in this regard.

Conclusion

9 The cruise industry looks forward to working with all engaged stakeholders to identify and prioritize areas where additional improvements can be made and to develop any necessary standards that will further the shared goal of continuous improvement of maritime safety.

Action requested of the Committee

10 The Committee is invited to consider the comments provided in this document and take action as appropriate.

MARITIME SAFETY COMMITTEE
92nd session
Agenda item 6

MSC 92/6/10
24 May 2013
Original: ENGLISH

PASSENGER SHIP SAFETY

Comments relating to the Costa Concordia incident:

Specific comments on Italy's recommendations

Submitted by Cruise Lines International Association (CLIA)

SUMMARY	
<i>Executive summary:</i>	This document provides comments relating to the Costa Concordia incident.
<i>Strategic direction:</i>	5.1, 5.2, 5.4
<i>High-level action:</i>	5.1.1, 5.1.2, 5.1.3, 5.2.1, 5.2.2, 5.4.1
<i>Planned output:</i>	None
<i>Action to be taken:</i>	Paragraph 25
<i>Related documents:</i>	MSC 92/6/1; MSC 92/6/3; MSC 91/7/1; MSC 90/27/1; MSC 90/27/2; MSC 90/27/11; MSC 90/27/12

Background

1 This document is submitted in accordance with paragraph 6.14 of the *Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.4/Rev.2), and provides comments relating to the Concordia incident and in particular Italy's Report on the safety technical investigation regarding the Concordia marine casualty investigation, as presented in the Marine Casualty and

Incident Module of GISIS under Incident Reference No. C0008482 (hereafter “the Report”).

2 Comments related to the importance of shoreside management to maintaining shipboard safety are in document MSC 92/6/9 (CLIA).

Discussion

3 The Report contains 20 recommendations grouped into 6 functional areas covering stability; vital equipment & electrical distribution; emergency power generation; operational matters; evacuation analysis; and search and rescue. Seven are for new ships only, while 11 are for both new and existing ships. The two SAR recommendations, which are external to the ship, will not be discussed in this document. CLIA welcomes the opportunity to discuss the Report, consider the recommendations made by Italy, and develop a comprehensive way forward to further improve safety.

4 Below is a summary of CLIA’s preliminary comments regarding Italy’s recommendations as contained in the Report.

Stability (Section 6.2.1.)

5 *Double skin.* Future discussions regarding the need for double skin to protect compartments containing equipment vital for the propulsion and electrical propulsion should also take into consideration requirements and guidance relating to SOLAS Safe Return to Port and Probabilistic Damage Stability, as appropriate.

6 *Limiting down flooding points.* If this recommendation is aimed at mitigating progressive flooding, CLIA is of the view that it may need to be clarified. CLIA notes that the Report indicates the water reached the bulkhead deck in the aft area after about 40 minutes following the incident.

7 *Computerized stability.*

.1 In the discussion of computerized stability support for the master in case of flooding, it is important to distinguish between systems having static inputs (manual, by crew) from those having dynamic inputs (automated, in near real time).

.2 Many cruise ships currently have computerized stability support systems on board that are based primarily on static inputs. Such systems require manual intervention and input by ship’s crew in order to display damage stability information.

.3 Dynamic simulation would likely entail *inter alia* fitting and interfacing of flooding sensors on existing ships. CLIA believes that such a proposal needs an in-depth discussion among subject matter experts. To our knowledge, such systems are currently not available to handle dynamic inputs, in near real time, displaying predictive dynamic damage simulation.

8 *Interface between flooding detection and stability computer.* See paragraph 7.

Vital equipment and electrical distribution (Section 6.2.2.)

9 *Discontinuity between compartments.* This recommendation relates to new ships. In addition, CLIA members have initiated a preparedness risk assessment to *inter alia* identify ways to preserve functional integrity of essential systems for existing ships.

10 *Bilge pumps.* The recommendation regarding bilge pumps is far too vague e.g., “huge quantities of water” cannot be defined. Also, there may be additional aspects to consider when discussing this proposal such as power source and requirements to feed additional pumps.

11 *Relocation of main switchboard.* CLIA notes that there are existing regulatory constraints regarding location of main switchboards in relation to other spaces/equipment. Such requirements may affect aspects of this recommendation regarding relocation of main switchboards. Any future development of new/revised requirements would need to be discussed by experts and carefully considered.

12 *Relocation of UHF radio switchboard.* CLIA agrees in principle that the preservation adequate communications in an emergency is required. CLIA is of the view that the basis of the Italy proposal to relocate the UHF switchboard above the bulkhead deck is not clear. Therefore, CLIA believes that other more effective and efficient options may exist to accomplish the intended goal. A number of different solutions should be discussed and evaluated by experts.

Emergency power generation (Section 6.2.3.)

13 *Increasing EDG capacity.* It should be clarified whether increasing EDG capacity would apply to existing certified emergency diesel generators or to the “second emergency diesel generators” mentioned in paragraph 14.

14 *Second EDG.* CLIA agrees in principle with providing increased emergency power supply to support additional selected services. However, the recommendation regarding a second EDG is not clear whether the intent is to apply existing regulations (statutory EDG) to the second EDG or to allow for flexibility in the requirements applicable to the second EDG. When establishing new requirements for the “second emergency diesel generator,” this proposal should be carefully considered in relation to the multiple technical and operational aspects involved. Therefore, CLIA recommends that any further consideration of this item be made by the relevant technical sub-committee(s).

15 *EDG functional tests.* Italy proposes that both emergency diesel generators be tested weekly for at least two hours under a load of at least 50 percent. While generally in favor of enhancing functional testing aimed at improving reliability of EDGs during emergencies, the basis for Italy’s proposal is not clear and therefore further consideration is needed in the relevant technical sub-committee(s), including input from engine manufacturer(s).

16 *Emergency light in cabins.* Italy’s proposal regarding emergency light in cabins suggests that these lights should be fed by both UPS and emergency power. Although cruise ships are provided with such emergency lights in cabins, CLIA would like to inform the Committee that not all of the lights are fed by the emergency source of power. In some installations, a light is powered by stand-alone battery. CLIA is of the view that as long as the goal is achieved (e.g., lighting the exit) and that a process is in place to ensure that lights work in an emergency, that a requirement for feeding from emergency power is not necessary.

Operational matters (Section 6.3.4.)

17 *Bridge management.* CLIA supports consideration of development of training requirements that reflect established principles such as function-based bridge management and collective decision making. CLIA is looking forward to considering this matter, perhaps in the STW sub-committee.

18 *Bridge team management certification.* Italy’s recommendation regarding bridge team management certification is unclear.

19 *Principles of minimum safety manning.* CLIA notes there is a lack of details in Italy’s recommendation. Nevertheless, CLIA agrees that the current principles of Minimum Safe Manning do not adequately reflect reality on passenger ships and therefore supports in principle the need for further consideration on this matter.

20 *Muster list.* CLIA does not support the Italy proposal to show certification requirements in muster lists. CLIA notes that under the ISM Code, the Company is already required to ensure crewmembers are duly certified according to the duties and responsibilities assigned onboard. Cruise ships already have procedures/processes in place that ensure compliance with such requirements. In addition, robust systems are in place to ensure that those responsible for assigning emergency duties to the crew can easily verify the certifications required to cover such duties. CLIA believes that this proposal could result in the addition of unnecessary and redundant information to an already “over-populated” document.

21 *Inclusion of inclinometer data in VDR.* CLIA agrees in principle with the Italy proposal to include inclinometer data in the VDR.

Evacuation analysis (Section 6.3.4.)

22 *Evacuation analysis at early stage of project.* CLIA notes that evacuation analysis is currently not on any sub-committee agenda, and that MSC 92 may consider whether to send a new work item to FP. CLIA looks forward to participating in the discussion at the relevant sub-committee, should the Committee decide to place this on the work programme.

23 *Embarkation ladders.* CLIA supports in principle consideration for additional embarkation ladders. However, CLIA believes that in this regard careful consideration should be given to a number of important aspects, such as:

- .1 the positioning of additional ladders that could impact other LSA;
- .2 the difficulties for un-trained persons to utilize the ladders in conditions other than Concordia high-side, etc.; and
- .3 “blanket” requirements may be difficult to meet.

CLIA suggests that other individual means of evacuation should also be included in the discussion on how to achieve the goal, with the focus of identifying improvement in their design and functions, if needed.

Conclusion

24 The cruise industry looks forward to working with all engaged stakeholders to identify and prioritize areas where additional improvements can be made and to

develop any necessary standards that will further the shared goal of continuous improvement of maritime safety.

Action requested of the Committee

25 The Committee is invited to consider the comments provided in this document and take action as appropriate.

The CHAIRMAN. Thank you very much.

And we will now turn to Gerald Cahill, who is the President and Chief Executive Officer of Carnival Cruise Lines.

Welcome.

STATEMENT OF GERALD CAHILL, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CARNIVAL CRUISE LINES

Mr. CAHILL. Good afternoon, Chairman Rockefeller and Ranking Member Thune and members of the Committee.

My name is Gerry Cahill, and I am President and Chief Executive Officer of Carnival Cruise Lines. I have been with Carnival Cruise Lines and its parent corporation, Carnival Corporation, in various roles for almost 19 years; the last 6 years, I've been with Carnival Cruise Lines in my current capacity.

I have submitted written testimony, for the record, which includes information on the various initiatives and investments that Carnival Cruise Lines has undertaken in the area of safety and passenger comfort. I will, therefore, keep my remarks today very brief.

Carnival Cruise Lines has a fleet of 24 ships, and we operate approximately 1,500 cruises per year, carrying nearly four and a half million guests per year. Our business is built on offering a safe, comfortable, and affordable cruising experience to middle—to millions of middle-class American families each year. The safety and security of our guests is not only important to us, but our very success relies upon it.

In our over forty-one history, we've provided over 60 million vacations and maintained an excellent safety record. We are proud of our record of providing our guests with safe and memorable vacation experiences, and we appreciate the continued confidence that our guests have shown in us. We will continue to strive to exceed the regulatory requirements of our industry and ensure that our guests enjoy their cruise vacations.

I welcome the opportunity to participate in this hearing, and I look forward to discussing with you ways in which we can further improve and deliver an even better experience to the millions of middle-class American families who sail with us each year.

Thank you.

[The prepared statement of Mr. Cahill follows:]

PREPARED STATEMENT OF GERALD CAHILL, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CARNIVAL CRUISE LINES

Good afternoon Chairman Rockefeller, Ranking Member Thune, and Members of the Committee. I appreciate the opportunity to appear before the Committee to discuss Carnival Cruise Lines' ("Carnival") commitment to the safety and security of our guests. It is Carnival's number one priority.

Carnival operates 1500 cruises per year, carrying nearly 4.5 million guests. Our parent company Carnival Corp & plc serves nearly 10 million guests annually. Our business is built on being able to offer a safe, enjoyable, and affordable cruising ex-

perience to millions of middle-class American families each year. Safety, security, and guest satisfaction not only is important to us, but our success relies upon it.

Over our forty-one year history, Carnival has an excellent safety record. We work hard to provide our guests with safe and memorable vacation experiences. Our goal is to exceed the regulatory requirements of our industry to ensure that our guests are confident that they will enjoy a fun cruise vacation. To that end, I will focus my testimony on some of the steps that we take with respect to safety and security.

Regulation of the Cruise Industry

Because of the international nature of the cruise industry, there are several layers of oversight and regulation designed to insure the safe and reliable operation of cruise ships around the world. At the global level, the International Maritime Organization (IMO), which is part of the UN, is responsible for creating standards for all ships operating around the world.

IMO has adopted several conventions that address and regulate various areas of vessel operations, which in turn, are ratified and enforced by Flag and Port States. These conventions address, among other things: all aspects of safety; ship design and equipment; fire protection, training and watch keeping; communications; search and rescue; navigation; and, environmental protection.

The Flag State of each vessel is primarily responsible for enforcing international requirements, as well as additional regulations imposed by the Flag State. All Port States the vessel calls upon also ensure the vessel is in compliance, which further strengthens what the IMO and Flag State provide. Cruise ships, like other vessels, are subject to regular inspections and audits from both the Flag and Port States.

In the U.S, the Coast Guard is both the primary regulator and the principal enforcement agency of the laws, regulations, and international treaties applicable to cruise ships. The U.S. is a party to IMO and has adopted the conventions described above. The Coast Guard conducts announced and unannounced inspections of cruise ships that operate out of U.S. ports in order to ensure compliance by ships operating in U.S. waters. Therefore, cruise ships operating in the U.S. are subject to numerous local, state, and Federal laws and regulations, including those related to safety.

Safety and Security

Carnival takes our compliance with all laws and regulations very seriously. Carnival has safety management systems in place that meet or exceed all regulatory requirements. Further, our parent company in 2006 established at the Board-level, a Health, Environmental, Safety & Security (“HESS”) Committee to assist the Board in fulfilling their responsibility to supervise and monitor HESS policies, programs, initiatives at sea and onshore, and compliance with HESS legal and regulatory requirements. In addition, the HESS Committee oversees audits of each of our ships annually to ensure compliance. Our HESS policy includes our commitments to:

- Protecting the health, safety and security of our passengers, guests, employees and all others working on behalf of Carnival;
- Protecting the environment, including the marine environment in which our vessels sail and the communities in which we operate;
- Fully complying with or exceeding all legal and statutory requirements related to health, environment, safety and security throughout our business activities; and
- Assigning health, environment, safety and security matters the same priority as other critical business matters.

Carnival engages in regular training to ensure compliance as well. As an example, all officers and crewmembers on Carnival’s ships undergo regular safety and emergency training, which meets or exceeds all regulatory requirements. Carnival Corporation and Carnival plc also operate their own Center for Simulator Maritime Training (CSMART), in Almere, Netherlands, which features a broad portfolio of maritime training courses, including courses dedicated to bridge resource management, in which Carnival participates. The facility is one of the most advanced of its kind in the maritime industry and has been praised by the U.S. Coast Guard.

Carnival has a professional Shoreside Security Department that provides training and support to shipboard security staff on each vessel. The Security Department consists of former law enforcement professionals. Training includes week-long annual shoreside training sessions for all shipboard Senior Security Officers, with curriculum based on the CVSSA model course 11-01 designed by the FBI and U.S. Coast Guard. Support includes pre-employment evaluation and incident response assistance and guidance. In addition, the Security Department serves as liaison to the

FBI, U.S. Coast Guard, and local law enforcement agencies for reporting and investigation of incidents.

Global Operational Safety Review Implementation

The cruise industry, through the Cruise Lines International Association (“CLIA”), initiated a comprehensive Global Operations Safety Review with the purpose of identifying additional practices that could strengthen the cruise industry’s already exceptional safety record. CLIA received input and guidance from an independent panel of experts with extensive experience in the maritime, regulatory and accident investigation fields. As a result, ten new industry-wide policies that exceed current international regulatory requirements were developed. Carnival has approved and has implemented these policies, which have also been submitted to IMO for consideration.

The new policy recommendations that exceed current international regulatory standards are:

- Passenger Muster policy;
- Passage Planning policy;
- Personnel Access to the Bridge policy;
- Excess Lifejackets policy
- Recording the Nationality of Passengers policy;
- Lifeboat Loading for Training Purposes policy;
- Harmonization of Bridge Procedures policy;
- Location of Lifejacket Stowage policy; and
- Securing Heavy Objects policy.

Operating Reliability and Guest Comfort Enhancements

Immediately after the *Carnival Triumph* incident, Carnival announced a comprehensive review of its entire fleet, which was overseen by our parent company. While no one was injured as a result of the incident, our guests clearly went through an uncomfortable experience. As part of that review, Carnival is implementing a \$300 million program to significantly enhance emergency power capabilities, take advantage of new fire safety technology, and improve the level of operating redundancies across its entire fleet. Carnival’s ships have been and are safe. The changes made as a result of the review are primarily to improve comfort and guest convenience.

All of Carnival’s ships have strong systems in place to respond to emergency situations. We meet or exceed all regulatory requirements. However, as we do on an on-going basis, we are applying lessons learned through our operational review after the Triumph fire, and by taking advantage of new technologies, we identified multiple areas for enhancement across our operations. These enhancements reinforce our commitment to safe and reliable operations and to provide an enjoyable cruise experience for the nearly 4.5 million guests who sail with us each year.

The actions by Carnival will expand the availability of hotel services for the comfort of our guests in the rare instance of a shipboard event that involves the loss of main power. In addition, the plan will reinforce key shipboard operating systems to further prevent a potential loss of primary power.

Increased Emergency Generator Power

The initial increase in emergency generator power across Carnival’s fleet of 24 ships is projected to be completed by November. An additional emergency generator will be installed on each vessel to provide for 100 percent of stateroom and public toilets, fresh water and elevators in the unlikely event of a loss of main power. Upon completion of the initial phase, the line will install a second permanent back-up power system on each ship to provide an even greater level of hotel and guest services if main power is lost. These additional services will include expanded cooking facilities and cold food storage, as well as Internet and telephone communications.

Increased Fire Prevention, Detection and Suppression Systems

The company will also make additional investments in the newest and most technically advanced fire prevention, detection and suppression systems. This includes upgrading the existing water mist fire suppression systems already in place on Carnival vessels to the newest generation. When triggered, this high-pressure water mist system instantly creates a larger and thicker blanket of water droplets than the present system. As the water droplets evaporate, the system also rapidly cools any hot areas to prevent the possibility of a fire restarting.

Enhanced Operating Redundancies

All of Carnival's ships have two separate, redundant engine rooms. The company's operational review has identified modifications to further decrease the likelihood of losing propulsion or primary power, as happened on Carnival Triumph in February. The modifications will include a reconfiguration of certain engine-related electrical components to improve and enhance operational redundancies.

New Safety & Reliability Review Board

Carnival also announced the formation of a Safety & Reliability Review Board comprised of outside experts with significant expertise in marine and occupational safety, reliability and maintenance, marine regulatory compliance and quality control/assurance. The company already receives oversight and input from outside regulatory authorities and industry experts, as well as the HESS Committee. The new Review Board will provide an additional, independent third-party perspective, drawing from deep experience across a number of relevant fields and organizations.

Carnival's review board will include five external members with specific expertise in the areas of marine and occupational safety, reliability and maintenance, marine regulatory compliance and quality control/assurance. Four highly esteemed maritime and transportation industry experts, including two former U.S. Navy Flag Officers, already have been appointed. These experts will help us drive continuous improvement and further ensure the safe and reliable operation of our fleet.

Passenger Bill of Rights

Carnival, along with 25 other CLIA North American member cruise lines, has formally adopted the Cruise Industry Passenger Bill of Rights, which details our industry's commitment to the safety, comfort and care of our guests. The voluntary implementation of the Bill of Rights formalizes many longstanding industry practices and is currently in effect for all U.S. passengers who purchase their cruise in North America, regardless of itinerary.

We expect the impact of the Bill to be a positive one for Carnival because we have already taken great strides to deliver across all areas described in the Bill throughout our fleet. The Bill serves to underscore our already-existing commitment to our guests.

The Bill covers the following set of passenger rights:

- The right to disembark a docked ship if essential provisions such as food, water, restroom facilities and access to medical care cannot adequately be provided on-board, subject only to the Master's concern for passenger safety and security and customs and immigration requirements of the port.
- The right to a full refund for a trip that is canceled due to mechanical failures, or a partial refund for voyages that are terminated early due to those failures.
- The right to have available on board ships operating beyond rivers or coastal waters full-time, professional emergency medical attention, as needed until shore side medical care becomes available.
- The right to timely information updates as to any adjustments in the itinerary of the ship in the event of a mechanical failure or emergency, as well as timely updates of the status of efforts to address mechanical failures.
- The right to a ship crew that is properly trained in emergency and evacuation procedures.
- The right to an emergency power source in the case of a main generator failure.
- The right to transportation to the ship's scheduled port of disembarkation or the passenger's home city in the event a cruise is terminated early due to mechanical failures.
- The right to lodging if disembarkation and an overnight stay in an unscheduled port are required when a cruise is terminated early due to mechanical failures.
- The right to have included on each cruise line's website a toll-free phone line that can be used for questions or information concerning any aspect of ship-board operations.
- The right to have this *Cruise Line Passenger Bill of Rights* published on each line's website.

Conclusion

Nothing is more important than the safety and comfort of our guests, and we will devote the full resources of our company to meet that commitment. As I have said, our continued success depends on our ability to offer a safe, comfortable, and affordable cruising experience to millions of middle-class American families each year. We

strive every day to improve our performance in all areas so that our guests have confidence in their choice of Carnival, and we will continue to do so.

The CHAIRMAN. All right, I thank you for that very brief statement.

Mr. Adam Goldstein, President and Chief Executive Officer, Royal Caribbean International.

Welcome to you, sir.

STATEMENT OF ADAM M. GOLDSTEIN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ROYAL CARIBBEAN INTERNATIONAL

Mr. GOLDSTEIN. Good afternoon, Mr. Chairman, Ranking Member Thune, distinguished members of the Committee.

My name is Adam Goldstein, and I am President and Chief Executive Officer of Royal Caribbean International, which operates 21 cruise ships around the world, with four new ships on order. Royal Caribbean International is one of six brands owned by Royal Caribbean Cruises, Limited, the world's second-largest cruise company. Our company operates a total of 41 ships, globally. Last year, we carried nearly 5 million guests, visiting approximately 425 different destinations throughout the world.

Last week, members of this committee's staff visited one of our ships, *Grandeur of the Seas*, for which I thank all of you who were there. The ship was docked in Baltimore, Maryland, while the staff toured the engine rooms, the bridge, the medical facility, and observed firsthand some of the important safety features, such as backup power generation and fire-suppression systems. They were also briefed by the U.S. Coast Guard on the agency's role in inspecting cruise ships to further ensure the safety of all guests and crew.

In addition, the staff were briefed on our extensive environmental programs and observed our advanced wastewater purification system, or AWP, in which we have invested about \$150 million. As a result of the AWP systems, the wastewater that we discharge into the ocean is purified to a standard that exceeds leading municipal, Federal, and international standards.

With regard to air emissions, Royal Caribbean began working with manufacturers several years ago to develop advanced emissions purification, or AEP, systems to clean or scrub the sulfur from fuel emissions before they are emitted from the ship. While we have had some success with the two scrubbers in which we have invested, we are now pleased to be expanding this research project to additional vendors and to additional ships within our fleet, including *Grandeur of the Seas*.

A new initiative, which I'm sure we'll be discussing today, is the decision of Royal Caribbean, together with our industry colleagues from Carnival and Norwegian, to post on our websites a compilation of allegations of crime that occur onboard our ships around the world on all itineraries by all guests and crew.

In 2010, Congress passed the Cruise Vessel Security and Safety Act, or CVSSA, which required the U.S. Coast Guard to maintain a public website disclosing the allegations of crime onboard U.S.-based cruises, provided those allegations were the subject of a closed FBI investigation. As this committee is aware, there are those who have taken issue with this limitation. So, in the spirit

of transparency, the three largest cruise companies, making up over 85 percent of the cruise industry, have voluntarily agreed to expand that reporting by posting all allegations in each of the CVSSA categories on our websites, regardless of whether an investigation was opened or closed. We will have this reporting posted on our websites by August 1, and it will date back to the last quarter of 2010, when the CVSSA was passed.

Mr. Chairman, as you know, there was a recent fire onboard Royal Caribbean's *Grandeur of the Seas*. *Grandeur of the Seas* set sail from Baltimore, Maryland, on Friday, May 24, for a 7-night Bahamas cruise. Unfortunately, just before 3 o'clock in the morning on Monday, May 27, the ship experienced a fire, requiring us to cancel the remainder of the cruise as well as six subsequent sailings. The cause of that fire remains under investigation.

This incident was the first to occur subsequent to the cruise industry's adoption of a Passenger Bill of Rights. As I believe the Committee knows, your colleague, Senator Charles Schumer, recommended that the industry adopt a 6-point Bill of Rights to protect those guests whose vacations are disrupted by mechanical issues on a cruise ship. Our industry trade association, CLIA, welcomed this recommendation, expanded the Bill of Rights to 10 points, and its member cruise lines adopted it within a number of weeks.

In the wake of the fire aboard *Grandeur of the Seas*, Royal Caribbean exceeded our obligations under that Bill of Rights, in terms of both compensating and accommodating our guests.

While compensating our guests for the stress and inconvenience caused by such a serious incident is important, clearly our immediate onboard response is of far greater importance. First and foremost, we must address and successfully resolve any immediate threat, such as the fire itself. As required by international regulations, our crew members conduct extensive training and drills to address emergency situations, and are well prepared to act quickly and decisively in the event of a real emergency. Once the threat is eliminated, crew members can and should ensure the comfort of the guests. In the case of *Grandeur*, fortunately, none of the guests or crew members were seriously injured, and the ship never lost power.

In addition to the emergency response drills and predeparture muster drill, each ship in our fleet is equipped with emergency backup systems that activate in the event there is an interruption in the main power systems. Each ship in our fleet is equipped with multiple high-capacity pumps that are capable of removing large amounts of water that may enter the ship. Each ship in our fleet has two or more propellers, each operated by a separate propulsion motor. Each ship in our fleet has three or more generators, and each generator has its own separate power cable.

At Royal Caribbean, we recognize that there is no such thing as perfect safety. But, there is perfect commitment to safety, and that is our goal every minute of every day.

I appreciate the opportunity to testify before the Committee this afternoon, and look forward to working with you and your staff, now and in the future. I'm happy to respond to any questions you may have.

[The prepared statement of Mr. Goldstein follows:]

PREPARED STATEMENT OF ADAM M. GOLDSTEIN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ROYAL CARIBBEAN INTERNATIONAL

Good Afternoon, Mr. Chairman, Senator Thune and Members of the Committee. My name is Adam Goldstein and I am President and Chief Executive Officer of Royal Caribbean International which operates 21 cruise ships around the world with four new ships on order.

Royal Caribbean International is one of six brands owned by Royal Caribbean Cruises Ltd., (“Royal Caribbean”) the world’s second largest cruise company. Our company operates a total of 41 ships globally. Last year, our brands carried nearly 5 million guests, visiting approximately 425 different destinations throughout the world. Approximately 50 percent of our worldwide revenue is currently generated by cruises in and out of the United States—down from 76 percent in 2006. We believe that this trend will continue as rapidly growing foreign markets offer significant growth and profitability.

Last week, members of this Committee’s staff visited one of our ships, *Grandeur of the Seas*, while she was docked in Baltimore, Maryland. The staff toured the engine rooms, the bridge, the medical facility, and observed firsthand some of the important safety features such as back-up power generation and fire suppression systems. At the Committee’s request, the U.S. Coast Guard also participated in the ship tour and explained its role in inspecting cruise ships to further ensure the safety of all guests and crew.

The Committee staff were also briefed on our extensive environmental programs and observed our Advanced Wastewater Purification, or AWP, system. Royal Caribbean has invested over \$150 million in our AWP systems. As a result, the wastewater that we discharge into the ocean is purified to a standard that exceeds leading municipal, Federal and international standards.

With regard to air emissions, Royal Caribbean began working with manufacturers several years ago to develop Advanced Emissions Purification, or AEP, systems to clean or “scrub” the sulfur from fuel emissions before they are emitted from the ship. While we have had some success with the two scrubbers in which we have invested, we are now pleased to be expanding this research project to additional vendors and to additional ships within our fleet, including *Grandeur of the Seas*.

With the extraordinary support and cooperation of the United States Environmental Protection Agency and the United States Coast Guard, as well as the Canadian Government, Royal Caribbean has been able to develop an approach designed to benefit the broader maritime industry. We anticipate that successful development of this AEP technology will allow marine engines to achieve sulfur reductions below that required by regulatory standards.

Mr. Chairman, the cruise industry has been at the forefront of not only maritime wastewater treatment and emissions reduction technology, but other environmentally responsible initiatives. Royal Caribbean, and the cruise industry as a whole, has adopted practices and procedures that are substantially more protective of the environment than are required by regulation. On our website, we post our annual Stewardship Report which provides the public with updates on our performance in nine key areas of stewardship, including safety and security, energy and air emissions, water and wastewater, and medical operations.

Also on our website—and on those of my colleagues from Carnival and Norwegian—the public will find a compilation of allegations of crime that occur onboard our ships around the world, on all itineraries, by all guests and crew. In 2010, Congress passed the Cruise Vessel Security and Safety Act, or CVSSA, which required the U.S. Coast Guard to maintain a public website disclosing the allegations of crime onboard U.S.-based cruises, provided those allegations were the subject of a closed FBI investigation.

As you know, Mr. Chairman, there are those who have taken issue with this limitation so, in the spirit of transparency, the three largest cruise lines—making up over 85 percent of the cruise industry—voluntarily agreed to expand that reporting by posting all allegations in each of the CVSSA categories on our websites, regardless of whether an investigation was opened or closed. We will have this reporting posted on our websites by August 1st and it will date back to the last quarter of 2010 when the CVSSA was passed.

We are proud of this initiative and believe that it addresses many of the concerns raised with the limited public reporting required by the CVSSA. By providing these statistics, as well as the land-based rates of crime, consumers will be able to see

for themselves that cruise ships are among the safest venues when compared to any landside communities or destinations.

At Royal Caribbean, we recognize that there is no such thing as perfect safety—but there is perfect commitment to safety and that is our goal every minute of every day. While we are proud of our safety record and of our high rate of guest satisfaction, we understand that incidents do happen, such as the recent fire onboard Royal Caribbean International's *Grandeur of the Seas*.

Grandeur of the Seas set sail from Baltimore, Maryland on Friday, May 24 of this year for a 7-night Bahamas cruise. On Sunday morning, May 26, the ship made its scheduled port call in Port Canaveral, Florida then set sail again that evening, bound for the Bahamas. Unfortunately, just before 3 o'clock in the morning on Monday, May 27, the ship experienced a fire, requiring us to cancel the remainder of the cruise as well as six subsequent sailings. The cause of the fire remains under investigation.

This incident was the first to occur subsequent to the cruise industry's adoption of a "Passenger Bill of Rights." As the Committee may know, your colleague Senator Charles Schumer recommended that the industry adopt a 6-point Bill of Rights to protect those guests whose vacations are disrupted by mechanical issues on a cruise ship. Our industry trade association, the Cruise Lines International Association, or CLIA, welcomed this recommendation, expanded the Bill of Rights to 10-points, and its member cruise lines adopted it within weeks. In the wake of the fire onboard *Grandeur of the Seas*, Royal Caribbean exceeded our obligations under the Bill of Rights in terms of compensating and accommodating our guests.

While compensating our guests for the stress and inconvenience caused by such an incident is important, clearly, our immediate onboard response is of far greater importance. First and foremost, we must address and successfully resolve any immediate threat such as a fire. As required by international regulations, our crew members conduct extensive training and drills to address emergency situations and are well-prepared to act quickly and decisively in the event of a real emergency. Once the threat is eliminated, crew members can and should ensure the comfort of the guests. In the case of *Grandeur*, none of the guests or crew members were seriously injured and the ship never lost power. While I am certain the fire caused stress and fear among guests, I am pleased that many guests took the time to write to Royal Caribbean to commend the crew's response to both the fire and the comfort and care of the guests.

In addition to the emergency response drills and the pre-departure muster drill, each ship in our fleet is equipped with emergency backup systems that activate in the event there is an interruption in the main power systems. Each ship in our fleet is equipped with multiple high capacity pumps that are capable of removing large amounts of water that may enter the ship. Each ship in our fleet has two or more propellers, each operated by a separate propulsion motor. Each ship in our fleet has three or more generators and each generator has its own separate power cable.

I believe it is important to note that, in addition to what our individual companies are doing, many of these "best practices" have been set forth by the industry's trade association, CLIA, for adoption by its diverse and global membership. As the second largest cruise company, Royal Caribbean plays a significant role in CLIA and I would like to briefly advise the Committee of recent developments at CLIA.

CLIA represents the interests of 26 cruise lines, as well as 16,000 travel agencies, and hundreds of port authorities, destinations, and various industry business partners. Over the course of the past year, CLIA has successfully globalized its membership so that the policies developed for its members operating in North America will extend to CLIA members operating worldwide. CLIA now provides the single platform for a unified approach to industry policy and advocacy with representation in North America, South America, Europe, Asia, and Australia. Prior to December 2012, nine separate trade associations represented the global cruise industry.

As a result of CLIA's aggressive efforts, our industry around the world is more focused on higher standards of safety and security than ever before. Last year, CLIA directed an industry-wide Operational Safety Review, a comprehensive assessment of the critical human factors and operational aspects of maritime safety. As a result of that review, the global cruise industry introduced ten new safety policies—each of which exceeded current international regulatory requirements upon their announcement and each of which have now been included in formal standards for Passenger Ship Safety promulgated by the International Maritime Organization, or IMO.

For example, passenger ships were required to conduct muster drills within 24 hours of guests embarking on a ship; CLIA identified as a 'best practice' conducting the muster drills prior to departure from port. CLIA's membership adopted this as a formal policy and IMO has now adopted it as an international regulation.

Royal Caribbean is proud to play a leadership role in CLIA and has been supportive of its relentless efforts towards continuous improvement for the global industry. CLIA's commitment to Safety, Security, Environmental Stewardship, Medical Care, and Public Health makes for a stronger, more consistent and more unified cruise industry in these critical areas of our operations. I am sure my colleagues from Carnival and from other member cruise lines will join me in saying that we are proud of all that CLIA has accomplished and we will continue to support its efforts to develop global policies, to address international issues, and to provide strategic communications for its worldwide audience.

I appreciate the opportunity to testify before the Committee this afternoon and look forward to working with you and your staff in the future.

I am happy to respond to any questions you may have.

The CHAIRMAN. Thank you very much.

I'll start off. And this would be to the Coast Guard Admiral Servidio.

The *Carnival Triumph* is now a household name—probably doesn't welcome that—and not in a good way. The ship became famous in February, when it drifted for 4 days in the Gulf of Mexico after an engine knocked out the ship's power and propulsion. Four months later, the Coast Guard boarded the *Triumph*, in Galveston, Texas, to conduct a safety inspection, and found a number of problems. As a result, the Coast Guard detained the *Triumph* in port and prohibited passengers from boarding the ship.

Admiral, the Coast Guard only uses its, quote, "detention authority" in serious cases. Can you please explain why the Coast Guard detained the *Triumph* in Galveston last month?

Admiral SERVIDIO. Yes, Mr. Chairman.

We inspected the vessel. We look at the firefighting systems, we look at the lifesaving systems, and we examine the drills. Onboard the *Triumph*, there were problems with the drills, specifically with regard to the lifeboats, sir, and we also found problems with the fire detection system. Basically, just like you have in your house, there are fire detectors around the vessel. In some segments of the vessel, there were a number of the fire detectors that weren't working the way they should have been working. And there were also some problems with the fire sprinkler system in certain parts of the vessel. Again, it's the sprinkler system that's designed, if there is a fire, to automatically activate to put out that fire. Those are significant problems. And, as such, we detained the vessel until they were rectified. And they were rectified the next day, sir.

The CHAIRMAN. And you found, as I understand it, 28 deficiencies.

Admiral SERVIDIO. Yes, sir. The—there were a number of minor deficiencies, but those were the substantial deficiencies, sir, that caused us to take the actions to not allow the vessel to embark passengers until they were corrected.

The CHAIRMAN. Understood.

Mr. Cahill, after the *Carnival Splendor* engine room fire left the ship disabled and stranded, in November of 2010, you told the media that this was, "a very surprising incident." You later said Carnival spent millions of dollars on, quote, "lessons learned from the *Splendor* fire."

After the *Carnival Triumph* engine-room fire left the ship disabled and stranded, in February 2013, you told the media that, "Something like this is a very rare incident." Carnival also has said

that it was spending millions of dollars on ships in the aftermath of the incident.

And on June 12, 2013, while the *Triumph* was being detained by the Coast Guard in Galveston for failing a safety inspection, Carnival posted a video, claiming that the ship was—before it had been cleared, that—you said, in the video, the ship was repaired, enhanced, and back in service.

Mr. Cahill, you've been—you have a speaking role, yourself, in this video, in which you say that Carnival has completed it—an operational review of the ship, and that it was ready to go.

In light of this record, why should the American public now believe that Carnival has a meaningful commitment to promoting its ships? It's easy to say things happen infrequently, but, when they happen, they affect an awful lot of people, and they're happening, even to the extent that the public knows about it, more frequently than necessary. How would you answer, sir?

Mr. CAHILL. Mr. Chairman, first off, I take it very seriously, myself. After the *Carnival Splendor* fire, we did form a Safety—a Fire Safety Task Force, and that Fire Safety Task Force consisted of 15 people who came up with 25 recommendations, at a very significant cost. They were all—I approved them all, they were all implemented. And, in fact, they were very helpful in extinguishing the fire on the *Carnival Triumph*. The Coast Guard noted that the crew performed very well in extinguish the fire, containing the fire, and putting it out quickly.

What happened with respect to the *Triumph* was that the cabling that ran over the engine room was damaged, and we lost propulsion in the main—in the forward engine room. We were able to put the fire out. No one was injured. In either case, no one was injured. We were able to fulfill our obligation of keeping everyone safe.

What we did do, very unfortunately, was, we really, seriously put our guests in an uncomfortable position. And that bothers us a great deal. And, as a result of that, we then performed an operational review. We announced, in—we consulted with the Coast Guard, actually, before we announced it. We came out and announced that we were going to invest over \$300 million across our fleet, concentrating first that—this problem, where we lost both engine rooms, which is not supposed to happen, to rewire the engine rooms so that that would not happen in the future. We're also investing in additional auxiliary diesel generators, so, in the rare case you do lose main propulsion power, we have backup power to provide better hotel facilities. And then, lastly, we are also investing in an upgraded fire safety and detection system, a higher-quality, more—I guess, more advanced technology has come out in recent years—water mist system.

So, we take our obligations very seriously, Mr. Chairman, and we are working very hard. We've also just recently announced that we've formed an External Safety and Reliability Review Board. There are two former Navy admirals who are on that board, as well as people who are—one gentleman from the NTSB and another person who comes with a very significant airline maintenance background.

So, we take all of these things—we consider them very important, and we are working to improve.

The CHAIRMAN. I'm beyond my time, already, but I was fascinated by your opening statement. It couldn't have been more than a minute and a half to 2 minutes, and it had no content whatsoever. I don't ask you to answer that or pass judgment on it, but I was kind of stunned. Everybody else was talking substance, and you were kind of walking away from things, was my impression.

Senator THUNE.

I'd like to—oh, sorry—I'd like to direct this to Admiral Servidio. Could you explain to the Committee how the Coast Guard coordinates with industry and with enforcement agencies in other countries to enforce vessel safety regulations?

Admiral SERVIDIO. Yes, Ranking Member.

Basically, the way the oversight of a foreign-flagged vessel works is that the crew, the owner, and the operator are responsible, primarily, for ensuring that the vessel complies with all the international requirements. That's sort of the first rung of the safety net.

The next rung is the flag state, which is the flag that the vessel flies, be it Bahamas, Panama, Malta. And the flag state has a requirement to ensure that, again, vessels that fly their flag comply with this.

The next rung in that safety net is the class societies, who perform an oversight function, for insurance purposes.

And the last rung is the Coast Guard, which does port state control, sir. So, when a foreign-flagged vessel comes to the U.S., we enforce both U.S. laws and the international laws on that vessel.

So, that's the way—there's an international set of requirements. Each flag has their own set of requirements, sir. Class society has rules that also need to be implemented. And then, here in the U.S., sir, when the vessel comes in, if it's foreign-flagged, we conduct oversight to ensure the vessel is in compliance.

Senator THUNE. So, just to be specific on that, it's accurate to say that, even if a vessel is foreign-flagged, it is responsible for complying with all relevant U.S. safety standards.

Admiral SERVIDIO. Yes, sir. The vessel is required to comply with the international standards; and, likewise, they're required to comply with the U.S. standards that are in addition on cruise ships that we have, sir.

Senator THUNE. OK.

Mr. Cahill, as you know, the Coast Guard, last week, issued its final report on the 2010 *Carnival Splendor* incident involving the engine fire and the complete loss of power. You've talked about some of the steps that Carnival is taking—it sounds like, sort of, proactively—to correspond with some of the recommendations made in that report. I'm wondering if there are recommendations that were made that Carnival disagrees with.

Mr. CAHILL. In thinking, no—no, Senator, I think we agree with their recommendations. Most of the recommendations that the Coast Guard came up with, we had already implemented. We had our own fire safety experts who came in. We had four or five independent experts that we hired who worked at the same time as the

Coast Guard. They primarily noticed the same things. We went right ahead and implemented them. So—

And, basically, as I mentioned before, those things were very helpful. They were effective in putting out the fire on the *Carnival Triumph*.

Senator THUNE. Mr. Rosenker, you serve on CLIA's Panel of Experts that makes safety recommendations to the cruise ship industry. Can you tell me what major recommendations you've made recently, and what the reaction has been of the cruise lines to those recommendations?

Mr. ROSENKER. Yes, sir.

We took a look, after the operational safety review that was going on, at a number of recommendations that we believe would go a long way to raise the bar of safety within this industry. And what we did was make these recommendations back to the industry; and they questioned a few of them, but immediately said, "This is the right thing to do." And I found, having had experience in making recommendations to industries beyond the cruise industry—the rail, aviation, highway, pipeline—that, many times when I made recommendations, it took a while for those industries either to act or to finally implement what we had asked. This one was done very quickly.

The 10 policies, which I submitted in my testimony, ultimately were put forth to the IMO, and they, too, had been accepted for implementation.

So, I was—and along with my colleagues at the Independent Panel of Experts—we were impressed with the expeditious manner in which the industry accepted our advice and adopted the policies.

Senator THUNE. We have other members who want to ask questions, Mr. Chairman, so I'd—my time's expired, so I'll pass and allow them to do so. Thanks.

The CHAIRMAN. Well, you gave them an extra second.

Senator Schatz.

**STATEMENT OF HON. BRIAN SCHATZ,
U.S. SENATOR FROM HAWAII**

Senator SCHATZ. Thank you, Chairman, and thank you, Ranking Member.

I have a question for the Admiral.

First of all, thank you, Admiral, for appearing before the Committee. And let me say how grateful we all are, to you and your colleagues in the United States Coast Guard, for your service and providing a first-responder service to ensure that Americans at sea enjoy the same level of safety and security that they do on land.

As we've heard today and in previous hearings, the Coast Guard plays a critical role in the safety and security of cruise ship passengers, from ensuring that cruise ships make—that make a port of call in the United States are in compliance with safety and environmental regulations to responding to accidents at sea. And I know you have 11 statutory missions, and you're having to balance, as all Federal agencies are, all of those missions under the constraints of the sequester.

So, my question is, Can you speak to the resource constraints that you have, in terms of your emergency response capability and also your inspection regime?

Admiral SERVIDIO. Thank you, Mr.—thank you, Senator.

We believe—we conduct our marine safety missions, risk-based; so, we put the most resources we have to those vessels that pose the greatest risk. We do believe we have the resources, at present, that we need to continue to conduct our oversight of what other flags are doing, what the class societies are doing, as part of our port state control, as well as with our U.S. vessels.

Senator SCHATZ. Could you just divide your answer to the emergency response side, as well as the, sort of, inspection regime? You believe that you have the resources on, sort of, both sides of that equation?

Admiral SERVIDIO. Well, sir, I think the Commandant has gone on record as saying there is great concern with the age and the numbers of some of our fleet. So, I obviously agree with everything our Commandant has said, sir.

[Laughter.]

Senator SCHATZ. Of course you do.

I have a question for Mr. Goldstein.

We've heard, today, about the so-called Passengers Bill of Rights. I think it's an important first step. But, bills of rights are generally enforceable and there is an accountability mechanism. So, I'm wondering if you could articulate what kinds of metrics you're going to be putting forward to hold yourselves accountable to consumers and to the Committee, to the Coast Guard, to all of the various constituencies to which you are responsible. I think it's an important first step, to articulate what you want to accomplish on behalf of passengers, but we sort of need to know how you're going to measure your success and hold ourselves accountable, collectively.

Mr. GOLDSTEIN. Thank you, Senator.

The first thing I would say, because the question was raised about this earlier on in the comments, to the extent that there was a question as to, "What is the relationship between the passenger ticket contract and the Passenger Bill of Rights?"—we would not, as an industry, have agreed to issue the Passenger Bill of Rights if we didn't expect that it would apply in all the relevant situations that the 10 points call for.

We wanted to be fast in getting it out, and we didn't want to wait until however many cruise lines who choose to do this would go through whatever process they might need to go through to harmonize the passenger ticket contract with the Bill of Rights.

I am aware that, for at least a good number of cruise lines, they're now in the process of trying to eliminate any perceived inconsistencies.

The point is that it's supposed to apply. It creates a contractual right, between the customers and the cruise lines, on which they can take legal action if they feel they've been denied any of those rights.

Senator SCHATZ. And, in plain language, and up front, in a sufficiently large font, in a—

Mr. GOLDSTEIN. In—

Senator SCHATZ. No, it's a serious question, because—

Mr. GOLDSTEIN. Yes. In whatever font is required for the purpose. And in the case of all 26 cruise lines, on their websites, adjacent to the passenger ticket contract so that the two are there, side by side, to be viewed, the 10 rights are stated publicly at all times.

And it's a good question about the metrics. This is very new. The main metric, I would say, is, Do the passengers actually have the right, and are they able to exercise the right, to take action? Are they actually able to receive the refunds that are meant to be automatically due to them under the Passenger Bill of Rights? Whereas, in the past, they would have only had the remedy of suing under the passenger ticket contract provisions. Are these things actually happening? Is there real relief involved as different incidents occur?

As I mentioned, with respect to *Grandeur of the Seas* and the fire there, our goal was to go far enough beyond all of the relevant provisions of the Passenger Bill of Rights so that nobody would seek action.

Senator SCHATZ. Mr. Cahill, anything to add? Mr. Cahill?

Mr. CAHILL. Yes, Senator?

Senator SCHATZ. Do you have anything to add? I have 9 seconds. [Laughter.]

Senator SCHATZ. If not, I'll yield back.

Thank you very much.

Dr. KLEIN. May I make a comment to what he just said?

The CHAIRMAN. Mr. Begich is not yet seated.

I'm sorry?

Dr. KLEIN. May I make a comment in relation to the last question?

The CHAIRMAN. Of course.

Dr. KLEIN. Just—I'll just make it very brief. I mean, I guess, in my written testimony, I go in detail with regard to either inconsistencies or problems, and I'm not going to take the time to do that, since you can read it. But, I do want to point out two things:

The Bill of Rights says there's a right to a refund. The practice of the industry is, those refunds are onboard credits. I don't think an onboard credit is a refund. It doesn't say how refunds are—onboard credits are computed. There's no way in which that can be audited.

Finally, the Passenger Bill of Rights is—states, is that it's obligatory on all members of CLIA, and if they don't do it, it's—they can't be members of CLIA. When I went through websites last week, preparing my testimony—I went to 26 cruise lines' websites—I found that 13 of them do not have obviously displayed anywhere on their website the Passenger of Rights. I could not find it. So, 50 percent of the members of CLIA are out of compliance in the Bill of Rights, which is obligatory for membership in the association.

Thank you.

The CHAIRMAN. Thank you.

Senator Begich.

**STATEMENT OF HON. MARK BEGICH,
U.S. SENATOR FROM ALASKA**

Senator BEGICH. Thank you very much, Mr. Chairman. I apologize, I had to leave here for about a half hour. I was chairing a meeting upstairs with veterans folks.

Let me—I want to follow that up to the industry folks, and maybe Mr. Goldstein, or whoever would like to answer this.

What is the follow-up for members to ensure that they are adhering to the Bill of Rights? What—how do you process that? I don't know who would like to answer that, but—

Either one.

Mr. GOLDSTEIN. I'm sorry, Senator. By "members"—

Senator BEGICH. CLIA's members.

Mr. GOLDSTEIN. OK.

Senator BEGICH. Like, if you didn't—

Mr. GOLDSTEIN. Yes.

Senator BEGICH.—adhere to the Bill of Rights, what—how does that work?

Mr. GOLDSTEIN. Right. So, every CEO of a member line needed to attest, in writing, to the fact that the Passenger Bill of Rights was in effect, that it was displayed on all 26 websites. And it is a condition of membership now. So, if we are found to be out of compliance with the Passenger Bill of Rights, we would have to relinquish our membership in the organization.

Senator BEGICH. Let me—in your—the Bill of Rights you've put into place in the last 6 months, 8 months—is that a fair statement? Do you think, in order to really understand its effectiveness or its use by the different cruise lines—how much time do you think you need that—is—I mean, you've gone through it—from Alaska's perspective, you're in a season right now. But, I know, in Florida, the season starts later. I mean, everyone has a different season. So, how would you measure your success—or, when would you be able to measure your success, I guess is a better way to put it?

Mr. GOLDSTEIN. Sure. So, while fully admitting that there have been more incidents in the cruise industry this year than any of us would like to have seen, they are rare, as a matter of historical record, and I would think it would take more than—it's actually been only 2 months—

Senator BEGICH. Two months.

Mr. GOLDSTEIN.—almost to the day—

Senator BEGICH. Right.

Mr. GOLDSTEIN.—since the Passenger Bill of Rights went into effect. So, it will take—I don't know; I'm making up a number—1 or 2 years, probably, to see exactly what that means, in practice.

Senator BEGICH. OK.

Mr. GOLDSTEIN. And, hopefully, it will show that the passengers are well protected.

Senator BEGICH. How many—just so I know. From Alaska's perspective, we had 3.5-or-so-million passenger visits. Approximately 65 percent of our port-of-call cruise passengers visit U.S. ports. Direct expenditure, in our economy, is about a billion dollars and 22,000-plus employees. So, a lot of impact to our state. You know, not like—maybe Hawaii, to a certain extent, but—not, clearly, like Florida, but, you know, a lot.

And tell me, in the overall industry of U.S. port touch, how many visits does the industry have—or, how many passengers, over a year, would they have? How big is it? And either one could answer this. I'm—

Mr. GOLDSTEIN. Yes, I'll just start. With the worldwide industry, there will be about 21 million cruises taken this year. North Americans will take approximately 11- or 12 million. The great majority of those, plus some taken by others, will occur in and out of U.S. ports. So, the number of cruises being taken in or out of the U.S. is somewhere in the 10- to 12-million-person range.

Senator BEGICH. OK.

And, Mr. Chairman, I was quickly trying to grab the report and look through it. Like you, I'm having to my put glasses on, because I'm looking at the data points. But, I'm—

If I read this right—this is the FBI report, and it talks—January 1, 2011, through December 31, 2011, Cruise Line Incident Reporting Statistics Incidents Report; it includes “Other,” which some industry folks don't have to report it, but they do—a lot of them do. The number is 655.

And I guess—and I don't know what the total incident numbers are, because there's, like, three or four different charts in there, so I didn't have time to go through it, but let me just put that aside for a second.

We don't—and I'm sure you are of the same view—“no incidents” is great. Right? That's the goal. Right? Is that a fair statement?

Mr. GOLDSTEIN. That would be a fair statement.

Senator BEGICH. In proportional to other industries, when I look at the millions of passengers and the incidents, then, compared to it—and “no incident” is a good incident—I mean, we don't want any incidences—but, in comparison, it's a small number. Am I missing that? And again, I know there are lots of other data points in here. I'm just quickly grabbing what I was able to pull out of this report, here. I don't know if you've seen the report at all.

Mr. GOLDSTEIN. We haven't had a lot of time, but the Chairman wrote letters to three cruise lines, about two and a half months ago. We answered in late May and provided a good amount of data, as I'm sure the other two cruise companies did, as well. As we move forward and as we begin to report out, as of August 1 on our website, all allegations of crime, irrespective of whether—

Senator BEGICH. Right.

Mr. GOLDSTEIN.—cases have been opened or closed or some of the issues that have been prevalent up until now, we will be able to compare to the uniform crime reporting that applies nationally in the country—

Senator BEGICH. For the FBI crime reporting statistics—

Mr. GOLDSTEIN. Right.

Senator BEGICH. Yup.

Mr. GOLDSTEIN.—there will be, for the first time, the ability to compare, on an apples-to-apples basis, what the crime rates are for the principal CVSSA categories to what happens on land. And we are very confident that the comparative will be beneficial for the cruise industry, because crime is relatively rare on our ships.

Senator BEGICH. Very good.

I know my time's up, but I—just a quick answer from either one of you on regards to—I know, in Alaska, you guys are called on, off and on, by the Coast Guard to assist in situations. Is that just an Alaska incident type of situation, or—maybe both of you could respond to that.

Mr. CAHILL. Thanks, Senator.

It's a time-honored tradition that, in the maritime industry, we all respond to help another vessel that's in need. And the Coast Guard will often call on us in the—since March, the Coast Guard called on Carnival ships at least three times to assist in distressed vessels. Two times, they were relatively small vessels, and the people—we actually took the people onboard our ships—that is, to assist the Coast Guard. And then, the last time was to assist—to stand by for another cruise ship that was in distress. So, we do appreciate Coast Guard helping so much, and we try to return the same thing.

Senator BEGICH. Thank you very much.

I'll end there with—I don't know if we'll have a second round, but I thank the Chairman for the opportunity.

Dr. KLEIN. If we can—if I can offer just a couple of quick comments.

I think one is that, in comparing the Cruise Vessel Security and Safety Act, when it was initially proposed and what was passed, there were two crime categories that were dropped off. And I think it's dangerous for them to be left off. That is: simple assaults and thefts below \$10,000. As Judge Thomas Dickerson, in New York, said—suggested in what—in a lecture he gave to a seminar of judges, that he felt the issue of thefts, dropping those off, was a serious problem, because it basically gives permission for those kinds of crimes to go on.

I think the other issue—and I'm not too sure what the—what's going to be reported, but—I don't want to get into rates. What I'd like to identify is—

Senator BEGICH. Can I—I hate to interrupt you, and I—

Dr. KLEIN. That's OK.

Senator BEGICH.—my time is expired, but—you're saying, because it's not reported, that then says to everyone, "Go and commit crimes under \$10,000"?

Dr. KLEIN. Well, the understanding that I have is, a crime of value of less than \$10,000 is known that it will not be prosecuted, and it doesn't get reported. That—you know, and I'm not too sure how they're handled, but it doesn't go to the FBI. So, you know, the—I guess it's handled internally, if it's handled.

Senator BEGICH. I don't know if the industry folks want to respond—

Dr. KLEIN. Yes. Let me just make my other one comment. And that is, the data we—last comprehensive data we have was—through a Freedom of Information Request, was dated for 2007–2008. And what that data demonstrated, which is similar to data from discovery in legal cases between 2003 and 2005—this is in an appendix in my testimony—found that close to 18 percent of the victims of sexual assault on cruise ships are children.

I don't want to get tied up in debates. I don't want to get tied up into the incidents. My concern is that, when people—when fami-

lies bring their children on a cruise, and they're told that it's a safe vacation, I think any number of children who are being victimized is unacceptable.

We have two children, an 11-year-old girl and a 12-year-old girl, both of whom were—one was molested—or, one was sexually assaulted, the other was groped on cruise ships within the past 4 to 6 weeks. To me, I don't care about the total numbers, I care about that those young children are going to live with that for the rest of their lives.

Mr. GOLDSTEIN. Thank you, Senator.

With respect to the latter comment, obviously none of us accept anything of that sort, and we all want to work together to prevent any allegations or crimes of that nature from taking place.

With regard to crime reporting, since 1996 it has been a legal requirement for us in the United States to report all felonies. That remains in place, irrespective of the CVSSA categories or what have you. So, we report thefts, for example, of \$1,000 or more, which are felonies, to the FBI. It doesn't matter that the CVSSA did not address that. So, in terms of categories of crime, we report much more to the FBI than the CVSSA required of us.

Also, the CVSSA is written with respect to ships going in and out of the United States. On our websites, as of August 1, we will report all allegations of crime, wherever they may occur on any of our ships anywhere in the world, and to any citizen of any country, not restricted to U.S.

Senator BEGICH. Thank you, Mr. Chairman, for your patience.

The CHAIRMAN. Senator Blumenthal.

**STATEMENT OF HON. RICHARD BLUMENTHAL,
U.S. SENATOR FROM CONNECTICUT**

Senator BLUMENTHAL. Thank you. Thank you for this hearing, Mr. Chairman.

Thank you, to the members of the panel who are here today. All of you have an expertise and knowledge in this area that's very valuable to this committee.

And I want to thank, particularly, Mr. Cahill and Mr. Goldstein, for being here. I know that this is not one of the great treats or glamorous occasions of your professional lives, so—

We have tough questions, which we have an obligation to ask, in my view, because the information coming to me—I think, to many of us—is that there is inadequate protection for travelers on cruise ships. The issues and problems may be more exceptional than the rule, but my impression is that consumers and travelers deserve to know better what the rights and protections are. And, in some cases, with many cruise ship lines, they are more illusory than real. And that's why I've become a cosponsor of Senator Rockefeller's bill, the Cruise Passenger Protection Act, which would address many of these concerns in the areas of enforceability and disclosure, transparency, accountability.

For example, Professor Klein mentioned—and I think it's true—that the Bill of Rights that CLIA has issued are essentially unenforceable, as a matter of contractual law, unless I'm mistaken. Correct me if I'm wrong, Mr. Cahill and Mr. Goldstein. Are those guar-

antees, every one of them, that you regard as a contractual right of a cruise ship traveler?

Mr. CAHILL. Senator, yes, we do. We would never have published it on our website as a list of passenger rights unless we intended it to be enforceable. I have been advised by our counsel that it is, in fact, enforceable. Now we are in the process of going through and changing our contract so that it corresponds to the Passenger Bill of Rights. So, we—

Senator BLUMENTHAL. And clearly you would not contest jurisdiction in any United States District Court, or oppose provisions that would grant jurisdiction in District Courts of the passenger's choosing.

Mr. CAHILL. I'm not a lawyer, Senator, but we would not contest the Bill of Rights. In fact, for all—

Senator BLUMENTHAL. Well, I'm asking about the forum where it's enforced, because a right without a forum, without a court, without an enforcer, is illusory. So, they're not—you—I would be more than happy to give you the benefit of consulting with your attorney before you ask. I'm not trying to put you on the spot, here. But, may I simply suggest—and you can answer at greater length in writing—that you can do consumers and travelers a great service by allowing them to take action as a matter of contract against you in the forum of their choosing. Would you agree to do so?

Mr. CAHILL. I think it's pretty normal practice for a company to specify the forum on which it can be sued. In our case, it's Miami courts.

Senator BLUMENTHAL. Well, it may be the normal practice in your industry, but not necessarily in all industries. And—

Let's move on, because I have a number of other points to make about the reality of these rights. Let's talk, for example, about CLIA right number 3—talks about medical attention. In fact, it guarantees—and I'm quoting—"full-time professional emergency medical attention, as needed, until shoreside medical care becomes available." Do your lines charge for that medical care? Are passengers charged?

Mr. GOLDSTEIN. Thank you, Senator.

So, in the normal course, yes, there are charges for using the medical center, depending on what the situation is. And then there are incidents and accidents, depending on what the situation is, where we may waive charges.

Senator BLUMENTHAL. You may waive, but there are fees and charges, which—

Mr. GOLDSTEIN. There are normally fees—

Senator BLUMENTHAL.—which are not indicated—

Mr. GOLDSTEIN.—and charges—which are normally subjected to insurance.

Senator BLUMENTHAL. And with respect to your line, Mr. Cahill?

Mr. CAHILL. Senator, it would be the same.

Senator BLUMENTHAL. I might cite from Carnival's ticket language—and I'm quoting—"Carnival, in arranging for the services called for by the physician or nurse, does so only as a convenience for the guest. Guest agrees that Carnival assumes no responsibility, does not guarantee performance, and in no event shall be liable for any negligent or intentional acts of omissions, loss, damage,

injury, or delay to guests. Guests use the services of all independent contractors as the guest's sole risk."

My time is rapidly coming to an end, but would you agree with me that, in effect, your cruise lines are disclaiming any and all legal responsibility for the quality of care that's provided?

Mr. CAHILL. Senator, we have an obligation to research and hire qualified physicians. We are not a hospital, but we are required to make sure that the physicians that we hire are properly accredited, properly trained. And we do that. So, we are legally liable to do that.

Senator BLUMENTHAL. Mr. Goldstein?

Mr. GOLDSTEIN. Yes, we are in the same position.

Senator BLUMENTHAL. So, you would not dispute legal liability for medical malpractice by one of those doctors performing services during one of your trips.

Mr. GOLDSTEIN. My understanding is that—to the point that Mr. Cahill was just making—if we make a poor choice, if we choose somebody who is unqualified to provide that medical service, we are liable and subject to a lawsuit for failure to do so.

Senator BLUMENTHAL. But, apart from the credentials—

Mr. GOLDSTEIN. Apart from the—

Senator BLUMENTHAL.—you would disclaim any responsibility. Your—the limits—

Mr. GOLDSTEIN. Yes.

Senator BLUMENTHAL.—of your acceptance of liability is—if there—if that person has a diploma or a credential, that's where your liability ends. Is that correct?

Mr. GOLDSTEIN. The appropriate diploma or credential, yes.

Senator BLUMENTHAL. Same with you, Mr. Cahill?

Mr. CAHILL. Yes, sir.

Senator BLUMENTHAL. Thank you.

My time has expired. I apologize for running over, and I'll follow up in second round of inquiry.

Dr. KLEIN. One quick—

The CHAIRMAN. Yes.

Dr. KLEIN. Just want to mention, real quickly, that the—this issue of liability was handled both by the Florida State Supreme Court and by the U.S. Supreme Court. It was the case Carnival Corporation versus Darce Carlisle. And that would have been in 2007. The legal opinion in that case with the—which the cruise industry argued for and was able to get—was that they are not liable for the behavior of a physician conducting malpractice on one of their cruise ships.

The CHAIRMAN. I'll absorb that as best as I can.

Senator Markey.

**STATEMENT OF HON. EDWARD MARKEY,
U.S. SENATOR FROM MASSACHUSETTS**

Senator MARKEY. Thank you, Mr. Chairman.

The CHAIRMAN. Did you want me to make a speech welcoming you once again to the Committee?

[Laughter.]

Senator MARKEY. I feel welcomed. And I'm glad that you've introduced legislation in this area. And I would like to, as one of the

first things I do, is to ask to be added as a cosponsor to your legislation. So—

The CHAIRMAN. With pleasure.

Senator MARKEY. And I thank you. This hearing has been highly illuminating.

May I ask you, Admiral Servidio—I know there has been some reference to this accident off the coast of Louisiana, and there is, right now, from the Coast Guard, an update saying that there is significant risk of losing the blowout preventer. Could you tell us what are the consequences of losing the blowout preventer in a situation like this? What would the impact be upon the Gulf of Mexico?

Admiral SERVIDIO. Thank you, Senator.

From what I understand, the *Hercules 265*, which is the—an oil rig that was drilling—I believe it's about 40 miles off the Louisiana coast—suffered a well kickback; and, as such, gas came up, and there was an explosion last night. And, as a result of that explosion and the fire, the cantilever, which is pretty much the derrick—the floor of—on which the derrick was drilling, has collapsed. And, with that—I understand that the crew was interviewed before they evacuated; everyone evacuated safely from the mobile offshore drilling unit—that they said they actuated the blowout preventer, but, for whatever reason, it seems like it did not work. I don't know, at this point in time, sir, on why that might have happened or whether the rams actually, which are, basically, two hydraulic presses that squeeze together—I don't know whether they actually actuated or whether they didn't, sir.

If there is no blowout preventer, then there might be a number of options that I know the Unified Command is looking at. I don't know whether capping, in a capping stack, would be a potential. The—due to the sand that might be in the formation, it might plug itself. There are a number of different things that could happen, sir. We're working with BSEE, the Bureau of Safety and Environmental Enforcement, and the Unified Command is looking at what those potential options are and what might be. I can't—

Senator MARKEY. Is there—

Admiral SERVIDIO.—speculate, sir.

Senator MARKEY. Is there a chance that the rig could sink if they cannot get close enough to fight the fire?

Admiral SERVIDIO. There is a chance, sir, that, if the—if we can't fight the fire and it continues to burn, that there will be metal fatigue, and that will infect the vessel, sir.

Senator MARKEY. And what would that mean for the Coast Guard or for the industry, in terms of capping the well, if the rig actually sank?

Admiral SERVIDIO. Again, sir, I don't know specifically on what that would do. I think a lot would depend upon what happens with the rig and how it would end up—if it does have a failure, how it would end up failing. And I don't know the pressures of the formation or anything else, sir, so I really can't speculate, Senator.

Senator MARKEY. But, it could take upwards of 20 or 25 days to have a relief well that is actually drilled, if this rig sinks, if there is an inability to deal with it.

Admiral SERVIDIO. Senator, I believe both the Coast Guard and BSEE issued, or are issuing, a joint order to start the process of drilling a relief well. I'm not sure whether there are other contingencies, but I think they're starting to get that process in place, should that happen.

Senator MARKEY. Yes. You know, there was another event like this, just 2 weeks ago, where there was a loss of well control. And this is just a second incident in 2 weeks. So, again, it's just something that we have to learn, that when we don't put in the proper policies that ensure that these events are preventable, that they become inevitable, and they recur. And we're seeing it, now, twice in just 2 weeks.

Admiral SERVIDIO. As you're aware, Senator, the Coast Guard has responsibility for the safety systems onboard that mobile drilling unit. The Bureau of Safety and Environmental Enforcement looks at the drilling systems, the BOP and other types.

Senator MARKEY. Thank you.

Admiral SERVIDIO. But, we share. We work together.

Senator MARKEY. Thank you. Thank you, sir. Thank you for your service, and thank you for the Coast Guard's work in this instance.

Mr. Chairman, for the past three Congresses, I have actually introduced the Travelers International Bill of Rights in the House of Representatives. And this relates to a similar, but not identical, issue, here, that we're talking about, which is a consumer who purchases international vacation travel online. My bill would require travel website operators to prominently post information regarding the health and safety conditions at overseas travel destinations, such as the availability of lifeguards, medical personnel, as well as information from the Department of State on crime statistics and travel warnings related to their destination. So, this would actually relate to passengers on ships that disembark when they go into these vacation destinations.

So, I'll tell you why. Maureen Webster, she was a constituent of mine in Woburn, Massachusetts—she educated me about the potentially deadly consequences that can result from lower safety standards and medical response capabilities at some overseas travel destinations. Her son, Nolan, died at a resort in Mexico, when he did not receive the medical treatment that may have been able to save his life.

So, I'm planning on introducing that legislation in the Senate, as well, because, by having easy access to health and safety information, Americans can actually make more informed decisions about where to travel and where to stay when they are overseas.

We've recently heard a number of serious incidents that compromised the safety of cruise ship passengers, including serious mechanical failures that left thousands of passengers stranded for days, navigational mistakes that led to passenger deaths, et cetera, violent crimes that were committed onboard. But, the same thing happens when passengers disembark in individual countries. And that information, in my opinion, as well, should be made available.

So, Dr. Klein, what do you think about that, in terms of that next step in giving protection to consumers?

Dr. KLEIN. Well, I very much agree with what you're saying and the need for that for international travelers, but also for cruise pas-

sengers. For example, there are cases—I mean, not frequent, but there are enough—of people going on shore excursions and being robbed, or going on shore excursions and dying. In my testimony, I give a list of the number of deaths onshore for people who have taken a cruise.

And I think, as long as your legislation would extend to including what happens ashore to cruise passengers, not just people who have flown to stay in that location, I think it would be a wonderful and a very positive move.

Senator MARKEY. Mr. Cahill, what would you think about that—giving that information to passengers on cruise ships or to anyone just going into a country, flying in, as well?

Mr. CAHILL. Senator, we actually try to do that now when we have concerns about a particular area. We have a security group. We review ports before we go. We have actually canceled calls in a number of ports—we've stopped going to ports—when we've had concerns about it. But, our security team reviews for—is there potential with terrorism in that particular part of the world? We look to see, Is there civil unrest? If there's civil unrest, we're probably going to pass on that port.

But, we also look at local crime. We work with local authorities. And we will give notices to our guests. I mean, to some extent, it's common sense, just like when I'm home, there are certain parts of town you may not want to go to at night. We will tell the same things to our guests there. So, we try and do that, today, Senator.

Senator MARKEY. But, would you support requirements that travel website operators who sell cruise vacations must prominently post this information for consumers shopping for a cruise so that they can understand what the dangers, what the health conditions might be in these individual ports? Would you support that being posted, as well, on the websites of the travel—

Mr. CAHILL. I think I have to look at it, first, Senator.

Senator MARKEY. Mr. Goldstein, what would you think about that?

Mr. GOLDSTEIN. That sounds like something that the industry would be definitely open to dialogue about. We want our guests to be informed. Both our companies and, I think, other cruise companies have very experienced people. In our case, our head of Security, Safety and Environment was a very senior long-term ranking official at the FBI. I believe Carnival's person had a long and distinguished career at the Coast Guard.

So, we are constantly evaluating. And it seems like an eminently sensible idea. But, I just want to stress that things change all the time. So, for example, with the recent unrest in Turkey, cruise ships are obviously going in and out of Turkey, land-stay vacations are going in and out of Turkey. We're monitoring that situation literally hour by hour to make sure that—it is still okay for the ships to go there, and so forth. So, it's a very important subject for us.

Senator MARKEY. I appreciate that. But, it turns out that Maureen Webster, in talking to me about her son, basically learned, as I learned in helping her, that all of this information was knowable, that she learned so much about where her son was going after the fact that, if there had been a conversation before-

hand, might have prevented him ever going there. So, that was a destination in Mexico, but it could have been in many other countries in the world. So, I would like to work with you on that, just so that information is made public.

So, I thank you, Mr. Chairman.

The CHAIRMAN. Senator Markey, thank you very much. That was a substantial input of 10 minutes and 13 seconds.

[Laughter.]

The CHAIRMAN. But, of course, very interesting.

Senator MARKEY. I was playing under American League rules. I'm over here in the National League. So, I'm just learning the rules—

[Laughter.]

Senator MARKEY.—you know, designated hitter, you know—

Senator THUNE. Mr. Chairman—

Senator MARKEY.—proxies, all different rules over here. So, I'm—

[Laughter.]

Senator MARKEY. Thank you, Mr. —

Senator THUNE. Having served with the Senator from Massachusetts in the House, I know there's a real pent-up demand to talk for long periods of time when you get to the Senate.

[Laughter.]

Senator MARKEY. When you move from a 1-minute rule—

[Laughter.]

Senator MARKEY.—right, it's liberating.

Senator BLUMENTHAL. And maybe in the Grapefruit League.

[Laughter.]

The CHAIRMAN. Let me make a comment and read something controversial.

My impression of this hearing is that there's a bit of a Kabuki dance. I mean, my mind is not neutral on this. And I come from a state where we have a lot of coal mines. And although it may be very odd to compare coal mines to cruise ships, the psychology focused within the management of coal mines and what we're talking about here seems to be somewhat parallel.

There is danger every day in the coal mines. People understand that. But, since coal mines, like cruise ships are located beyond the borders of 3 miles, nobody really knows what's going on. There's no 911 reporting system. And so, you have to depend on whatever the rules are of management on that cruise ship.

In the coal mines, that can be very deadly. When we do have accidents, they sort of stop the world, at least the coal-mining part of the world, and parts of the Congress. And Republicans and Democrats come together, and they pass mine safety legislation, because there's a shock factor, where, in fact, there should not have been a shock factor, because the elements leading up to that were there all the time for those of us who've dealt with coal mines and miners for years and years—and coal operators, in particular.

I have a feeling that those who operate here are showing the good side, emphasizing how infrequent these matters are. I think I've heard it mentioned a couple of times, of passengers, but not very much. And I think there are some people who want to see

good done. And that, after all, is the purpose of an oversight committee. We take that extremely seriously.

So, Mr. Rosenker, I will just highlight in my statement, yes, you're the former chairman of the National Transportation Safety Board, and yes, you are also the CLIA-appointed Panel of Experts—you belong to that. But, you see, that doesn't make you a free actor. That makes you a part of the system. You can answer, at the proper time.

Mr. ROSENKER. Thank you, Chairman—

The CHAIRMAN. I—at the proper time.

Mr. ROSENKER. Oh, I'm sorry.

The CHAIRMAN. I want to read to you—a predecessor of yours, Jim Hall, who I've known for 30 years, and who had some part of, in fact, saving my life, at one point, in Tennessee, which doesn't bias me toward him, because this is a different subject. But, this is what he had to say. And I didn't see this until last night, until—we just got it last night. As you know, he was head of NTSB from 1994 to 2001. He recently made some comments about the cruise industry that I will share with you.

He said that the IMO—in other words, the International Maritime Organization—and other cruise regulators are “paper tigers”—his words—that haven't been able to get, quote, “bad actors out of the industry.” He said that the maritime industry is, quote, “a culture that has never been broken, as the aviation industry was”—and you see evidence of that in the Costa Concordia accident—by which I mean we had a lot of trouble with getting aviation to take seriously the problems of the amount of sleep that their pilots got, and the propeller people, who had to travel over the country and could get hardly any sleep, as opposed to those who flew international flights pretty much on automatic control and made a lot more money. And he even said that, though cruise ships may seem and feel American, they flag in countries like the Bahamas and operate outside of reasonable and safety standards.

I think there was a discussion earlier which I felt I disagreed with, and that is that if it was—that, you know, safety standards applied, no matter where you were. I think that's not true. American standards of safety apply within the 3 miles. Outside of that, it's your world, your ball game.

And he said that people who book cruises should be aware of all of this, operating outside of reasonable safety standards. And he says that the industry is, and has been, an outlaw industry. Those are strong words from a moderate Southern person, who I greatly respect.

Frankly, that introduces the kind of controversy that I want in this hearing. You, on the one hand; him, on the other hand. What they say, I expect. What you say, I don't expect, except as I understand not breaking the culture.

So, what are your comments on Jim Hall's statement?

Mr. ROSENKER. Thank you, Mr. Chairman.

And I, too, along with you, respect former Chairman Hall. He was an excellent head of this board that I had the privilege to chair for 6 and a half years.

Let me put a little perspective in. And I think you will appreciate this, sir, because of being Chairman of—this oversight committee goes across all modes of transportation.

When I served and got confirmed by this committee, in March of 2003, until I left, in August of 2009, 2000—and this is approximate—210,000 people died on our Nation's highways; 36 million accidents, 18 million injuries. During that same period, 210 commercial airline accidents and incidents, resulting in 10 fatal accidents, for 138 fatalities. In the rail, without including the 180 people that committed suicide during that six and a half years, 317 people died in operational fatalities. In that same period, in the cruise ship area—and this is according to G.P. Wilde, who is the authoritative statistician that covers this industry—18 people died, three of which were passengers and 15 were crew.

None of those are acceptable fatalities, but I'm just asking for a perspective to understand where we need to be really looking to raise the bar of safety, not just in our cruise ship area, but clearly in others, as well.

The CHAIRMAN. Sir, you do this committee an injustice, and one which offends me, because we do that—you're unaware of it, but—

Mr. ROSENKER. Oh, no, sir, I'm quite aware of it.

The CHAIRMAN.—we do it on a constant basis.

Mr. ROSENKER. I do—I know that—

The CHAIRMAN. We do not accept—

Mr. ROSENKER.—and I applaud the work that you're—been doing. But—

The CHAIRMAN.—in any—

Mr. ROSENKER.—I just wanted to put it—

The CHAIRMAN.—in any way, shape—

Mr. ROSENKER.—in perspective.

The CHAIRMAN.—or form—

Mr. ROSENKER. Yes, sir.

The CHAIRMAN.—a comparison between the number of deaths in one industry, as compared to the number of deaths in another industry. In that case, the coal industry might look quite good. That's not my view, generally, of the coal industry. And, in fact, I even worked it out so that they had to pay—anytime they had to—an accident of any sort, they had to post it on the SEC website. And I did the same with—since we do some cybersecurity, with hacking. That now is law. If you're hacked into, you have to post it on the website. Now, that's aimed at the shareholder, not the passenger.

But, I'm—I think I'm—I think we're talking past each other. I'm not sure what we're accomplishing here. I think it's helpful, in that it sort of sets up who's on what side of which, and therefore, "How can you measure what they say?" But, it has not been as successful, from my point of view, a hearing as I would like.

And I will leave it there and turn to Senator Blumenthal.

Dr. KLEIN. May I make a comment?

The CHAIRMAN. Yes.

Dr. KLEIN. If I may, just want to make a very quick comment.

We had a variation of this conversation at the last hearing, 16 months ago. And I had asserted that I think one of the problems with the industry is an issue of—they listen to the insiders, but

they don't listen to the outsiders. And anybody who's not part of the industry who has an opinion is, basically, ignored, somehow marginalized.

And I recall—to Senator Rockefeller's comment—that the CEO of CLIA suggested that perhaps CLIA should have a conversation with me. Now, I don't take this personally. And the CEO turned to me and says, "Oh, yes, we will be talking to him, because he may have some valuable insights." That's 16 months ago, and I've received no call. Again, I'm not hurt. This is—it's not an ego. But, I think it reflects that, "If you're not one of us, you have nothing to offer to us that can help us."

The CHAIRMAN. Point taken.

Actually, Senator Begich—

Senator BLUMENTHAL. I'm—with apologies, Mr. Chairman, I will have to leave to preside—

Senator BEGICH. Let him do that, then.

Senator BLUMENTHAL.—but—

The CHAIRMAN. Can you put in one final question?

Senator BEGICH. No, go ahead. I'll follow him. I'll follow him.

Senator BLUMENTHAL. Let me ask you—

The CHAIRMAN. You mean to preside over the Senate? What a miserable task.

[Laughter.]

Senator BLUMENTHAL. No comment.

[Laughter.]

Senator BLUMENTHAL. Mr. Cahill and Mr. Goldstein, we were talking, a little bit earlier, about limits on liability, limits on where remedies can be enforced—with those limits, I've looked and read carefully at CLIA, and I don't see any indication of what those limits on liability are. Wouldn't you agree?

Mr. GOLDSTEIN. I'm sorry, I didn't follow.

Senator BLUMENTHAL. Well, for example, the limits on what standards are enforced when the guarantee—and it's a guarantee, in CLIA, that medical care would be provided—nowhere is there any indication that fees are going to be charged. That's correct?

Mr. GOLDSTEIN. Right. As you noted, the Passenger Bill of Rights does not comment on that aspect of the requirement to provide the necessary medical care.

Senator BLUMENTHAL. And there's no indication as to the limits on what passengers can seek, by way of recourse, if there's negligence in the provision of medical care. You simply guarantee that a doctor has a diploma; you don't guarantee the doctor's going to provide adequate medical care. That's—is that correct?

Mr. GOLDSTEIN. Yes. But, I will note—

Senator BLUMENTHAL. And there's no indication, in CLIA, of that limitation on your obligation. Is that correct?

Mr. GOLDSTEIN. That is correct. But, I—if I may—

Senator BLUMENTHAL. Wouldn't it be clearer if—and more transparent—if, as to that right—and, by the way, many other rights—and I'm going to be following, with the Chairman's permission, with some more detailed questions in writing, not only about what your lines guarantee, but what others do, as well, because you may be the leaders in the industry; you may be the good guys. But, wouldn't it be preferable if more of those limits, more of the non-

transparent restrictions or fees or charges were provided in CLIA instead of in the fine print of contractual disclaimers of obligations?

Mr. GOLDSTEIN. It may be, Senator. I just would emphasize two things.

First, we wanted to be able to issue a Passenger Bill of Rights faster rather than slower. And—

Senator BLUMENTHAL. But, a Passenger Bill of Rights can be misleading.

Mr. GOLDSTEIN. Our intention was—

Senator BLUMENTHAL. To put it very bluntly, it can do more harm than good.

Mr. GOLDSTEIN. It certainly—

Senator BLUMENTHAL. It would seem to a guarantee a right that, in fact, is illusory.

Mr. GOLDSTEIN. OK. I can tell you that we do not believe, nor does our counsel, who has advised us, believe, that any of those rights are illusory. We believe that it has gone beyond the standard ticket contract, over time, in meaningful ways.

And then, the second thing is that we're trying—

Senator BLUMENTHAL. Well, that may be part of the problem, that the standard ticket contract limits your obligations and CLIA seems to expand them, but, when the rubber meets the road, you go back to the contract and insist on what I'm calling "the fine print" in the contract, that, in effect, narrowly constricts and limits the rights of the passenger.

And when I say "you," I'm not necessarily talking about your line; I'm talking—

Mr. GOLDSTEIN. Yes.

Senator BLUMENTHAL.—about "you," other lines, as well. I'm not here to sort of cross-examine you or put you on the spot. This is not about your line or Mr. Cahill's; it's really about the industry.

Mr. GOLDSTEIN. No, I understand. I just want to emphasize—I believe Mr. Cahill noted this, in passing, earlier—for at least a good number of cruise lines—I can't say for the whole industry, but for at least a good number of cruise lines right now—there is a process in place where the ticket contract is being modified and harmonized to accord with the intent of the Passenger Bill of Rights so that this potential dilemma doesn't exist.

Senator BLUMENTHAL. Well, that is a welcome development. I hope it will be accelerated and enhanced, and enlarged by proposed legislation like the Chairman's, which Senator Markey and I have joined, and that the good guys in the industry will join in educating us as to how the potential abuses can be reduced, and the whole industry made more transparent and accountable.

And I apologize, Mr. Chairman, for taking more than 3 minutes, here.

And, to my colleague, Senator Begich, thank you for letting me have this additional time.

And really appreciate all of you being here.

The CHAIRMAN. Thank you, Senator.

Senator Begich.

Senator BEGICH. Thank you.

And, Senator Blumenthal, it's okay, because you get to preside and I don't have to.

[Laughter.]

Senator BEGICH. So, that's a plus.

Let me—you know, I was listening to the Chairman's comment. And, all due respect, I think it's important to know the data comparison—I think that's what you were trying to do—not to question the Committee's—because we have done a lot on airlines, I'll tell you that. And, you know, we've clamped down, based on some disasters. But, I'm going to give you a whole different data point that I want to make sure is part of the record, and I want to submit this for the record. It's crime-rate calculations for the three top cruise ship industry folks which accumulate 90 percent of the traffic, basically.

[The information referred to is retained in Senator Begich's files.]

Senator BEGICH. And when you take rates, like assaults with serious bodily injury, it's 3.8 per 100,000. But, when you compare it to cities—and I was a mayor, so I can legitimately say this—it's 27.1 per 100,000. It's nine times worse in a city.

Now, again, we believe, as a mayor—former mayor—and, I'm sure, you also—zero is the goal. No one questions that. Am I correct on that? That is the target. But, when you look at others—and, you know, the horrendous crime of rape on cruise ships, so the 90 percent, the three top, is 5.9 per 100,000; but, when you compare it, again, around 27 percent per—for the cities. Sexual assaults, 8.7 per 100,000, 97.2 per 100,000 in cities. I just want to, you know—data is data. We can argue over data. But, it's data.

But, here, I guess I have a question. Is there any data—you know, I just took a ferry from the Cape over to Cape Cod—or, over to Martha's Vineyard. I didn't get any Bill of Rights. I didn't get a ticket. I got a little piece of stub. It didn't tell me anything of my rights. And I can guarantee there have been incidences on ferries—theft, other incidences—crashes, disabled—I can go through the list. I don't use a lot of them, because, on the East Coast, they're more apparent, because of the way they move through the islands. We have some in the—southeast Alaska, run by the State of Alaska. But, I'm not familiar with—when I went and paid my \$8, that I got some long explanation of all the issues.

The other thing I'll put on the record, because, I think, Mr. Chairman, you're right, there is some differences. You know, I come from a state that understands the cruise ship industry. We've hammered on you on certain areas around—especially our environmental. We have folks that—Ocean Rangers that are on your ships, when you come into our waters, to make sure you provide the environmental safety standard we require. We have onshore requirements of waste disposal, for example, that is very unique to our state.

But, at the same time, there's a balance. For example, I—you know, Senator Markey, in all due respect, I'd be interested in his legislation, to look at it, but are we now going to do hotel packages, airline packages? I can tell you, on limited liability that Senator Blumenthal brought up, every federally-funded healthcare clinic has limited liability set up by the Federal Government so the Federal Government doesn't have to—responsible for those doctors. It's very interesting that we have tort reform for us, so we don't get sued—because these clinics are all out there, and we're not sure—

but, they're contractors, and we assume, because they are diploma'd they've done internships, and other things, that they have the experience. I'm assuming that's the same way you do it. I may be wrong about that. But, I'm assuming you're not just getting a "doc in a box" with a certificate and hope to God they work out okay. I'm guessing that.

And, you know, honestly, Dr. Klein, your comment that onshore crime occurs—is somehow the cruise ship's fault—now, you didn't say that, that exact way, but you implied it. Does that mean, when I fly to a community that I get mugged or my money is taken, the airline is at fault? No. Absolutely not.

So, I'm all for—because you all remember last year on the Coast Guard reauthorization, that we worked, and I made sure some new rules were put in play on safety standards and other things that you were required to do. So, I'm all for it. Guaranteed. But, we have to be careful of how far we expand the government regulation component when we need to have safety on these ships—there's no question about it—and, you know, again, you remember the conversations we had last year, and continue to have these conversations. But, I want to be careful of the broad statements that are made, at times.

And, Mr. Chairman, I have not looked at your bill, but I have one major concern, I will tell you. DOT is not—I understand the reason why, but DOT, to write standards and to manage an issue like this would make me very nervous. Consumer Protection, I think, is an important agency. DOT has a hard enough time figuring out which roads they're building, what bridges they should do, what airports they should manage. I get very nervous about DOT. I'm caught talking as a mayor who had to deal with DOT on a national and a local level. But, I think, if there is an agency—I don't know if the Consumer Protection Agency is the right one, but I just want to give my two bits.

I have not reviewed your bill in detail, other than that piece of it, and I—I just know my headache with DOT is large, and increasing on an annual basis. I thought I'd ended when I was done being mayor, to be frank with you, but coming here and listening to the Federal DOT is even worse. But, I would give that cautionary note as a bill is being put together.

But, I just—you know, in all due respect, I think it's important that we look at this and—the incidents that have occurred have been very visible. No question about it. And the families and individuals that have been harmed have had impact—not only to us in our policy decisions and discussion, but to them, personally, obviously. But, let's be careful and cautious of how we approach this.

And I'll leave it on this one note. I didn't realize we were going to talk about oil and gas industry when Senator Markey was here, but let me give you an example. When we were drilling, this last—Arctic—last summer in the Arctic—Shell was drilling in the Arctic Ocean. But, their incident that occurred was not in the Arctic Ocean, it was 800 miles away, because of a transportation issue. We heard about it all over, everywhere. They never spilled a drop of oil, no incident and injury.

Now, saying that, we've had a fishing vessel spewing oil out for some period, here. Most in this room have no idea that has occurred, because it didn't have an oil company name attached to it.

We had a military ship run aground, probably 2 years ago—you may remember this, as a Coast Guard—run aground because it was trying to help a village move because of a climate-change issue—ran aground, spilled tons of diesel. We never heard about that, because it didn't have the word, you know, X Oil Company on there.

So, we've got to be careful, here. We—you know, if we're going to look at cruise ships, then we'd better add ferries in this, because they have more passenger movement, and some of those ferries are held together by duct tape. And I didn't—you know, I like getting on them, because they're fun, they're enjoyable. But, you know, I've got to question, sometimes, how they're operated, because they're usually operated by local governments or State governments that have no money to maintain them.

The CHAIRMAN. Senator, is it your view, therefore, that we should not proceed in looking at the cruise line industry until we've properly done ferries?

Senator BEGICH. No. I—what I'm saying is, as I did last year, in the Coast Guard reauthorization bill, we absolutely looked at them, and made some adjustments in there. But, at the same time, I would say, 2 months on the Bill of Rights—you know, we can barely—I mean, DOT—it will take them 2 years to write the regulations, and then they'll get stuck, as you know, on some OMB sanitation department.

So, I would say that I think we have an obligation, as a committee, as whatever that seasons are done, that this industry do report to us on what is happening with their Bill of Rights, and are they employing them correctly? Is there penalties if someone does not respond to them?

But, 2 months on a new rule that they jumped on—and I give them credit. Now, it's not perfect, and I think you guys have acknowledged that, and there's some more room, here. But, we should spend the time to allow some improvement to occur, rather than, 2 months after it, suddenly decide we have new rules. Because I guarantee you, DOT will take—it will take us a—it—you know, 3 years from now, we will have new rules, if we started today and had a bill, just based on the way this place operates and DOT operates, in the sense of regulation-writing.

So, I would say, Mr. Chairman, that I would aggressively work with them on these Bill of Rights, see how—and if there are some—like Mr. Blumenthal brought up, if there are some issues of disconnect between the rules that are on the ticket, the detail of it, and what they're claiming to give to the public, then we should help make those aligned, because we don't want false advertising; we want correct advertising. So, if someone sees this Bill of Rights, they know the detail is wherever it is. That's kind of my view on it.

But, 2 months is not enough time, I will tell you that, just from my own experience. But, no, we should continue to work everywhere we can to increase safety, but I would include, you know—I'm just telling you, Mr. Chairman, I—after riding a couple of fer-

ries, you know, we love duct tape in Alaska, but I'm not sure I'd wrap a boat in it. That's all.

I'll end there. There was my question, which—you really had no question. More of a commentary.

Dr. KLEIN. Can I respond to the—

Senator BEGICH. I guess it was a question, then.

[Laughter.]

Dr. KLEIN. I just want to respond to two points.

First of all, in terms of the issue of crime onshore, I would distinguish between general crime and crime when they occur on a shore excursion. And what I was referring to in the larger part is that, when one goes on a shore excursion and they are robbed, when there's an accident that results in physical injury or death, I think the cruise line does have responsibility. But, if you read the cruise contract, they have no liability for that, because those are independent contractors.

So, I think there are two issues there. One is liability, one is—it is something that they are selling to passengers and endorsing as an activity.

The other issue is—I can't argue with the statistics you gave. However, as an academic, when I give numbers, I've got to be transparent about the methodology. And my work has to be subject to peer review. So, without my knowing the methodology of where—what those numbers—how they're constructed, the data from which they're drawn, the definitions that are used for those categories, it's hard for me to make any comment, other than—

Senator BEGICH. That's fair.

Dr. KLEIN.—they're numbers. OK?

So, it's just—you know, again, I'm not judging, I'm not asking—

Senator BEGICH. Understood.

Dr. KLEIN.—questioning the integrity; just that, without that information, without peer review, it's difficult to make any statement.

Senator BEGICH. Fair.

The CHAIRMAN. I want to—we're going to start voting in about 5 minutes—make a closing statement, here.

One issue that we have not spent time talking about today, but we've spent a lot of time talking about it as a committee, or committee staff, is how the cruise industry uses a loophole in our tax code to avoid paying its fair share of corporate income taxes.

Mr. Cahill and Mr. Goldstein, my staff reviewed your 10k financial reports for the past 7 years. They found that, in this period, your company—your two companies have made over \$17 billion in profit, while managing to pay only \$218 million in corporate income taxes. Your collective corporate income tax rate, therefore, comes to about 1.3 percent.

I'm not asking for your comment, I'm just saying what I'm saying.

Your companies are headquartered in the United States. Most of your passengers are U.S. citizens. You use our ports, our courts, and the services of the Coast Guard and many other government agencies, but, because you flag your ships in other countries and maintain the fiction that you earn most of your income outside of

U.S. territory, you do not pay your fair share of taxes in this country.

I would just like you to know that I'm working on legislation to close this loophole. My staff has been working with the Finance Committee and with the Joint Committee on Taxation to develop legislation that would require your industry to pay your fair share of taxes. I will be introducing this legislation later this week.

I thank you all for your attendance, and I thank you for your patience.

This hearing is adjourned.

[Whereupon, at 4:35 p.m., the hearing was adjourned.]

A P P E N D I X

WORCESTER POLYTECHNIC INSTITUTE
Worcester, MA, August 19, 2013

Senator JOHN D. ROCKEFELLER IV,
Chairman,
U.S. Senate Committee on Commerce, Science, and Transportation.

Dear Senator Rockefeller,

I am writing to provide you and the Committee with my thoughts on the U.S. Coast Guard post-accident investigation report on the Carnival Splendor fire which occurred in the Pacific Ocean on November 8, 2010. I was asked to read this report and to provide my thoughts to the Committee on “your insight on the incident, the quality of the investigative report, and how anything in your research could help add value to the report.” I note here two important facts: Firstly, this was a short turn around request (2 days), therefore, my comments are at the 20,000 foot level and are based solely on reading the report, *i.e.*, no further investigation was conducted and Secondly, the content of this letter represents my own professional opinion and has not been endorsed by WPI.

I find the investigation and report on this incident to be very thorough, professional, and comprehensive. As a result of reading the full report, I have some thoughts on the incident and in this letter I point out some areas where further probing would be beneficial. I also suggest some additional recommendations that I deem of value. I have organized my thoughts and recommendations into six important areas: alarm culture; fireproofing and protection of cable trays; maintenance of the emergency diesel generator/system maintenance philosophy; an engineering cascade analysis of CO₂ systems, recommendations for more comprehensive and effective fire-fighter training, and important areas of fire research and development.

Probing of the Alarm Culture on the Ship

Two of the major factors resulting in the negative outcomes of this incident were the significant delay in agent delivery caused by the manual alarm reset and the subsequent ignition of the cable trays. The report states that suppression agent delivery was delayed 15 minutes and that “this delay was the result of a bridge watchstander resetting the fire alarm panel on the bridge.” The report goes on to acknowledge that “this was a critical error which allowed the fire to spread to the overhead cables and eventually caused the loss of power.” *What we don’t know is why this alarm was reset.* I recommend probing the alarm culture on the ship. What operational and maintenance issues may be uncovered that would explain why the operator’s first reaction was to reset the alarm? How often do they have false alarms? What’s causing these and what changes to the installation, operation, and maintenance of the fire alarms would result in less false alarms? While there is an alarm log given in the report, there is no analysis or further probing associated with it. Recommendation 1. Calls for the removal of the 40-second time delay in the automatic activation sequence for the Hi-Fog system. This recommendation correctly notes that “the seconds and minutes following the ignition of a fire are crucial to the firefighting response. As such, failure to take quick and prompt action to extinguish a fire can lead to major, negative downstream effects.” I agree with this recommendation, however, I feel the delay caused by the alarm reset and the fact that alarms are reset is even more significant.

Fireproofing of Cable Trays

To ensure safety and prevent casualties such as fire, loss of a prime system, etc, ship design focuses on both the hardening of critical systems and on providing redundancy in those systems. It appears that in this installation, the electrical cable trays represent a single-point failure mode, if the cables cannot deliver electricity, most major ships systems are rendered inoperable, yet there was neither redundancy nor hardening of the cable trays. I would recommend fireproofing and/or other

modes of protection for these trays. The optimum way to provide this would need to be evaluated but may take the form of passive protection such as wrappings or coatings, or may take the form of active protection such as a suppression system. The potential to re-route the cable trays so they do not pass directly overhead of major hazard should also be evaluated. This is already common practice in very similar land-based facilities. Recommendation 2f does call for addressing the susceptibility of all Dream class vessels to a complete loss of power; however, it falls short of making a recommendation for cable tray protection.

Maintenance philosophy and Maintenance of Emergency Generators

The emergency diesel generator (EDG) stopped running several times during this incident but we don't know why. I would probe both the maintenance philosophy for the ship and the actual maintenance logs for specific essential equipment. Maintenance philosophies range from fixing something when it breaks down to performing routine maintenance/testing at scheduled intervals. There are also predictive maintenance philosophies and reliability-centered maintenance philosophies. What is the maintenance philosophy employed on this ship? How was maintenance for the EDG conducted? Was it tested under load? Was it periodically exercised?

Engineering cascade analysis of CO₂ systems

The report recognizes that "The CO₂ system is a crucial line of defense in extinguishing an engine room fire, and must be installed and maintained properly so that it operates when needed." I would suggest broadening this to a full engineering cascade analysis of the CO₂ system. A cascade analysis would start with system design. What standards were the system designed to? Is the design adequate? The CO₂ system on this ship exhibited multiple system failures and leaky valves. Thus, the cascade analysis should continue from design to installation, maintenance and testing.

Firefighting Procedures and Firefighter Training

The report states that "approximately five hours into the firefighting effort, the Captain evacuated the engine room and attempted to activate the installed CO₂ system." The report also states that it took approximately two hours to locate the fire in the cable runs. The math suggests that fire teams attempted to extinguish the fire with portable extinguishers for three hours. These point again to a need for reliable, location specific detection and better defined and practice firefighting tactics.

Fire Research and Development

In any fire event, quick reliable detection and automatic suppression are key. A study of new detection and suppression options for cruise ships should be conducted. Two hours to locate the fire along the cable tray is not acceptable, and options beyond CO₂ should be evaluated.

Respectfully submitted,

KATHY A. NOTARIANNI, PH.D., P.E.,
*Head, Department of Fire Protection Engineering,
 Associate Professor, Fire Protection Engineering and
 Associate Professor, Mechanical Engineering and Chemical Engineering,
 Worcester Polytechnic Institute.*

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO REAR ADMIRAL JOSEPH SERVIDIO

Question 1. During the week of July 15, 2013, the Coast Guard released its investigative report on the November 2010 engine room fire that disabled the Carnival *Splendor*. The report found that the *Splendor* fire-fighting crew did not appear to be familiar with the engine room, and the fire-fighting team made errors in decisions critical to preventing the spread of fire. Would you say it is important for fire-fighting crews on cruise ships to conduct drills in the engine room space so they can move quickly and effectively in the event of a real fire?

Answer. Yes, this is important. As a result of this event, the Coast Guard published policy in July 2013, directing Coast Guard vessel inspectors to witness a fire drill in the engine room space on all foreign cruise ships at the next scheduled examination, and subsequently, at least once during a foreign cruise ship's annual examination cycle.

Question 2. Admiral Servidio, the Coast Guard report recommends that Carnival address firefighting training deficiencies by revising its safety management system.

Please explain why the report asks Carnival to implement this recommendation not just for the *Splendor*, but across the entire fleet.

Answer. An effective means to ensure consistency within a fleet of vessels is through the company's Safety Management System (SMS) since an SMS applies to each vessel in the company's fleet, vice just to one vessel.

For instance, changes made to Carnival Cruise Lines SMS, to improve firefighting training, would therefore apply to each Carnival Cruise Line vessel. This will ensure that ensure that fire fighting training improvements will be implemented company-wide, fleet-wide, and to all crew operating throughout the cruise line's fleet of vessels.

Question 3. The Coast Guard report on the *Splendor* fire found that the ship's CO₂ firefighting equipment was not installed properly and had other flaws that prevented it from working properly during the fire. The report also said these flaws should have been spotted by multiple parties including the shipbuilder, Carnival, and the flag country of Panama, or the classification society operating on behalf of the flag country.

Clearly there are multiple parties involved with review of ship equipment installation and inspection. But at the end of the day, doesn't the ship owner bear the primary responsibility for making sure equipment on the ship doesn't present safety risks?

Answer. Ultimately, yes. The owner/operator of the vessel has primary responsibility for the operation of the vessel's equipment, while the Flag State, Class Societies and Port States verify compliance with established regulations and standards.

Question 4. After the Carnival *Triumph* engine room fire left that ship disabled and stranded in February 2013, Mr. Cahill emphasized to the press that "everyone was safe," and "what we're talking about is the convenience of the guests."

I am concerned that such comments minimize the potential dangers of onboard fires and other cruise accidents.

The *Triumph* was stranded in the Gulf of Mexico for four days before rescue was complete. If that event had occurred during hurricane season, could we have seen different results?

Answer. It is difficult to speculate what could have happened had this event occurred during hurricane season. The wide range of possible outcomes would likely have been influenced by alternate actions/decisions that could have been taken by the U.S. Government or the TRIUMPH's owner/operator, and any number of other variables which might arise had heavy weather threatened.

That being said, the Coast Guard recognizes this incident's potential for much more catastrophic consequences, and as one that needs to be closely examined and learned from by all stakeholders so that risks of future occurrences can be reduced.

Question 5. While no passengers were harmed by the recent fire aboard the Royal Caribbean's *Grandeur of the Seas*, if the fire occurred further out to sea and required passengers to be evacuated, could we have seen different results?

Answer. The investigation into this casualty is ongoing. From publically available information, the vessel's structural fire protection appeared to ultimately largely contain the fire; this result would likely not have changed had the fire occurred further out to sea.

A different scenario requiring an at-sea passenger evacuation or abandon ship would be complex but the Coast Guard cannot speculate on whether that would have occurred based on the vessel's distance out to sea.

Question 6. As part of the lessons learned analysis, do you think it is important for cruise lines to examine potential risks highlighted by accidents in addition to reviewing what actually happened?

Answer. Yes. It is important for any operator/owner of a vessel to examine risks identified as causal factors in marine casualties and where possible incorporate lessons learned as a part of their Safety Management System (SMS).

Question 7. The Coast Guard has the authority to charge user fees for the inspection and other marine safety services it provides for vessels and mariners. As originally conceived in the 1980s, the user fees were expected to pay for the costs to the Coast Guard and the Federal Government of providing the services. Do the user fees the Coast Guard charges under section 2110 of title 46 pay the full cost of the services for which they are charged?

Answer. No. The Coast Guard estimates that user fees currently cover only 40 percent of the cost of providing the services.

Question 8. Almost two decades ago, Congress enacted the Coast Guard Authorization Act of 1996. That law removed language that prevented the Coast Guard from charging user fees for safety examination services provided to foreign cruise

ships in U.S. ports. Does the Coast Guard charge user fees for the examinations it performs on foreign cruise ships in U.S. ports? If not, are there any plans to do so?

Answer. The Coast Guard does not currently charge user fees for examinations conducted on foreign cruise ships in U.S. ports. The Coast Guard is studying the feasibility of updating all user fees and as part of that effort, a user fee for foreign cruise ships is being considered.

Question 9. Does the U.S. Coast Guard inspect Passenger Ferry Vessels, including state run ferries?

Answer. All ferries, including state run ferries, carrying more than six passengers on a navigable waterway in the U.S. are inspected by the Coast Guard. Specifically, in 2006, the Coast Guard and Maritime Transportation Act of 2006 amended Title 46 United States Code Chapters 21 and 33 by defining "ferry," "passenger," and "small passenger vessel" such that some previously uninspected ferry vessels, including state owned ferries that did not carry 'passengers for hire', became subject to Coast Guard Inspection for Certification.

Prior to this legislation, ferry vessels were not subject to Inspection for Certification if they did not carry passengers for hire (charged a fee for carriage). The new definitions of "passenger" and "small passenger vessel" include ferries that carry at least one passenger for a vessel of 100 gross tons and over and that carry more than six passengers for vessels of less than 100 gross tons, regardless if a fee is paid by the passenger.

If a vessel meets the definition of "ferry," the fee is no longer a determining factor in the application of marine inspection laws and regulations.

The total number of ferry vessels affected by this change was estimated to be 71, which brought the total number of Coast Guard inspected ferry vessels up from approximately 384 to 455.

Question 10. What is the scope of the Coast Guard's inspection for a Passenger Ferry Vessel and how often are these inspections/exams required?

Answer. Ferry Vessel inspections are regulated by 46 CFR Subchapters T & K for vessels less than 100 gross tons; and regulated under 46 CFR Subchapter H for vessels over 100 gross tons. Inspections are required at least annually on vessels inspected under Subchapters T & K, and annually with periodic re-inspections for vessels inspected under Subchapter H.

The scope of an inspection includes but is not limited to the Hull, Firefighting, Electrical, Pollution Prevention, Lifesaving, Navigation, and Machinery equipment. Additionally, inspections include witnessing drills and assessing crew proficiency in handling shipboard emergencies, as well as witnessing the operation of a vessel's machinery and other equipment including underway tests such as man-overboard drills. Ferry Vessels are also required to undergo periodic dry-dock examinations

Of the 455 ferries inspected by the Coast Guard:

109 are over 100 gross tons and are inspected under 46 CFR Subchapter H.

The remaining 346 are less than 100 GRT, and inspected under 46 CFR Subchapter T (235) and 46 CFR Subchapter K (111).

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BARBARA BOXER TO
REAR ADMIRAL JOSEPH SERVIDIO

Question 1. The International Convention for Safety of Life at Sea (SOLAS) currently requires muster drills to be performed within 24 hours of a cruise ship's departure. However, last month the International Maritime Organization's (IMO's) Maritime Safety Committee adopted an amendment to SOLAS that would require muster drills to happen "prior to or immediately upon departure." These rules will go into effect in January 2015. Can you please clarify the phrase "immediately upon departure?"

Answer. Additional guidance has not been developed at IMO on the text updates, including "immediately upon departure," related to amendments to regulation 19.2.2 of chapter III of the SOLAS Annex. The Coast Guard will work as necessary to provide clarification of this language prior to implementation.

In February 2012, the Coast Guard published policy to its field units that requires inspectors to observe completion of passenger muster drills aboard cruise ships during the course of required cruise ship examinations in U.S. ports where passengers have embarked the vessel. Under this policy, passenger muster drills must occur before the Coast Guard will consider the examination complete.

In the course of these examinations, the expectation is and the Coast Guard's experience has been that passenger muster drills are overwhelmingly conducted prior to vessel's departure. Additionally, the industries voluntarily adopted standard out-

lines that a cruise ship's passenger muster drill should occur prior to vessel's departure after embarking passengers.

Question 2. While much of the cruise industry changed its policies in February 2012 to require muster drills upon departure, I understand that the IMO rule will not go into effect until January 2015. Why is the effective date of the policy January 2015, which is nearly a year and a half from now?

Answer. While it may seem a very slow process, in fact this new mandatory requirement for muster drills "prior to or immediately upon departure" will formally enter into force as quickly as can practicably be done under the amendment process timelines specified in Article VIII of the SOLAS Convention. The Contracting Governments to SOLAS adopted the amendments at IMO by means of Resolution MSC.350 (92) on June 21, 2013. After adoption, Article VIII provides that the amendment must be accepted by Contracting Governments, which is facilitated through a process whereby acceptance is deemed to occur on a certain date if a critical mass of Contracting Governments has not objected by that time. This acceptance period, two years by default, was reduced to essentially the minimum of one year permitted by Article VIII (until July 1, 2014). Finally, as specified in Article VIII, the amendments enter into force six months after they are deemed to have been accepted, which would mean entry into force on January 1, 2015. In the interim, the recommendatory guidance developed at IMO and promulgated in MSC.1/Circ. 1446 (as revised) remains in effect.

Although the new IMO requirements for passenger musters will not formally enter into force until January 2015, the Coast Guard is already witnessing passenger musters as part of its foreign cruise ship examination program. The Coast Guard began doing this as a matter of policy beginning in February 2012.

Question 3. What is the Coast Guard's timeline for adopting the new muster drill standard? Will the Coast Guard wait until 2015 to adopt these new standards, despite the fact that the Cruise Line Industry Association has already adopted such standards? If the Coast Guard plans to wait until 2015, why?

Answer. The Coast Guard has not waited to adopt this standard. Prior to the action at IMO action with respect to passenger musters, the Coast Guard adopted this muster drill standard as a matter of a policy change that was promulgated in February 2012. Coast Guard field personnel are already witnessing this muster during cruise vessel examinations conducted in U.S. ports where passengers have embarked the vessel.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV
TO GERALD CAHILL

Fire Safety

Question 1. Based on your company's review of the *Splendor* incident, what explains the failure of multiple inspections to uncover CO₂ System flaws?

Answer. Before any ships are delivered, the CO₂ system is inspected, tested and approved by the shipyard and the ship's classification society. RINA, the classification society responsible during shipbuilding, conducted the initial testing and approved the CO₂ system prior to the *Splendor's* delivery.

Ship engineers do not have the specialized training and experience needed to properly maintain or uncover defects in these critical systems, so vessel operators hire industry specialists to service and maintain CO₂ systems. Carnival hired Wilhelmsen Ship Service to perform the annual inspection and testing of the CO₂ system, and all system maintenance as the service provider approved by both the Flag state and Classification Society. Since Wilhelmsen had more than 40 years of experience in the provision of inspection, reporting, maintenance and repair for fire and safety systems and equipment for the maritime industry, Carnival relied on Wilhelmsen to have the expertise to perform this service properly.

After the *Splendor* incident, Carnival's investigation revealed problems with the CO₂ system that should have been identified by specialists earlier, including a significant design fault in the CO₂ system release sequence that increased the likelihood that a valve might not operate properly. Carnival remedied that flaw with a major redesign of the CO₂ systems on several ships to change the sequence and achieve improved system reliability. Carnival has revised the test procedure to ensure that system operation is tested at full pressure. We have also replaced our service provider.

While Carnival will need to continue to rely on the expertise of the maintenance service providers, these changes to the system operation sequence will enhance reliability and full pressure testing should identify any future defects in the system.

Question 2. Can you explain why *Splendor* fire-fighting crews did not train in the engine room?

Answer. Carnival conducts firefighting training in the engineering spaces, which includes the engine rooms, incinerator room, and other spaces. Fire drills were conducted in various locations around the ship, including similar machinery areas to the engine room where fires might occur. Although we kept records of the fire drills, we did not keep specific records of the locations of the fire drills.

While more emphasis will be placed on training to fight engine room fires, including secondary fires that spread to the overhead cable runs, we do not agree with the U.S. Coast Guard's conclusion that a lack of familiarization with the engine room itself hampered efforts to locate and extinguish the fire, or allowed for further spread of fire and smoke. (U.S. Coast Guard Report at p. 44). The *Splendor's* fire-fighting crews were fully familiar with the engine room layout and equipment. The firefighting timeline included in the U.S. Coast Guard report reveals that the engine crew, who are intimately familiar with the engine room, were either part of, or accompanied the fire teams during firefighting operations. For instance, the Staff Chief Engineer and the Second Engineer accompanied Fire Team Charlie into the engine room and helped identify the location of the secondary fire in the cables above DG5.

It was not a lack of familiarity with the engine room layout, but rather the nature of the secondary fire in the overhead cable runs, that made firefighting difficult on the *Splendor*. For most of the time, no flames were visible in the hot, smoke-filled engine room without any lighting or power. The smoldering cable runs were located high above the firefighters. Even the ship's engineers were challenged by these difficult circumstances.

Crime Reporting

Question 3. While the Chairman understands some alleged crimes might not be prosecuted, do you support publicly reporting the number of all crimes on cruise ships that are reported to the FBI?

Answer. To our knowledge, no land-based vacation options have any duty to report crimes to law enforcement, let alone to publicly report crime allegations as statistics. At the same time the incidents of alleged crimes in the cruise industry are far below those which are reported on land in the general population. Furthermore, it is difficult to prevent the media from publishing this information out of context, which becomes even more misleading to the consumer and unfairly damaging to the cruise industry. Consequently, we do not support publicly reporting the number of all alleged crimes on cruise ships—nonetheless, Carnival has voluntarily posted on its website a listing of all the alleged crimes reported to the FBI for our North American lines (Carnival Cruise Lines, Princess Cruises, Holland America Line and Seabourn).

Question 4. Given that many parents and children take vacations on your cruise ships, do you support publicly reporting the number of alleged crimes that occur against minors?

Answer. We believe the numbers show that cruising is a very safe vacation alternative especially when compared to the crime statistics on land. Those land statistics are reported in the Uniform Crime Reporting system ("UCR") published by the FBI. The statistics do not separately categorize or track alleged crimes against minors. Therefore, the UCR will not offer any context or perspective to a consumer who is provided cruise lines statistics regarding alleged crimes against minors. We believe providing information on alleged crimes without such context would be misleading and will merely confuse the consumer. The information would also be skewed by the fact that different companies have different passenger demographics and correlations would therefore be unfair.

Question 5. The crime data appears to be compiled by the overarching Carnival parent company rather than by individual line. What is the rationale for posting the crime data in this manner? Please provide the Committee with this information broken down by individual line in the same format that you posted the information on your website.

Answer. Carnival believes that the statistics viewed as presented provide more insight into cruise safety than when the data is broken out into individual lines. Specifically, one can compare the total number of passengers and crew we carry to the number of crimes which occur for that population and then compare it to the land based statistics in the UCR. This comparison clearly and easily shows that crime statistics on cruise ships are much lower than on land for similar size populations.

Furthermore, even if all the incidents were allocated to just one of our lines, the number would still be below UCR crime reporting for similar populations on land. We feel strongly that providing data at a brand level would encourage meaningless

and misleading comparisons, providing the potential for users to take the information out of context. The fact is that our incidents of crime are very low.

Question 6. Many crimes that occur on cruise ships are classified as “other” meaning they don’t meet the threshold categories required under current law. What types of crimes are included in the “other” category?

Answer. The “other” category includes alleged unlawful acts that are not designated in the CVSSA but are otherwise reported, such as thefts under \$10,000.00 and crimes against our passengers which take place in countries outside the U.S. or for crimes not covered by the CVSSA.

Question 7. Current law requires that only thefts greater than \$10,000 be reported publicly. How many thefts of \$1,000–\$10,000 were reported for each of the last three years?

Answer. During the relevant period, the North American lines carried approximately 25,876,189 guests and the following thefts of \$1,000–\$10,000 were alleged:

July–December 2010:	58
2011:	82
2012:	91
January–May 2013:	52

Question 8. The posted crime data details the number of missing U.S. nationals. How many additional non-US nationals went missing for each of the last three years? Please indicate whether they were passengers or crew.

Answer. The total number of non-US nationals missing from the North American lines is:

2011:	1 (non-US crewmember)
2013:	2 (passengers onboard the Carnival Spirit while in Australia)

Bill of Rights

Question 9. According to Professor Klein’s written testimony, cruise line contracts include “extreme limits” on the company’s liability, including requirements about where a passenger must file a suit and how quickly they must bring the suit. Explain to me why this makes sense for a consumer. Does this seem fair to you?

Answer. Our cruise ships call on thousands of destinations, as well as carry passengers from all fifty states and from countries all over the world. Without the contract provisions that specify where, when and how a passenger should bring an action, cruise lines would be forced to defend litigation all over the country and the world and possibly many years after a cruise when evidence and witnesses are no longer available. The courts have agreed that cruise lines, like a myriad of other businesses, should have some measure of predictability regarding the forum, the timing of claims, and exposure to damages. This predictability is achieved through the ticket contract provisions governing the forum and manner of claims (including forum selection, choice of law, time limitations, arbitration and class action waiver provisions). Such ticket provisions have been found to be legal if reasonably communicated to the passengers and these provisions do not limit the *substantive* rights afforded under the passenger ticket contract or the *Bill of Rights* in any way.

Arbitration provisions, class action waivers and forum selection clauses are common in not only other transportation industries but other consumer industries (Disney World, Water-Zoo Indoor Water Park, Hilton HHonors loyalty programs, Starwood Preferred Guest Programs, AT&T service agreements, Four Seasons Private Jet Tours and Southwest Airlines). We believe the fact that these provisions have been routinely adopted by other industries and supported by the courts, evidences the fair balancing by these provisions of the interests of businesses and consumers.

Question 10. What recourse does the *Bill of Rights* provide to passengers when one of these rights is violated? Please provide specific examples of how a passenger could enforce the rights.

Answer. The *Bill of Rights* is a legally enforceable promise and thus a contractual obligation which forms part of the agreement between cruise lines and their guests who now have a private right of action to enforce the rights. The contractual recourse to enforce the passenger rights is in addition to remedies available under state consumer protection laws available in virtually every port state where cruise lines base their businesses or ships, including Florida, California, Hawaii, New York, Texas, Alaska and Washington. These laws typically provide for recovery of damages, injunctive relief, attorneys’ fees, and in some cases, double or treble damages for misleading or false advertising.

Well established law protects the right of passengers to assert legal claims against cruise lines arising out of the maritime contract of passage, such as the *Bill of Rights*. For example, a cruise line is prohibited from abrogating the right to a trial in court for any claims involving injury or death or providing less than one year to commence suit based on such claims. The general maritime law of the U.S. will typically apply although state law can sometimes supplement the remedies afforded under U.S. maritime law where not inconsistent. Many claims arising out of the *Bill of Rights* (e.g., over costs of transportation, lodging, and reimbursement), will qualify for small claims court jurisdiction which provides the passenger with a cost effective method to enforce their rights without having to hire an attorney.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. BARBARA BOXER TO
GERALD CAHILL

Question. A recent report was issued by the U.S. Coast Guard regarding the Carnival *Splendor* incident in November 2010. The report made a series of recommendations to Carnival to improve safety in the future. What specific steps has Carnival taken to address the concerns and recommendations in the U.S. Coast Guard's report?

Answer. We have implemented actions to address and improve in the areas of maintenance log management, additional firefighting training, as well as increased fire prevention, detection and suppression systems. We have implemented new procedures for logging of technical parameters, checking the condition of the plant, precautionary measures before startup of engines, and new robust engine watch handover policies.

Additionally, we have taken steps to strengthen the depth and frequency of all critical system inspections and formed a new Department of Marine Safety staffed with technical experts in the areas of fire prevention, detection, and suppression.

During the last two years the shoreside technical management has been expanded and strengthened with dedicated diesel engine and maintenance and repair experts. This team includes more than 140 members and has grown significantly in the past couple of years as we continue to invest in talent across our company.

Following the *Splendor* fire, several new operational management personnel have been hired at Carnival including a new SVP of Marine Operations. Earlier this month Carnival announced the first 4 members of its new Safety & Reliability Review Board including Rear Admiral Mark H. Buzby, Rear Admiral Joseph F. Campbell, Ray Valeika and Dr. John K. Lauber who have collectively very deep experience in the marine and air transportation and maintenance fields.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
GERALD CAHILL

Natural Gas Vessels

Question 1. As I'm sure you're aware, advances in technology, reduced emissions, and high oil prices have led the transportation industry to look to natural gas as an alternative source of fuel. Natural gas trucking has increased in current years, and the Energy Information Agency (EIA) recently projected that for the heavy-duty industry "Natural gas, as compressed natural gas (CNG) and liquefied natural gas (LNG), is the fastest-growing fuel in the transportation sector, with an average annual growth rate of 11.9 percent from 2011 to 2040." And a company based in my home state has ordered the LNG conversion of two diesel ships currently in use for Alaska trade, as well as the construction of two new first-of-their-kind LNG-powered containerships for use on the Puerto Rico-Florida trade route. The fuel is also being evaluated for use on our public Washington State Ferry system.

Do you believe natural gas-fueled vessels have a future within the cruise ship industry? To that end, to what extent has your company evaluated using natural gas as a fuel source for either converted/renovated or new vessels?

Answer. Carnival has three projects related to LNG use on cruise ships.

- a. Carnival is installing a dual fuel engine on one ship currently under construction, so that LNG can be used in port as well as conventional liquid fuel.
- b. Carnival is developing a power barge supplied with LNG that could connect directly to a ship in port, substituting LNG-generated electricity for utility shorepower (Cold-Ironing).

c. Carnival is examining the feasibility of installing limited LNG tank capacity on one ship that would supply one dual-fuel engine that could operate on LNG while the vessel is at sea or in port, as an alternative to shorepower.

Question 1a. What challenges or barriers exist to deploying natural gas technology safely within the cruise ship industry? Do you believe that any of the challenges or barriers is unique to your industry?

Answer. LNG is not available in numerous ports in which our ships currently bunker fuel, even where a natural gas supply is available near the pier. Infrastructure for storage and delivery of LNG would need to be developed to ensure reliable supply. Storage of LNG onboard requires greater tank capacity than liquid fuel. This is not a significant challenge for some cargo ships, with ample space both above and below deck. Cruise ships have very little available space either above deck or in engine spaces below deck.

Safety issues related to switching from liquid fuel oil to LNG are a consideration, but can be managed. U.S. Coast Guard policy guidance for refueling passenger ships with LNG is being developed now and the resultant controls and operational restrictions could have a major impact on the potential future use by the cruise industry.

Also, in the past public perception in North America has often been that LNG is not as safe as liquid fuel or natural gas. This is not scientifically valid, but it has been a significant issue with development of LNG facilities in many ports and coastal areas. Today, the environmental advantages of LNG may override such concerns, but cruising is a discretionary leisure activity and concern over the safety of LNG-powered cruise ships may need to be addressed.

Question 1b. Can you speak to your company's long-term strategy with regards to natural gas vessels?

Answer. LNG may be an option over the mid to long term if the challenges described above can be resolved. This could be accomplished by adding limited LNG tank capacity, or by supplying LNG to the ship while at berth from trucks or a barge.

Cold-Ironing

Question 2. As you know, Cold-Ironing is the practice of providing cruise, container, and other vessels with shore-side electrical power for the operation of equipment while in port, thereby allowing main and auxiliary engines to be shut down. This can reduce or eliminate many airborne emissions and improve nearby air quality. How many of your vessels are equipped to use Cold-Ironing infrastructure/equipment while in port?

Answer. Carnival Corporation has 24 ships that are equipped to connect in seven West Coast Ports, including Juneau, AK; Vancouver, BC; Seattle, WA; San Francisco, CA; Los Angeles, CA; Long Beach, CA; and San Diego, CA. East Coast Ports pending development include Brooklyn Red Hook, NY, Halifax, NS, and Quebec City.

Ships currently equipped to connect to shorepower by Operating Company are:

Princess Cruises	14
Holland America Line	6 (plus 2 partially converted)
Carnival Cruise Lines	3
Cunard Line	1

Question 2a. Does Cold-Ironing have any negative impacts on cruise ship operation?

Answer. There is no negative impact on the technical operations of the ship, if the shoreside system is properly installed, and if the supply of electricity is adequate and reliable. Shorepower installations have been very well received in port communities.

Question 2b. What are the barriers to further deployment of Cold-Ironing infrastructure/equipment on your vessels? Are certain ports more/less feasible for Cold-Ironing?

Answer. The primary barriers are the cost to the utility company to make the necessary improvements to deploy Cold-Ironing, the cost to the cruise industry to convert its ships to tie into the electricity and the availability of electricity. Some utilities do not have excess capacity, or rates for interruptible service. As a result, ports with limited cruise ship activity may not be able to economically justify the investment in shoreside infrastructure.

Question 2c. Please describe your company's long-term strategy with regards to Cold-Ironing.

Answer. Shorepower will be part of the mix of technology to address air emissions from cruise ships. This will include use of scrubbers or other technology, low sulfur

fuel, now required in all U.S. Ports under the Emission Control Area regulations of IMO MARPOL Annex VI and potential use of LNG in Ports.

Carnival has been the leader in developing shorepower for the cruise industry and plans to utilize shorepower for a significant number of vessels calling regularly in Ports on the Pacific Coast of North America, as well as select Ports in the North Atlantic.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV
TO ADAM M. GOLDSTEIN

Crime Reporting

Question 1. At the hearing, Chairman Rockefeller entered into the record a Commerce Committee staff report showing that the number of crimes onboard cruise ships reported to the FBI is much higher than the number that is publicly reported. It also shows that in a significant percentage of sexual assaults reported to the FBI, children are the alleged victims.

The Chairman also introduced legislation that would require public reporting of all alleged crimes on cruise ships, including those against children.

While the Chairman understands some alleged crimes might not be prosecuted, do you support publicly reporting the number of all crimes on cruise ships that are reported to the FBI?

Answer. As the Committee is aware, just over three years ago, Congress passed the Cruise Vessel Security and Safety Act (CVSSA) of 2010. In that legislation, Congress set forth the categories of serious crimes that cruise lines were required to report to the FBI. The legislation also required the U.S. Coast Guard to maintain a public website that lists, by cruise line, a quarterly accounting of every crime and missing person case that has been reported to law enforcement in any of the listed CVSSA categories where the matter is “no longer under investigation by the FBI.”

While we had long been reporting all crime allegations to Federal authorities, this legislation was the first of its kind to single out a commercial industry and require public disclosure of its allegations of crime. Although crime statistics on land are published under the FBI’s longstanding Uniform Crime Reporting (UCR) system for states, cities and municipalities, they are not aggregated by type of venue (hotels, resorts, theme parks), let alone by individual company.

Even so, we supported the legislation as we believed that publicly reporting crime allegations would enable consumers to see for themselves that cruise ships are among the safest venues when compared to any landside community or destination. We were unaware until the legislation was passed that Congress was limiting the public disclosure of the crime data to only those allegations “no longer under investigation by the FBI.”

Because of this provision in the new law, the numbers provided to the public by the Federal Government did not reflect the actual number of allegations we were reporting to the FBI. Royal Caribbean, and our colleagues at Carnival Corporation and Norwegian Cruise Lines, took it upon ourselves—well in advance of any announced Congressional hearing—to rectify the limitation imposed by Congress by agreeing to voluntarily disclose on our websites all allegations of crime in the CVSSA categories, on all itineraries worldwide, committed by passengers or crew members, regardless of whether an FBI investigation had been opened or closed.

We believe that the current reporting protocol—providing the number of all allegations in each of the CVSSA categories—allows the consumer to compare the minimal number of allegations of serious crimes onboard cruise ships with those reported for land-based communities and make informed vacation decisions. We do not believe that any further expansion of this reporting is warranted or reasonable.

Question 2. Given that many parents and children take vacations on your cruise ships, do you support publicly reporting the number of alleged crimes that occur against children?

Answer. As explained above, we believe the value of publicly reporting allegations of crimes is in providing consumers with an opportunity to compare/contrast crime on land with crime at sea. Crime against minors is not a category reported by the UCR for land-based communities and, thus, such disclosures by the cruise lines would not allow consumers to draw meaningful comparisons.

Question 3. Royal Caribbean, along with the other major cruise lines, agreed to voluntarily post crime data on its website.

The crime data appears to be compiled by the overarching Royal Caribbean parent company rather than by individual line. What is the rationale for posting the crime data in this manner? Please provide the Committee with this information broken

down by individual line in the same format that you posted the information on your website.

Answer. The premise of this question is incorrect. As of August 1, 2013, Royal Caribbean posted its crime data by individual cruise line, not by parent company. The data may be found here:

For Royal Caribbean International:

http://www.royalcaribbean.com/contentPage.do?pagename=royal_caribbean_cruise_ship_crime_allegation_statistics

For Celebrity Cruises:

http://celebritycruises.com/genericHtmlTemplate.do?icid=spe_bt_twdybr_1306_dtbe_lk_921032&pagename=celebrity_crime_allegation_statistics

For Azamara Club Cruises:

<http://www.azamaraclubcruises.com/azamara-club-cruises-crime-allegation-statistics>

Question 4. Many crimes that occur on cruise ships are classified as “other” meaning they don’t meet the threshold categories required under current law. What types of crimes are included in the “other” category?

Answer. The CVSSA identified eight categories of serious crimes that cruise lines are required to report to the FBI. The “other” category is used to capture allegations not designated by the CVSSA, such as thefts between \$1,000 and \$10,000.

Question 5. Current law requires that only thefts greater than \$10,000 be reported publicly. How many thefts of \$1,000–\$10,000 were reported for each of the last three years?

Answer. For the three-year period, 2010 through 2012, Royal Caribbean International, Celebrity Cruises and Azamara Club Cruises carried more than 13 million guests. During this time period, the reports of alleged property thefts valued between \$1,000 and \$10,000 were as follows:

2010—84 reports

2011—103 reports

2012—116 reports

Additionally, during this three-year period, RCL received a total of 97 reports alleging the theft of property valued between \$1,000 and \$10,000 from luggage. These alleged thefts from luggage, however, may have occurred prior to the luggage arriving at the ship (*e.g.*, airline, hotel, taxi, bus).

Question 6. The posted crime data details the number of missing U.S. nationals. How many additional non-U.S. nationals went missing for each of the last three years? Please indicate whether they were passengers or crew.

Answer. For the three-year period, 2010 through 2012, the reports of missing non-US nationals were as follows:

2010—3 missing non-US nationals (all crew members)

2011—4 missing non-US nationals (all crew members)

2012—4 missing non-US nationals (1 guest, 3 crew members)

Bill of Rights

Question 7. According to Professor Klein’s written testimony, cruise line contracts include “extreme limits” on the company’s liability, including requirements about where a passenger must file a suit and how quickly they must bring the suit. Explain to me why this makes sense for a consumer. Does this seem fair to you?

Answer. With regard to virtually every sailing of ships operated by cruise lines based in the U.S.—regardless of itinerary and regardless of whether it embarks or debarks in the U.S.—passengers have access to a U.S. forum if they wish to file a claim.

Because the travel industry accommodates customers from around the world, forum selection clauses are commonly used across many sectors of the industry. These clauses allow hotels, resorts, cruise lines and countless other sellers of goods and services to have some level of legal predictability while providing guests with the opportunity to have their claims heard.

In fact, the U.S. Supreme Court, in a 1991 opinion, found that forum selection clauses benefit passengers in two important ways: (1) the clauses eliminate confusion about where claims can be filed, saving litigants the time and expense of determining the correct forum; and (2) the passengers benefit from lower fares that travel providers can offer as a result of the legal certainty established by forum selection clauses.

With regard to the time period for filing claims, Title 46 U.S.C. § 30508, specifically permits a time limit of no less than one year for suits involving claims of personal injury (including emotional distress) or death. Courts have routinely enforced a six-month deadline for contract claims. These limits are not considered “extreme.” To the contrary, for any cruise that even touches a U.S. port, § 30509 specifically prohibits it from including any provision in a passage contract that either limits “the liability of the owner, master, or agent for personal injury or death caused by the negligence or fault of the owner or the owner’s employees or agents; or [. . .] the right of a claimant for personal injury or death to a trial by court of competent jurisdiction.”

Question 8. What recourse does the *Bill of Rights* provide to passengers when one of these rights is violated? Please provide specific examples of how a passenger could enforce the rights.

Answer. The *Bill of Rights* is a legally enforceable contract. It forms part of the contract between cruise lines and our guests who now have a private right of action to enforce the rights.

In addition, state consumer protection laws available in virtually every port state where cruise lines base their businesses or ships, including Florida, California, Hawaii, New York, Texas, Alaska and Washington, still apply. Thus, the contractual recourse to enforce the passenger *Bill of Rights* is in addition to these state laws which typically provide for recovery of damages, injunctive relief, attorneys’ fees, and in some cases, double or treble damages for misleading or false advertising.

Passengers can generally bring a legal action against cruise lines for any claims arising out of the maritime contract of passage, such as the *Bill of Rights*. The general maritime law of the U.S. will typically apply although state law can sometimes supplement the remedies afforded under U.S. maritime law where not inconsistent.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
ADAM M. GOLDSTEIN

Natural Gas Vessels

As I’m sure you’re aware, advances in technology, reduced emissions, and high oil prices have led the transportation industry to look to natural gas as an alternative source of fuel. Natural gas trucking has increased in current years, and the Energy Information Agency (EIA) recently projected that for the heavy-duty industry “Natural gas, as compressed natural gas (CNG) and liquefied natural gas (LNG), is the fastest-growing fuel in the transportation sector, with an average annual growth rate of 11.9 percent from 2011 to 2040.” And a company based in my home state has ordered the LNG conversion of two diesel ships currently in use for Alaska trade, as well as the construction of two new first-of-their-kind LNG-powered containerships for use on the Puerto Rico-Florida trade route. The fuel is also being evaluated for use on our public Washington State Ferry system.

Question 1. Do you believe natural gas-fueled vessels have a future within the cruise ship industry? To that end, to what extent has your company evaluated using natural gas as a fuel source for either converted/renovated or new vessels?

Answer. We believe there is a future for LNG as a major marine fuel, although there are a number of challenges that will need to be addressed, as outlined below. We have done extensive studies into the current and future feasibility from a technical, operational/safety, and supply availability perspective. We have involved engine manufacturers, shipyards, existing LNG suppliers, and maritime classification societies in these reviews.

We do not believe that CNG will ever be a realistic option given the very low energy density of CNG (*i.e.*, we could not carry enough fuel to get the ship to port).

Question 1a. What challenges or barriers exist to deploying natural gas technology safely within the cruise ship industry? Do you believe that any of the challenges or barriers is unique to your industry?

Answer. There are a number of technical and operational issues with LNG compared to traditional fuels, all of which stem from the physical properties of LNG, including:

- We would have to carry twice as much volume of LNG to achieve the equivalent amount of energy of traditional fuels
- LNG must be maintained at cryogenic temperatures (*i.e.*, -160 degrees F)

Because of these physical properties, LNG requires specialized storage tanks, piping systems, safety systems and design limitations, loading systems, and engine modifications. We do not think there is a high likelihood that existing cruise ships

could be retrofitted with significant LNG capacity, but believe it is more feasible in the context of newbuilds.

Another major obstacle is the minimal supply infrastructure available. Because of the physical properties of LNG, it is very expensive and time consuming to develop and build the necessary supply infrastructure. While this issue exists for all ships, it is a much larger issue for cruise ships given the amount of LNG required and the time frame in which it would have to be loaded (*e.g.*, 25 to 50 truck loads per week). The other “unique” issue is that cruise ships tend to travel around the world, so a single point supply solution is not sufficient; our vessels would need access to reliable supplies around the world.

Question 1b. Can you speak to your company’s long-term strategy with regards to natural gas vessels?

Answer. Our long term strategy is to continue monitoring the regional and global supply development to determine if and when it would be prudent to commit to an LNG fueled vessel. We routinely re-evaluate our position when committing to newbuild orders.

Cold Ironing

Question 2. As you know, cold ironing is the practice of providing cruise, container, and other vessels with shore-side electrical power for the operation of equipment while in port, thereby allowing main and auxiliary engines to be shut down. This can reduce or eliminate many airborne emissions and improve nearby air quality. How many of your vessels are equipped to use cold-ironing infrastructure/equipment while in port?

Answer. We have seven vessels in our fleet that have reserved space in the electrical switchboards for equipment to connect to shore power and all future newbuilds will have the space reservation as well. We are also in the process of equipping one vessel with shore power capability in order that it may make frequent calls on California ports.

Question 2a. Does cold ironing have any negative impacts on cruise ship operations?

Answer. There are always challenges when introducing a new technology to marine operations and, of course, we always take handling extremely high voltage equipment and connections seriously. The biggest challenges relate to handling the switch over from ship power to shore power and back again.

Question 2b. What are the barriers to further deployment of cold-ironing infrastructure/equipment on your vessels? Are certain ports more/less feasible for cold ironing?

Answer. Cold-ironing is very much a port-by-port evaluation; furthermore, it is a day-by-day issue within an existing port. We have found that the availability of cold-ironing infrastructure varies by port and even by berths within a port. In addition, the ability of local utilities to scale up to meet one or more large ship’s power demand is also an important factor. Of course, the reliability, cost, and environmental benefits of shore power vary by port as well.

Question 2c. Please describe your company’s long-term strategy with regards to coldironing.

Answer. Although the majority of our energy consumption occurs when we are not in port, we continue to evaluate cold-ironing as a component of our energy/environmental strategies.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV
TO ROSS A. KLEIN, PH.D.

Crime

When a crime happens on a cruise ship, passengers can be in for a rude awakening—they can’t just call 911 to get the police to come investigate the crime, they can’t go to a U.S. hospital for treatment, and they can’t always just get off the ship. To make things more difficult, U.S. laws may not govern if the crime occurs in international waters or at a foreign port.

Question 1. Given the stark differences in the level of support available to crime victims on land versus on cruises, how important is it that passengers have an understanding of the number and types of alleged crimes that occur on cruise ships?

Answer. The cruise industry promotes itself as “the safest mode of commercial transportation”—a claim based on a 1996 study done by the U.S. Coast Guard.¹ But this study only considered three issues of safety: fatalities, injuries requiring treatment beyond first aid, and accidents such as trips and falls. Based on these criteria, a cruise ship is safer than U.S. air carriers and motor vehicles; however, the study did not look at simple assaults, thefts, sexual assaults or at disappearances under mysterious circumstances. The claim by the cruise industry to be the safest mode of transportation misleads consumers into a false sense of security.

In the face of this claim, and in the frequency of certain types of crime, it is important that cruise passengers have access to independently-verified and reliable crime statistics for cruise lines and for cruise ships. Particularly relevant are sex-related crimes (sexual assaults and forcible rapes), which on some cruise ships/cruise lines may be higher than on land, but also property crimes (*i.e.*, thefts), crimes against persons (simple assaults and assault with serious bodily injury), and persons overboard.

The importance and value of by-ship data is demonstrated in TABLE 1: RCI “Reported Sex Related Incidents” 2003–2005 Number of Reported Incidents and Annualized Rate per 100,000 by Ship of my testimony before the Before the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security, Senate Committee on Commerce, Science, and Transportation, Hearings on “Cruise Ship Safety: Examining Potential Steps for Keeping Americans Safe at Sea,” Thursday, June 19, 2008. As seen in that table the rate of sexual harassment/sexual assault when viewed by ship ranged from 10.75 per 100,000 to 208.33 per 100,000 across a fleet of 19; the fleet average was 111.97 per 100,000. This level of detailed information is helpful to passengers—both in gaining awareness that there are certain problems or risks on cruise ships (as there are on land), and that choices can apparently be made that minimize risk. The transparency may also benefit cruise ships and cruise lines in that it will ideally motivate a higher degree of vigilance in preventing and effectively dealing with onboard crime in order to avoid being “the worst.”

Having valid and reliable rates of crime is important for the purpose of comparison: comparison between cruise lines/ships and comparison of crime at sea versus crime on land. There is a simple illustration that makes this point. Disney Cruise Line reports on its website 6 sexual assaults in 2012. This sounds like a small number. However, when converted to a standardized rate it is 32.6 per 100,000—almost four times higher than claimed for the industry as a whole in its written testimony before the U.S. Senate Commerce Committee. It is tempting to interpret this as indicating that Disney Cruise Line is worse than the rest, but the more likely interpretation is that Disney Cruise Line is being more transparent than the others. After all, the numbers reported by Royal Caribbean and Carnival for 2010–2013 are so different than what are independently confirmed as numbers for 2007–08, that it makes suspect the more recent reports (see www.cruisejunkie.com/crimedat.pdf).

Crime Data

Royal Caribbean, Carnival, Norwegian, and Disney recently posted cruise crime data on their websites. Some questions have been raised about what data is included and whether it paints a clear picture of the crime onboard vessels.

Question 2. Professor Klein, what did your review of the crime data show?

Answer. On surface, the crime statistics appear to be a positive step, however upon reflection one has to wonder precisely what are being provided:

1. What “crimes” are included in the category “other”? There is a significant number that can undoubtedly be categorized and reported (*e.g.*, inappropriate touch, sexual harassment, simple assault, thefts of less than \$10,000).
2. What incidents are included as “sexual assaults” and “rape” and who decides that an incidents falls into one or another (or neither) category. If it is the cruise line, is it in an objective position from which to judge the nature of the incident and crime? When considering the category “other,” what is the number and types of sex-related incidents that do not fall under sexual assault and rape.

¹The claim to be the safest mode of commercial transportation has long appeared at the website of Cruise Lines International Association, and before that at the International Council of Cruise Lines website. It was recently removed because of intense lobbying by the International Cruise Victims Association (ICV), which called on the Coast Guard and members of Congress to force the cruise industry to remove the misleading claim. The study to which the industry refers was secured by ICV through a freedom of information request; the data was based on National Transportation Statistics 1995.

Aside from the problem of data kept invisible through the category “other,” and confusion caused by lack of clarity on who makes the determination of a category of crime (*e.g.*, simple assault, assault with serious bodily injury, sexual assault and rape), the data displayed at the Carnival and Royal Caribbean websites are misleading. Both companies combine cruise lines, which dilutes the rate of crime on Carnival Cruise Lines’. For example, Carnival combines four cruise lines in its report—Carnival Cruise Lines, Holland America Line, Princess Cruises, Seabourn Cruises—and then computes the crime rate. This produces misleading statistics. Carnival Cruise Lines accounts for 46 percent of the passenger population on ships belonging to these four brands, however in 2007–08 Carnival Cruise Lines accounted for 87 percent of the sexual assaults and 96 percent of the thefts. The rate of crime is significantly lower on the other cruise lines than on Carnival Cruise Lines; by averaging across the lines it gives the appearance that Carnival is safer than it actually is. The same is the case with Royal Caribbean International, Celebrity Cruises, and Azamara Cruises.

Review of the data also raised some direct questions. The FBI told the Commerce Committee that it had received 40 reports of sexual assault on Carnival ships, but Carnival reports on its website a total of 17 for the same period. Similarly, data presented by NCL on its website and to the FBI is numerically different than data provided in the discovery phase of a lawsuit.

So, while the idea of publishing the data is excellent, the underlying problem is the reliability and integrity of the data being presented. By being done in-house, with no independent oversight produces numbers that aren’t particularly informative. The public needs to be protected from erroneous claims.

Question 3. How will the provisions in the Cruise Passenger Protection Act help ensure that all crime data is being reported publicly?

Answer. The CPPA will improve the reporting of crime data by requiring reporting of all reported crimes, however it doesn’t go as far as I’d like it to go. There are crimes that will not be reported (thefts less than \$10K, simple assault), and crime reports will be amalgamated by cruise line (maybe by cruise corporation?), which allows problem ships/lines to remain invisible.

In an ideal world, all reports to security on a cruise ship would be sent to the FBI. The FBI would filter out cases it wishes to pursue, though all cases would go to an independent third party for entry into a crime database (including properly assigning complaints to a crime category). This database, showing crime by cruise ship and cruise line, would then be available online.

Question 4. In your written testimony, you highlighted that additional crime beyond what’s required by law should be reported publicly. What type of crimes are these and how will making this information public help passengers?

When consumers have complaints about cruise ships—whether it’s unexpected fees, lost baggage, or conditions on the vessel—what recourse do they currently have beyond lodging a complaint with the company?

Answer. This question is actually two questions. The types of crimes that should be included in reporting include simple assault and theft less than \$10,000. There might also be consideration to include under sex-related incidents cases involving “inappropriate touch” and “sexual harassment”. These categories were well populated in reports in 2003–2005. That data, when combined with data for sexual assaults and forcible rapes, is illuminating.

My view is that passengers have a right to know what crimes are being committed on different cruise ships belonging to different cruise lines. They should be equipped to make informed shopping decisions when buying a cruise. And they should approach a cruise taking the usual precautions families take when traveling to a “strange” or new city.

The second question relates to complaints when something goes wrong. Aside from attempting to persuade the cruise line that they owe you something, a passenger has very little recourse. They can file a complaint with the Maritime Administration, but that is unlikely to have any impact. Alternatively, a passenger might be able to file a claim in a small claims court—this may or may not survive a forum selection clause challenge, or in the odd case hire an admiralty lawyer in Miami. In the United Kingdom, where there is stronger consumer rights legislation, legal cases have a higher chance for success on cases that would be non-starters in the U.S. There are cases in both the U.S. and U.K. (more so the latter) where passengers have successfully used the Internet and/or social media to extract settlements for complaints against a cruise line, but these are relatively infrequent.

Consumer Complaints

When consumers have complaints about cruise ships—whether it's unexpected fees, lost baggage, or conditions on the vessel—what recourse do they currently have beyond lodging a complaint with the company?

Question 5. How would giving a Federal agency, such as the Department of Transportation authority to investigate passenger complaints, as it does for the aviation, auto, and other industries, help passengers when something goes wrong?

Answer. I think the issue is one of oversight. The cruise industry operates out of U.S. ports, serving largely U.S. passengers, yet unlike the aviation or other transportation industries, has no active oversight by the U.S. Government. There is some oversight relating to cruise ship safety (U.S. Coast Guard) and sanitary conditions (Centers for Disease Control), however there is absolutely no oversight with regard to consumer rights and proper treatment of passengers (not to mention proper treatment of workers). An aggrieved passenger lacks a venue (other than a lawsuit) for dealing with a serious complaint against a cruise line (other than the cruise line itself). As well, because there is no central agency where passengers can file reports, there is no knowledge base about complaints common on cruise ships (even specific cruise ships or cruise lines). Such an agency would also be a venue for a passenger to express a safety concern that was ignored while onboard a ship.

Given the size of the cruise industry, and its reliance on passengers in and from the U.S., it makes infinite sense to treat the cruise industry like other modes of commercial transportation (airlines, trains, buses) and for this oversight to rest in the Department of Transportation. At present the industry is largely self-regulating. With market domination of three corporations (comprising more than 90 percent of the North American market), self-regulation is not in the best interests of the consumer.

Bill of Rights

The cruise industry has actively promoted their *Cruise Passenger Bill of Rights*, which includes the right to professional emergency medical attention, the right to properly trained crew, the right to timely updates for itinerary changes, etc.

Question 6. Professor Klein, you reviewed the *Bill of Rights* in your written testimony, what new rights were passengers provided?

Answer. In my opinion, the *CLIA Cruise Passenger Bill of Rights* does not provide anything that the cruise industry wouldn't argue was already being done before the bill of rights. What is different is that there is now, they would say, a binding pledge that these things will absolutely be done. However *CLIA Cruise Passenger Bill of Rights* does not say what a passenger is due when a right is not fulfilled (e.g., having a trained crew, receiving timely information).

The Bill of Rights is a restatement of industry practices and is used largely as a marketing scheme at a time that the industry was attempting to repair its image.

Question 7. Were there any major areas that were not addressed?

Answer. There are a number of things not covered in *CLIA Cruise Passenger Bill of Rights*:

- (1) What rights does a passenger have when essential provisions such as food, water, restroom facilities, etc cannot be provided and the ship is not docked? What rights does a passenger have when a ship is "dead in the water?"
- (2) A passenger's right to have refunded by the cruise line the cost of airfare to get to a cruise when a cruise is canceled because of mechanical or other failure.

And the following copied from my written testimony:

- There is no mention of the recourse a passenger has if one of the Rights is not fulfilled or realized.
- There is no indication of how a partial refund will be computed and whether that refund is provided in cash or, as common in the industry, as a discount on a future cruise or an onboard credit.
- There is no mention of whether the cruise line is responsible for ancillary costs when a cruise is cancelled, including change fees for airline tickets and for the costs of the tickets themselves, the cost of lodging required in travel to the passenger's home city, and support for food and incidentals associated with delays in getting from the ship to the passenger's home city.
- There is no mention of what rights a passenger has when a port of call is canceled. Some cruise lines refund "port fees and taxes," however these are given as an onboard credit rather than as a cash refund. As well, there is no transparency with regard to the amount refunded. Some cruise lines average the cost

of port fees and taxes so a refund for one port is the same as the other even though actual fees can vary widely from one port to another. Also, it isn't transparent whether costs other than port taxes and fees that are not paid by the cruise line because of the canceled port call are also refunded to the passenger. There is considerable need for greater clarity and transparency around passenger rights when a port call is canceled.

- There is no mention of what rights a passenger has when a cruise itinerary is changed, such as a cruise sailing the Eastern Caribbean instead of the Western Caribbean because of propulsion problems, or a cruise going to Canada instead of the Caribbean because of weather. The Passenger Cruise Contract is clear that the cruise line has no obligation or responsibility to provide compensation in these situations. This absence of rights should be clearly articulated in the Passenger Bill of Rights.
- There is no mention of the rights a passenger has when embarkation is delayed. Does a passenger have a Right to meal vouchers or compensation for meals purchased (as is common in airline travel)? Also, after how many hours of waiting in a cruise terminal is the cruise line obligated to provide either lodging or a comfortable setting to wait? A comprehensive Passenger Bill of Rights would address these situations given the frequency of delayed embarkations.
- There is no mention of a passenger's rights when a cruise arrives late in its port of disembarkation, causing the passenger to miss transportation arrangements for their trip to their home city.

In addition there are some rights that should be directly addressed.

CLIA Cruise Passenger Bill of Rights should clearly articulate the rights of a passenger who is "bumped" from a cruise because of overbooking or other issues. The most recent cases involve *Carnival Sunshine*, which bumped passengers on its June 7, 2013, cruise because a number of cabins were needed for contractors completing work that was not completed while the ship was in dry dock. Similarly, passengers in 78 cabins on *Grandeur of the Seas* were bumped from the July 12, 2013 (and perhaps the July 19th), sailing because cabins were needed for workers who were still making repairs following the fire earlier in the year. Some of these bumped passengers had their cruise canceled because the ship had been out of service for repairs, and here they were bumped from their replacement cruise.²

Similarly, the *CLIA Cruise Passenger Bill of Rights* should discuss a passenger's rights when they are expelled from a cruise ship, often for questionable reasons and the result is loss of cruise fare and their having responsibility for transportation from the port where they are left. Between January 2009 and June 30, 2013, there are eight cases list on my website where a passenger has been evicted or expelled (these are only ones reported in the media). These passengers have no right to appeal or recourse. The cruise line Cruise Passenger Contract gives them this unilateral, uncontestable Right to evict or expel, without liability.

The *CLIA Cruise Passenger Bill of Rights* does not address a passenger's rights when they miss the ship because of flight delays or because of weather conditions (such as Hurricane Sandy in the fall of 2013 when passengers lost their cruise fare because they couldn't get to the ship). The cruise lines generally take the position that this type of situation is not their problem. A passenger without trip insurance is responsible for lost cruise fares and/or additional travel costs to join the ship at a later point. Further, it there are reports that some benefits under trip insurance policies offered by the cruise line are more restrictive in the benefits they provide than insurance policies offered independent of the cruise line.

²It is worth mention that Royal Caribbean Cruises Limited, in anticipation of these hearings and concern that the facts might paint an unkind picture, sent an e-mail to all employees asking them to write their Senator with the following text: Dear Senator, As one of your constituents and an employee of _____, one of the major cruise lines serving North America, I am contacting you today out of concern regarding the July 24 Senate Commerce Committee hearing regarding the cruise industry. As an individual who is intimately familiar with cruising, it is apparent to me that there has been a great deal of misinformation and distortion regarding the industry in recent months. As one of your constituents, I am concerned that the industry will be unfairly portrayed at this hearing. As someone that works in the cruise line industry, I know firsthand that cruising is extremely safe and well regulated at the national level, by the U.S. Coast Guard, and by international authorities. Additionally, the cruise industry directly benefits businesses in all 50 states, generating over 355,000 jobs and over \$42 billion in economic impact. It provides \$17.4 billion in wages to American workers each year. I would greatly appreciate your support to ensure that the cruise industry receives a fair and balanced hearing. Thank you for your time and attention to this matter and your service to our Nation. Sincerely, Your Name

The *CLIA Cruise Passenger Bill of Rights* does not address a passenger's rights to have safety concerns taken seriously. Though not the first time I have received this sort of information, on June 21, 2013, I received the following from a cruise passenger:

We have just disembarked after a 7-day Alaskan cruise aboard *Celebrity Solstice*. We frequented the quasar dance club each night. On night two I noticed at 2300 (11pm), when the club only allows 18 and over, a crew member used a small rope to tie the handles of one of the two exits closed to prevent access. Not must looped but tied in a fashion that untying would be impossible is a smoke filled environment or panic. This room is required to have two emergency exits and this exit was clearly marked "emergency exit". This happened three nights in a row. I brought my concerns to the attention of guest services requesting to speak to the ships Safety Officer. I was told that another passenger had requested to speak with him also but he stated that he was "too busy with paperwork to speak to anyone". The guest services person apologized and drafted an e-mail to him explaining my concerns and that I am a 28 year firefighter. That night in quasar the doors were once again tied closed. As of this writing no staff or crew has contacted me. I would encourage that all passengers be aware of their surroundings. It appears *Celebrity* is not concerned with safety and if this blatant example of reckless disregard for its passengers and crew in a public space is allowed to exist, then I am wondering what other safety issues exist that we did not see.

It would seem this passenger's expectations were realistic, but they were ignored. Did he have any rights? And what rights were available for this disregard of concern for fire safety?

Finally, the *CLIA Cruise Passenger Bill of Rights* does not address the Right to be free of sexual assault by crewmembers or cruise ship employees, or the Right to be free of other types of crime. This type of assurance seems only natural given the rate of sexual assault on cruise ships, but it is obviously one that would be difficult to fulfill (although no less difficult than some of the other rights included in the Passenger Bill of Rights). In this line of thought, the Passenger Bill of Rights should also contain a Right to contact the FBI directly from the ship when a victim of a crime. This Right is accorded by the CVSSA, so it should be provided, however most victims will be unaware of what is available to them without it explicitly being stated in something like a Passenger Bill of Rights. Alternatively, a cruise ship may be required to provide a crime victim with an information sheet outlining the rights and the options available to them, including the telephone numbers for relevant law enforcement agencies, and agencies that provide direct services or referral to services that are likely to be needed by the victim.

Question 8. What recourse does the *Bill of Rights* provide to passengers have when one of these rights is violated?

Answer. A common theme across all elements in the Passenger Bill of Rights is how a passenger deals with a Right that has not been fulfilled or has been directly violated. Are these rights ultimately governed by the cruise passenger contract that sets clear terms about when and how complaints and legal action must be filed, and where law suits must be filed? Forum selection clauses effectively limit a passenger's rights under the Passenger Bill of Rights given the requirement that legal action can only be taken in a court located in the state where the cruise line's corporate headquarters is located (most frequently Florida). The cruise passenger contract also includes a "class action waiver," prohibiting a passenger from taking any legal action as a member of a class or as a participant in a class action. For many passengers these are impediments to taking any action and they often resign to accepting whatever the cruise line offers, if anything.

The cruise industry's representatives claimed at the hearings that the *CLIA Passenger Bill of Rights* is not superseded by the passenger contract, however what this actually means remains unclear. It is unclear what recourse a passenger has when a right has not been fulfilled, and it is unclear through what forum this recourse is sought. Cruise passenger contracts have not yet changed.

Contract Limitations

According to your written testimony, cruise line contracts include "extreme limits" on the company's liability, including requirements about where a passenger must file a suit and how quickly they must bring the suit.

Question 9. These ticket contracts generally require that all law suits be filed in Florida. Does this mean that even though a passenger might buy a ticket in West Virginia and leave from a port in Maryland, they have to go all the way to Florida to pursue a lawsuit?

Answer. Based on the forum selection clause in the passenger cruise contract any lawsuit must be filed in the court where the cruise line is headquartered—for Princess Cruises it is Los Angeles, for Holland America Line Seattle, and for many others Miami. This is a huge disadvantage, if not impediment, to a passenger from out of state of the cruise line's headquarters (*e.g.*, West Virginia, Arizona, Vermont). Many will initially contract with a local attorney who needs in turn to be represented by an attorney in Florida. Alternatively, the passenger may contract directly with a Florida-based attorney, but there is a challenge locating and getting to know one. In any case, access to court of law is quite difficult (if not costly) for the average cruise ship passenger.

Question 10. What impact do these provisions have on a passenger's ability to pursue legal recourse?

Answer. This lack of recourse means that many problems, complaints, and justified claims against cruise lines are never pursued. If legal recourse were more readily available, then cruise passengers feeling wronged may feel like their concerns can be heard. Another option (perhaps complimentary) is for an agency within the Department of Transportation to deal with consumer complaints regarding the cruise industry.

