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INTERNATIONAL MARITIME SECURITY II: LAW ENFORCEMENT, PASSENGER SECURITY AND INCIDENT INVESTIGATION ON CRUISE SHIPS

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS, AND INTERNATIONAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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INTERNATIONAL MARITIME SECURITY II: LAW ENFORCEMENT, PASSENGER SECURITY AND INCIDENT INVESTIGATION ON CRUISE SHIPS

TUESDAY, MARCH 7, 2006

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS, AND INTERNATIONAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:07 p.m., in room 2154, Rayburn House Office Building, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Present: Representatives Shays, Davis, Duncan, Mica, Kucinich, Van Hollen, Ruppersberger, and Lynch.

Staff present: Lawrence Halloran, staff director and counsel; R. Nicholas Palarino, senior policy analyst; Robert A. Briggs, analyst; Andrew Su, minority professional staff member; and Jean Gosa, minority assistant clerk.

Mr. SHAYS. Good afternoon. A quorum being present, the Subcommittee on National Security, Emerging Threats, and International Relations hearing entitled, "International Maritime Security II: Law Enforcement, Passenger Security and Incident Investigation on Cruise Ships" is called to order.

Today, we continue our examination of the intricate web of treaties, laws, regulations, and industrial practices intended to protect lives, rights, and property in the maritime realm. As new threats against American citizens and American interests emerge in the post-September 11th era, we ask how effectively that legal umbrella protects the lives, rights, and property of those traveling in international waters.

As we will hear in testimony today, the answer too often depends upon an unpredictable combination of facts, circumstance, and happenstance that may or may not mean the protections of U.S. laws are available to those in peril on the sea. The fate of those gone missing or the rights of those against whom a crime has been committed may be determined by the nationality of those involved, the ship's national registry, or its exact location at the time of the incident.

Good luck to passengers wishing to understand their rights at sea. Even attorneys find it difficult to navigate the complex jurisdictional boundaries, statutory definitions, treaty provisions, maritime traditions, and fine-print liability disclaimers. Even when the

law is clear, the effective reach of U.S. authority depends on the willingness and ability of cruise ship operators to make security a visible priority, recognize and report incidents, preserve evidence, and conduct thorough onboard investigations.

Once cast adrift from the familiar moorings of U.S. laws and law enforcement, security personnel abroad these floating resorts become the only law to which passengers can look for help and protection. Are they trained and equipped to provide the security passengers have a right to expect? For those waiting back on shore, any effort to determine what has happened to a friend or relative can also face daunting legal and corporate hurdles. A business built on the premise of pleasure-filled conveyance has little incentive to inform third parties when the trip goes wrong. Time, distance, and legal uncertainties work to keep worried survivors at arm's length. Some portray it as a stiff arm at bat, extended in the interest of denying, delaying, or discounting information about the inherent risks of sea travel.

Unlike shore-bound contracts for accommodation, the pact between cruise lines and their passengers should be read to include a duty to preserve evidence and provide information about the fate of those, however few, who have come to harm in isolated, unforgiving ocean environs.

After our previous hearing on these issues, the subcommittee requested information on reports of crimes and missing persons from cruise ship operators. The information received so far suggests cruise travel may be statistically safe in terms of the number of serious incidents reported by the total number of passengers carried in any given year. But we look to our witnesses to put those numbers in context so the subcommittee and the traveling public can make informed judgments about the relative security of an ocean voyage.

Today, we will hear from three panels of witnesses: cruise passengers and family members, maritime security experts, and cruise line operators. Welcome to all our witnesses. We look forward to their testimony.

At this time the Chair would want to note that the chairman of the full committee is in attendance, and we will call on him after we call on the ranking member, Mr. Kucinich.

[The prepared statement of Hon. Christopher Shays follows:]

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Statement of Rep. Christopher Shays
March 7, 2006

Today we continue our examination of the intricate web of treaties, laws, regulations and industry practices intended to protect lives, rights and property in the maritime realm. As new threats against American citizens and American interests emerge in the post-9/11 era, we ask how effectively that legal umbrella protects the lives, rights and property of those traveling in international waters.

As we will hear in testimony today, the answer too often depends upon an unpredictable combination of facts, circumstance and happenstance that may, or may not, mean the protections of U.S. laws are available to those in peril on the sea. The fate of those gone missing, or the rights of those against whom a crime has been committed, may be determined by the nationality of those involved, the ship's national registry, or its exact location at the time of the incident.

Good luck to passengers wishing to understand their rights at sea. Even attorneys find it difficult to navigate the complex jurisdictional boundaries, statutory definitions, treaty provisions, maritime traditions and fine-print liability disclaimers.

Even when the law is clear, the effective reach of U.S. authority depends on the willingness and ability of cruise ship operators to make security a visible priority, recognize and report incidents, preserve evidence and conduct thorough on-board investigations.

Once cast adrift from the familiar moorings of U.S. laws and law enforcement, security personnel aboard these floating resorts become the only law to which passengers can look for help and protection. Are they trained and equipped to provide the security passengers have a right to expect?

For those waiting back on shore, any effort to determine what has happened to a friend or relative can also face daunting legal and corporate hurdles. A business built on the premise of pleasure-filled conveyance has little incentive to inform third parties when the trip goes wrong. Time, distance and legal uncertainties work to keep worried survivors at arms length. Some portray it as a stiff arm at that, extended in the interest of denying, delaying or discounting information about the inherent risks of sea travel.

Unlike shore-bound contracts for accommodation, the pact between cruise lines and their passengers should be read to include a duty to preserve evidence and provide information about the fate of those, however few, who have come to harm in isolated, unforgiving ocean environs.

After our previous hearing on these issues, the Subcommittee requested information on reports of crimes and missing persons from cruise ship operators. The information received so far suggests cruise travel may be statistically "safe" in terms of the number of serious incidents reported by the total number of passengers carried in any given year. But we look to our witnesses to put those numbers in context so the Subcommittee, and the traveling public, can make informed judgments about the relative security of an ocean voyage.

Today we will hear from three panels of witnesses: cruise passengers and family members, maritime security experts and cruise line operators.

Welcome to all our witnesses. We look forward to their testimony.

Mr. KUCINICH. I want to thank the chairman.

Out of respect for the Chair being here, I would be happy to yield to the Chair of the full committee.

Chairman TOM DAVIS. I will just be brief. Mr. Shays, thank you.

I want to thank Mr. Shays for holding this hearing. It is a continuation of the important focus on the security of American citizens wherever they are in the world.

This hearing is significant because cruises are an ever more popular vacation choice for American families, and ensuring traveler safety should be a priority for all of us.

I am not an expert on the industry. I know there have been some very high-profile incidents aboard cruise ships in recent months, and I think if there is reason to believe safety and security are being shortchanged, we need to understand that. We also need to understand the notification procedures, which is one of the shortcomings we have. In spite of some of the good news—and some of the good news is that this industry is built on customer service. I have seen statistics showing that in 2005 approximately 55 percent of all passengers were repeat guests. So a lot of people appear satisfied with their experience as well.

Now, this subcommittee has spent a lot of hours looking into the industry, and I want to commend Chairman Shays and his staff for these efforts. I think that sunshine is the best disinfectant. What has emerged, we get a picture of an industry that is conscious of its public images, its understanding that customer service is its lifeblood. They are grasping the need to cooperate with a large number of U.S. Government agencies in the performance of its service.

The data do show, as the chairman noted in his remarks, that cruise ships are relatively safe places to be, for the most part. According to FBI stats reported at the December subcommittee hearing, the FBI opened 305 cases of crime on the high seas over the past 5 years, during which time there were 40 million cruise ship passengers. If those numbers are right, that is pretty good odds of a safe voyage, certainly a lot safer than a lot of counties and cities across the country.

But I know one thing. One concern about these statistics is that many crimes may not be reported, and I hope that is something that this subcommittee is looking at as well.

Two thousand people are reported missing every day in the United States. In contrast, over the past 2 years, the equivalent of one person per one million passengers went missing on a cruise ship, which is less than the national rate. A cruise ship is regulated by both the Federal and State governments, and criminal offenses on board ships, regardless of their nation of registry, are expressly subject to U.S. jurisdictions when committed by or against an American.

Having said this, this is an industry that is not used to visible consumer complaints, and as the industry continues to grow, they will need to find a more uniform standardized security standard. No loss of life or crime is ever acceptable, and I understand the anger and the frustration of crime victims and their families and loved ones having difficulty pulling information out. I hope that the industry will address some of the issues that are highlighted today.

There are compelling questions to be asked, including how conflicts and overlaps between domestic law and international treaties affect our ability to monitor and enforce criminal conduct at sea. I look forward to working with the subcommittee to ensure the security of our citizens as they take cruises and we try to maintain better reporting to loved ones and others who are having difficulty getting information.

I want to thank Mr. Shays for his important oversight. Thank you.

Mr. SHAYS. I thank the chairman very much, and at this time the Chair would recognize Mr. Kucinich and thank him for yielding to the chairman.

Mr. KUCINICH. Of course.

Mr. Chairman, before I begin, I want to say that immediately after my statement, I have to go to the floor of the House to enter a statement in opposition to the PATRIOT Act authorization, and then I will return.

Mr. SHAYS. I think I would like to keep you here. [Laughter.]

Mr. KUCINICH. Thank you, Mr. Chairman.

Good afternoon and thank you to the witnesses for appearing today. I know it is extremely difficult for some of our panelists today to relate the tragic experiences of their loved ones, but I hope that your testimony will help us avoid future tragedies aboard cruise ships. Each year, some 10 million passengers take trips aboard the 300 large cruise ships that comprise the worldwide cruise ship fleets. These trips generate tens of billions of dollars in leisure spending, and more than half of these passengers embark from North American ports.

Twelve companies account for the majority of cruise ship activity in the United States, but two companies—Carnival Corp. and Royal Caribbean—dominate the U.S. market. Carnival owns 79 ships and has a dozen more in the pipeline. Royal Caribbean has 19 ships. Most of these vessels sail under foreign flags and do not have to comply with U.S. labor, environmental, and other regulations.

Many Americans embark on a cruise as a romantic honeymoon or on a long-needed family vacation, hoping to travel to exotic destinations and enjoy the many amenities these cruise ships have to offer. They are offered almost limitless amounts of food and entertainment. Alcohol is plentiful and easily accessible. It is truly a 24-hour party atmosphere on board the ships. Yet instead of relaxing and enjoying their vacation, this subcommittee has heard of a disturbing trend: a growing number of passengers disappearing while on board these cruise ships, with little or no attempts to search and rescue them by the ship's crew and security officers.

At our December hearing, the subcommittee heard from Mrs. Jennifer Hagel-Smith, the widow of George Smith, who went missing during their honeymoon voyage to the Mediterranean. Publicity about their case has allowed numerous others to come forward and relate their cruise ship horror stories. Recently, individuals affected by cruise ship crimes formed the International Cruise Victims Organization as a support network and to give a voice to their cause. What they want simply is the truth, and that is the same thing that this congressional subcommittee wants. They and we want to

know that everything that could have possibly been done to help their families to search and care for their loved ones was done by the cruise companies. They want peace of mind and closure to the terrible tragedies. But they cannot get a straight answer from those companies.

According to data submitted to the subcommittee by the cruise industry—and, you know, they are not officially required yet to be reporting to law enforcement agencies—24 passengers have gone missing aboard cruise ships in the past 3 years. This subcommittee knows of at least 178 reports of sexual assaults, thefts, and hosts of other crimes—not exactly the "Love Boat."

However, as the chairman has stated, the lack of statistical data on the number of crimes and incidents aboard cruise ships which was not disclosed until two congressional subcommittees demanded them and the reliability of that data leads Congress to suspect that the whole truth is not being told. We want to know the truth about individual cases. We want to know the truth about the adequacy of training of crew members and about the procedures used by security officers, and we want to know the truth about the general conduct and screening of crew and security officers aboard these ships.

Do these cruise companies care more about the safety of their passengers or their bottom line? Is it more important to make sure missing passengers are found or more urgent for the ship to reach the next port?

It seems to me that the latter is more important for these cruise ship lines. I hope today's hearing will help answer some of those questions.

I want to conclude, Mr. Chairman, by pointing out that I am in strong support of greater Federal regulation over the cruise line industry and, in particular, we need key requirements for reporting incidents aboard cruise ships. There needs to be oversight on training, conduct, and conditions of crew workers and security officers and accountability to passengers to report such incidents.

I want to thank the Chair. Mr. Chairman, I want to thank you for your leadership on this issue, and I hope that these hearings will help cruise ship victims and their families understand what went wrong and what happened aboard these ships. We should do everything in our power to help them heal their wounds.

Again, thank you, and, again, thank you to the witnesses for being here today.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

Statement of Rep. Dennis J. Kucinich
Ranking Minority Member
Subcommittee on National Security, Emerging Threats and International Relations
U.S. House of Representatives

Hearing on "International Maritime Security II: Law Enforcement, Passenger Security and Incident Investigation on Cruise Ships"

March 7, 2006

Good afternoon, and thank you to the witnesses for appearing today. I know it is extremely difficult for some of our panelists today to relate the tragic experiences of their loved ones, but I hope that their testimony will help us avoid future tragedies aboard cruise ships.

Each year, some 10 million passengers take trips aboard the 300 large cruise ships that comprise the worldwide cruise ship fleets. These trips generate tens of billions of dollars in leisure spending, and more than half of these passengers embark from North American ports. Twelve companies account for the majority of cruise ship activity in the United States, but two companies, Carnival Corporation and Royal Caribbean, dominate the U.S. market. Carnival owns 79 ships and has a dozen more in the pipeline. Royal Caribbean has 19 ships. Most of these vessels sail under foreign flags, and do not have to comply with U.S. labor, environmental, and other regulations.

Many Americans embark on a cruise as a romantic honeymoon or on a long-needed family vacation, hoping to travel to exotic destinations and enjoy the many amenities these cruise ships have to offer. They are offered almost limitless

amounts of food and entertainment. Alcohol is plentiful and easily accessible. It is truly a 24-hour party atmosphere on board these ships.

Yet, instead of relaxing and enjoying their vacation, this Subcommittee has heard of a disturbing trend – a growing number of passengers disappearing while on board these cruise ships, with little to no attempts to search and rescue them by the ship's crew and security officers. At our December hearing, the Subcommittee heard from Mrs. Jennifer Hagel Smith, the widow of George Smith, who went missing during their honeymoon voyage to the Mediterranean. Publicity about their case has allowed numerous others to come forward and relate their cruise ship horror stories. Recently, individuals affected by cruise ship crimes formed the International Cruise Victims organization, as a support network, and to give a voice their cause.

What they want, simply, is the truth. They want to know that everything that could have possibly been done to help their families, to search and care for their loved ones, was done by the cruise companies. They want peace of mind and closure to their terrible tragedies, but they can't get a straight answer from these companies.

According to data submitted to the Subcommittee by the cruise industry, and which are not officially required to be reported to law enforcement agencies, twenty-four passengers have gone missing aboard cruise ships in the past three years. We know of at least 178 reports of sexual assaults, thefts, and hosts of other serious crimes.

However, as the Chairman has stated, the lack of statistical data on the number of crimes and incidents aboard cruise ships, which was not disclosed until two Congressional subcommittees demanded them, and the reliability of that data, leads Congress to suspect that the whole truth is not being told - not about individual cases, not about the adequacy of the training of crew members, not about the procedures used by security officers, and not about the general conduct and screening of crew and security officers aboard these ships.

Do these cruise companies care more about the safety of their passengers or their bottom line? Is it more important to make sure missing passengers are found, or more urgent for the ship to reach the next port? It seems to me that the latter is more important for these cruise line companies. I hope today's hearing will help answer some of these questions.

I am in strong support of greater federal regulation over the cruise line industry, and in particular, requirements for: reporting incidents aboard cruise ships; oversight on the training, conduct and conditions of crew workers and security officers; and accountability to passengers who report such incidents.

I thank the Chairman for his leadership on this issue, and hope that these hearings will help cruise ship victims and their families understand what went wrong and what happened aboard the ships. We should be doing everything in our power to help heal their wounds, not pour salt (or salt water) on them.

Thank you, and again, I thank the witnesses for being with us today.

03/07/08
National Security Hearing
2:00 p.m. - 2154 RHOB

Submitted for the Record
by Cong. Dennis Kucinich (Ohio)

ROYAL CARIBBEAN CRUISES LTD.
ENVIRONMENTAL, SAFETY AND SECURITY COMMITTEE
CHARTER

Purpose

The Environmental, Safety and Security Committee is appointed by the Board of Directors to assist the Board in its oversight of the Corporation's management concerning the implementation and monitoring of the Corporation's environmental, safety and security programs and policies.

Committee Membership

The Committee shall consist of at least three members. The members of the Committee shall be appointed by the Board of Directors and may be replaced by the Board.

Committee Authority and Responsibilities

Environmental

1. The Committee shall monitor the Corporation's overall environmental compliance performance.

2. The Committee shall obtain reports from the Executive Vice President, Maritime regarding the Corporation's environmental compliance program and environmental compliance on board each of the Corporation's cruise ships and at each port.

3. The Committee shall obtain reports from other members of management as the Committee deems necessary or desirable in connection with the Corporation's environmental activities.

Safety and Security

4. The Committee shall review safety and security programs and policies on board the Corporation's cruise ships.

5. The Committee shall review with Management significant safety and security incidents on board the Corporation's cruise ships.

6. The Committee shall obtain reports from members of management as the Committee deems necessary or desirable in connection with the Corporation's safety and security matters.

General

7. The Committee shall meet periodically, but no less than twice a year and report to the Board at least semi-annually with respect to its activities.

8. The Committee shall have the authority to hire consultants, to request management to perform studies and furnish other information, to obtain advice from external legal, accounting or other advisors, and to make such recommendations to the Board based thereon as the Committee deems appropriate.

9. The Committee shall annually review its own performance.

Mr. SHAYS. I thank the gentleman.

At this time the Chair would recognize Mr. Duncan.

Mr. DUNCAN. Well, thank you very much, Mr. Chairman, and certainly I have expressed my great respect and admiration for you many times in here, and I will say that again because I think you are one of the finest chairmen that this Congress has, and I appreciate the fact that you are presiding over a very thorough look at this.

I expressed my concern the last time we had a hearing about this that we sometimes legislate based more on what is on the 24-hour news channels than what we actually should be legislating on, and it is unfortunate. I wish it was not this way. You know, there are thousands of horrible, terrible tragedies happening to people every day in this country. And can we prevent all those? I wish we could. We cannot. Should we try to? We should, as much as we can.

I hope that I am a better Member of Congress now than I was 5 years ago, and I hope that I am fortunate enough to be here 5 years from now and better then than I am now, because everybody, whatever their job is, if they lose the desire to improve and get better, it is sad for them and it is sad for the people for whom they work. I hope the cruise line industry continually tries to do more and better in regard to safety and security of its passengers.

Having said all that, I mentioned some of this the last time we had this hearing. People are far, far safer on these cruise lines than they are in any city or even in any small town in America. The statistics that Chairman Davis mentioned, I mean, 10 million passengers a year, 20 million passengers in a 2-year time period, and there were 13 that went missing in that 2-year period, 6 or 7 a year. One alleged sexual assault per 100,000 passengers. You are 100 times more likely to be sexually assaulted in a city or town in this country.

So, we need to keep these things in mind as we go through this. Does that lessen what happened to the victims that have had bad things happen to them on these cruise lines? No, it does not lessen it. Those are terrible things and we all sympathize with that. But if we overreact and overregulate, I mean, we could put so many regulations and rules and red tape in effect that we make it where only extremely wealthy people can take cruises. And I certainly do not think we want to do that. I think in all these things we need to have some balance, and I think that is what this hearing is trying to achieve.

And so I thank you very much for calling this hearing and for letting me be here. Thank you.

Mr. SHAYS. I thank the gentleman very much.

At this time the Chair would recognize Mr. Ruppersberger.

Mr. RUPPERSBERGER. Mr. Chairman, again, thank you for having this hearing, the second hearing. Maritime security is a very complex issue. I am familiar with maritime security. I represent the Port of Baltimore and also am co-Chair of the Port Security Caucus, and we are dealing with issues of port security, the Dubai issues; more importantly, resources that we put into security.

I really did not get involved with this issue until we had the first hearing, but I think it is a very important issue. And one of the reasons it is an important issue is that we have many Americans

that like to go on cruises because cruises are fun, they are affordable. And I think that these hearings, even though I am sure the industry does not like it, should be a wake-up call on looking at your system, making sure that you are doing things the right way.

You have had a good situation, but if you do not re-evaluate and make the decisions and the changes that are necessary for good security—and it is not always what you think. It is what is being perceived, and perception can hurt any industry.

Now, we discussed different issues in the last hearing. There were questions that had been raised and questions that have not been answered, what laws apply in what situations. The FBI and the Coast Guard share the burden of enforcing maritime jurisdiction, but who takes the lead? Who is ultimately responsible? And I guess we did not answer these questions in December. Hopefully we can move forward and help the industry where we need to go, because we do not need to overregulate, but we do not need to underregulate either. We need to get that check, get that balance so that the cruise industry can go forward and Americans can have fun but feel safe.

One question I asked in the hearing was: Do cruise ship deadlines create a threat? Do stringent deadlines force ships to travel into storms or unsafe places?

Just to give a personal story, my wife and I went on a cruise, and probably will not go on another cruise. We were really knocked out of bed because of bad conditions. I understand that happens. But, when you have those situations, you wonder why you were put in that situation and whether it could be avoided. Probably because a ship has to get back to port where there are 3,000 people waiting. How you solve that, that is up to the industry. But these are things that occur occasionally.

I would be more concerned, though, not about a bad experience but a life-and-death experience when it really is something serious. How does the industry make a determination? Is it the captain's point of view? Do you have the proper radar? Are you told, like airline pilots, where to go and to avoid storms? Those type of issues.

Now, the International Council of Cruise Lines wrote following up on my question about having deadlines and having to go to certain ports and keeping tight schedules. And I appreciate the letter and acknowledge that the National Transportation Safety Board upholds the cruise line practices as prudent. Still, the larger problem continues to be who is in charge, what is the system in place to protect the citizens of our country. And our country, not only within the port, within the U.S. jurisdiction, but as we know from the previous hearing, problems that we had when you are in another country, how you are treated. It seems to me that once you are on a cruise ship and you enter, you go on the cruise ship from the United States of America, you should be looked after and protected all the way through that process.

Now, again, in fairness to the cruise ship industry, the Coast Guard has said maritime travel is, arguably, among the safest modes of transportation available. The International Council of Cruise Lines has established safety standards, but who enforces them? High standards are not the end of the story. We must continually work to improve.

It is critical that we solve this problem, establish rules, and procedures so all agencies involved in security can and know how they are supposed to work together. And that is the only way we can ensure ultimate safety when traveling in waters not of our own.

Thank you.

Mr. SHAYS. Thank you.

I would just like to say for the witnesses, I appreciate your patience, but what I am hoping you are gaining from this is realizing how you may want to respond, and if you do not go directly with your written statement, that will be submitted in the record. But it is important for you to hear the basic views of the Members.

I do want to say, just in regard to the statistics, that you probably need to divide by 52 weeks the 10 million, and you are probably coming up with a city of about 200,000. Even then the statistics appear to be still very impressive in the sense that not as big a problem as in some of our urban areas, but we are probably talking about a year-long population of about 200,000, give or take.

At this time the Chair would recognize and thank Mr. Van Hollen for his patience as well. You have the floor, sir.

Mr. VAN HOLLEN. Well, thank you, Mr. Chairman, and thank you for holding these hearings, and I welcome all the witnesses and look forward to your testimony. I hope these hearings will accomplish two things: First is to raise awareness in the American public about what questions they need to ask and have answered as they proceed on cruise ships and just be educated as to what rules apply and what rules do not apply. And they need to understand that when you board a cruise ship and leave the U.S. shores, you do not necessarily carry with you the full protections of the American laws. And, in fact, in some ways you are in charted legal waters.

Second, in addition to raising awareness, I hope we will be able to identify those areas where there may be a need to take additional measures. No one wants to go overboard in terms of measures, but I think that it is important that we identify those areas where it may be helpful. So if that comes out of these hearings, I think they will have been a success. And I thank you, Mr. Chairman, for holding it.

Mr. SHAYS. I thank the gentleman and appreciate his participation.

Let me ask unanimous consent that all members of the subcommittee be permitted to place an opening statement in the record and that the record remain open for 3 days for that purpose, and without objection, so ordered.

I ask further unanimous consent that all witnesses be permitted to include their written statements in the record, and without objection, so ordered.

Further, I ask unanimous consent that the following be made part of the hearing record: a written statement from Mr. Terry L. Dale, president, Cruise Lines International Association, about the cruise line industry and taking a vacation on a cruise ship; a letter from Ms. Kathryn Sudeikis, president, American Society of Travel Agents, encouraging its members to take a vacation aboard a cruise ship. And without objection, so ordered. Without objection, the written statement and the letter will be made part of the record.

[The information referred to follows:]

STATEMENT OF

TERRY L. DALE

PRESIDENT
CRUISE LINES INTERNATIONAL ASSOCIATION

ON

LEISURE CRUISE INDUSTRY

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON GOVERNMENT REFORM

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS AND INTERNATIONAL RELATIONS

ON

MARCH 7, 2006

80 Broad Street * 18th Floor * New York, N.Y. 10004 (USA)
TEL (212) 921-4711 * FAX (212) 921-0549 * WEB www.cruising.org

Chairmen and members of the Committee. My name is Terry L. Dale. I am the president and chief executive officer of the Cruise Lines International Association. Thank you for the opportunity to present written testimony on behalf of the cruise industry.

CLIA, as our organization is popularly known, is the cruise industry's premier marketing and travel-agent training organization. Our 19 member cruise lines represents a majority of the cruise berths marketed in North America. CLIA's 17,000 member travel agencies make it North America's largest travel agent membership association.

CLIA's mission is to communicate the attributes of cruise vacationing and to support the sales and marketing efforts of North America's retail travel agents, who sell more than 90% of all cruises. CLIA does this through a comprehensive program of cruise sales training and marketing support. CLIA also compiles cruise industry statistics, and works closely with journalists, researchers and analysts to disseminate industry information. Collectively, our programs are designed to position CLIA-member travel agencies as the primary cruise information and cruise-purchase resources, and to promote the value, desirability and affordability of cruise vacations.

Today, I am testifying about the leisure cruise vacation business and the cruise experience as it relates to our guests. Leisure cruises are an extremely popular vacation choice enjoyed by over 11 million worldwide guests in 2005. An estimated 9.7 million of these guests originate from the U.S and Canada. Cruise vacations are also a business for both the cruise lines and for 17,000 North American travel agencies that are members of CLIA.

Because we are businesspeople operating within a service industry, we are keenly aware that our success relies on the ability to satisfy our guests' needs and ensure their well being. Every day, CLIA's member cruise lines endeavor to offer their guests the best vacation and the best value available. And, based on past passenger feedback via research, the cruise industry has been very successful in meeting the cruise guest's needs and expectations as evidenced with the highest satisfaction ratings of any vacation.

A key factor in the industry's growth has been the satisfying nature of cruise vacations. Our guests represent a cross section of America, skew towards the upscale and they expect the highest levels of service (see attached demographic addendum). Approximately 55% of all passengers in 2005 were repeat guests, and our statistics show that upon taking a first cruise, approximately 90% of our guests plan to cruise again in the near future. It's hard to imagine why a vacationer would cruise more than once, or utilize the services of a CLIA-member travel agency, if onboard crime were perceived as an issue.

Through CLIA member travel retailers and other travel agencies, the cruise lines begin relationships with their passenger's months before those guests ever set sail - relationships that can often last a lifetime. These travel agencies transact 90% of the bookings make on CLIA member cruise lines and, based on the nearly 10 million North American guests who sailed on CLIA member line vessels in 2005, nearly 9 million

planned and booked their vacation with a travel agent. Were crimes aboard cruise ships to emerge as anything other than rare occurrences, these grassroots insiders would surely be among the first to sound the alarm.

However at all times, the cruise lines' primary concern is the safety and security of all passengers and crew.

Crime, whether aboard cruise ships or on shore, is an unfortunate reality of our times. The cruise industry cares and takes these issues very seriously, and our sympathy and condolences are with the families who have testified today. We remain very concerned about any incident that may occur aboard one of our vessels, however, available information indicates the number of incidents reported on board cruise ships is extremely low compared with those reported ashore. This is undoubtedly due to our commitment to provide a safe and secure onboard environment, where all passengers and crew are screened and access is strictly limited.

Although criminal incidents rarely occur aboard cruise ships, the CLIA and ICCL member lines uphold their responsibility to acknowledge and address these matters when they do happen. For those individuals who are missing loved ones or a victim of a crime, CLIA and its member cruise lines want to convey our compassion and extend our deepest sympathies. We assure everyone that our members treat every allegation and confirmed incident very seriously, that we report the incidents to the proper authorities,

and that we fully cooperate with all investigations. We are committed to providing a safe, healthy and enjoyable environment for all of our passengers.
To this end, the cruise line membership of CLIA's sister organization, The International Council of Cruise Lines (ICCL) adopted a policy of "zero tolerance for crime" in 1999.

Our concern for the safety and security of all of our passengers extends beyond statistics. The cruise industry's success and viability hinges on our ability to satisfy and to take care of our customers.

There is no question that leisure cruising could not survive an extraordinary occurrence of onboard crime. No one *has* to take a cruise vacation. Were criminal incidents to occur frequently or even occasionally aboard cruise vessels, our guests would abandon our ships, and the 17,000 North American CLIA-member travel agency businesses that sell the overwhelming majority of cruise vacations would suffer a devastating loss of business. Historically, travel agents depended on the sale of airfare for the bulk of their business. However, because the airline industry has virtually eliminated travel agency commission payments, many agencies now rely heavily on cruise sales to sustain their businesses.

CLIA's 17,000 member travel agencies – and the estimated 100,000 professional consultants employed by those retailers – represent a broad cross section of American business. They include large national operations and many, many more small business, and are located in every part of the country, including in this district.

In fact, our industry protocols provide guests with many reasons to feel particularly safe aboard today's ships, particularly in comparison with land-based vacations. These include:

- A designated security officer and a team of security personnel whose sole responsibility is safety and security aboard each ship.
- Shipboard operations are similar to secure buildings with 24-hour security guards. Access is strictly enforced.
- The cruise lines and our travel agency partners both know the customers sailing aboard our ships. Most clients book their vacation six months in advance and all provide names, addresses, contact information and national identification. Much of this information is communicated to the cruise lines through the travel agent.
- This information is provided to the Department of Homeland Security. Upon departure and arrival to the U.S.

In conclusion, the CLIA member cruise lines are in partnership with North American travel agents in the business of selling vacations. Americans have many choices when it comes to travel. Only by providing the best and the safest travel experience possible can cruise companies maintain their viability. Onboard crime represents the antithesis to that aim.

Unfortunately, crime does occur in today's world. However the cruise lines' comprehensive safety and security procedures, including actions undertaken when an incident does occur, combined with the fact that incidents occur only rarely, indicate the seriousness with which the cruise industry regards these matters.

Thank you.

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CLIA Passenger Demographics Summary – 2004 Market Profile Study

	Rep. Sample 2002	Rep. Sample 2004	Cruisers	Non-Cruiser Vacationers	Non-Cruiser/ Non-Vacationer
Age					
25 – 29	6%	6%	6%	7%	4%
30 – 39	22	23	20	27	15
40 – 49	26	28	23	31	22
50 – 59	19	24	25	22	31
60 - 74	19	17	23	12	22
75+	8	2	3	1	6
Total	**100%**	**100%**	**100%**	**100%**	**100%**
Average	50	48	50	46	52
Median	46	44	47	42	49
Income (Different Categories 2002)					
$40,000 to Less Than $50,000		10%	9%	11%	11%
$50,000 to Less Than $60,000		15	11	16	22
$60,000 to Less Than $75,000		21	18	22	33
$75,000 to Less Than $100,000		23	23	24	16
$100,000 to Less Than $200,000		27	32	24	11
$200,000 to Less Than $300,000		3	5	2	4
$300,000+		1	2	1	3
Total		**100%**	**100%**	**100%**	**100%**
Average (in 1,000s)	$64	$90	$99	$86	$84
Median (in 1,000s)	$50	$71	$78	$69	$62
Gender					
Male	49%	49%	50%	50%	52%
Female	51	51	50	50	48
Marital Status					
Married	74%	82%	83%	81%	82%
Single/Divorced/ Separated	26	18	17	19	18
Employment Status					
Full-time	56%	63%	58%	67%	60%
Retired	23	13	19	9	15
Educational Attainment					
College Grad or Higher	49%	58%	65%	56%	41%
Post Graduate	18	18	24	15	12
Race					
White	92%	93%	93%	91%	91%
Black	3	3	3	5	6
Other	5	4	4	4	3

Base: Total*

March 6, 2006

The Honorable Christopher Shays
Chair, National Security, Emerging Threats and
International Relations Subcommittee
U.S. House of Representatives
1126 Longworth House Office Building
Washington, DC 20515

Dear Representative Shays:

On behalf of the American Society of Travel Agents, Inc., (ASTA)[1], I request that this statement be included in the record of the Subcommittee's hearings, March 7, 2006, with respect to cruise safety issues.

Travel agents today account for over 90 percent of the sales of cruises to United States citizens. Based on cruise industry estimates of North American cruise passengers in 2006, travel agents will sell more than 9.5 million cruise passengers this year.

The cruise industry offers itineraries originating at numerous US ports as well as many overseas points of departure. It is usually necessary for the cruise consumer to travel a considerable distance to take a cruise, most often by air, and travel agents typically make arrangements for all aspects of the trip. Today's cruise passengers include individuals of all ages, many families, and many people of diverse ethnic background.

Taking a cruise is similar in some respects to visiting a new city. The largest cruise ships carry more than 2,000 passengers on a single sailing. Most of them will be strangers to each other.

Yet, based on the latest data from the International Council of Cruise Lines, more than 31 million people sailed on cruise ships during the past three years with a little more than 200 complaints of criminal activity associated with the ship experience.[2] This data indicates in objective terms that the risks of traveling on a cruise ship are miniscule. Travel agents continue to sell cruises with the highest confidence that the cruise environment is a welcoming and safe one compared to any form of travel. It is, of course,

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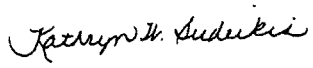
[1] Founded in 1931, ASTA is the largest association

[2] The complaints included 24 missing person situations which may not have involved criminal conduct.

always possible to have a problem when away from home. The cruise passenger must exercise the same diligence and personal responsibility that would be expected when traveling by any method or when in any place where there is close contact with unknown persons. Cruise ships provide extensive facilities to facilitate protection of passenger property and to encourage responsible behavior by cruise passengers both on and off the ship. ASTA's members have no hesitancy in encouraging their best customers to take a cruise. Cruises typically provide one of the highest customer satisfaction experiences in the entire travel spectrum.

If ASTA can answer any questions the Subcommittee may have on this subject, we would be happy to do so.

Sincerely yours,



Kathryn W. Sudeikis, CTC
President

Mr. SHAYS. Also, unanimous consent to insert a statement from our colleague, Alcee Hastings of Florida's 23rd District.

[The prepared statement of Hon. Alcee Hastings follows:]

LCEE L. HASTINGS
23RD CONGRESSIONAL DISTRICT
FLORIDA

RULES COMMITTEE

ERMANENT SELECT COMMITTEE
ON INTELLIGENCE

FLORIDA DELEGATION
VICE CHAIRMAN

UNITED STATES
HELSINKI COMMISSION

SENIOR DEMOCRATIC WHIP

Congress of the United States
House of Representatives
Washington, DC 20515-0923

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www.alceehastings.house.gov

March 6, 2006

The Honorable Christopher Shays
Chairman
Subcommittee on National Security, Emerging Threats and International Relations
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Dennis J. Kucinich
Ranking Democrat
Subcommittee on National Security, Emerging Threats and International Relations
B-350A Rayburn House Office Building
Washington, DC 20515

Dear Chairman Shays and Representative Kucinich:

I write to request that the enclosed testimony be inserted into the record of the Subcommittee on National Security, Emerging Threats and International Relations' March 7, 2006 hearing on international maritime security. This is an issue of significant importance to my district and all of Florida.

Thank you for your assistance. Please do not hesitate to contact me directly should you wish to discuss this issue any further. You may also have your staff contact David Goldenberg of my staff at 5-1313.

With warm regards, I remain,

Sincerely,

Alcee L. Hastings
Member of Congress

PRINTED ON RECYCLED PAPER

ALCEE L. HASTINGS
23rd Congressional District
Florida

RULES COMMITTEE

PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

FLORIDA DELEGATION
VICE CHAIRMAN

UNITED STATES
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The Honorable Alcee L. Hastings
Testimony for Hearing of the Subcommittee on National Security, Emerging Threats and International Relations of the House Government Reform Committee
International Maritime Security 2: Law Enforcement, Passenger Security and Incident Investigation on Cruise Ships
March 7, 2006

Mr. Chairman, Representative Kucinich and others, I appreciate the opportunity to provide this testimony to the Subcommittee on international maritime security.

As the Subcommittee knows, the cruise industry is a major industry in my state. Last year alone, the Florida-based cruise industry was responsible for generating nearly $5.2 billion in direct spending, creating over 129,000 jobs and generating wages totaling over $4.5 billion in income for Florida workers.

When it comes to safety and security, the cruise industry has an enviable record. According the Federal Bureau of Investigation statistics, there have only been between 50 and 60 reported cruise ship crimes involving U.S. citizens annually over the last five years. Considering that the industry has carried approximately 50 million passengers during that five year period, this equates to only one crime per every 200,000 passengers carried, far less than our national crime rate for comparable populations. This may explain why the Coast Guard concluded in a 1995 Report of the Cruise Ship Safety Review Task Force that "passenger vessels operating from U.S. ports are among the safest modes of transportation available."

Since 9-11, the cruise industry has taken significant steps to maintain and improve its security procedures, building on what was already a stellar record in passenger safety. Additionally, Congress has also mandated procedures to improve overall maritime safety and security through the passage of the Maritime Transportation Security Act in 2002. This law requires heightened security measures at U.S. ports and on all vessels calling in the U.S. The industry, as you know, is subject to these new regulations and procedures, and it continues to meet all of the new codified and regulated standards.

Mr. Chairman, it goes without saying that any incident of crime, on a cruise ship, in our schools, or on our streets, is regrettable. It is, nevertheless, important to put this matter in perspective and recognize industry efforts to maintain the highest levels of security onboard their vessels. I am confident that the cruise industry stands ready, willing, and able to work with the

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Committee and those of us in Congress concerned about maritime security. I strongly encourage the Subcommittee to work with the industry on these and any other issues within its jurisdiction to ensure that the industry's record on safety and security continues to be top notch.

Mr. SHAYS. And I would further just point out that we have the International Cruise Victims Association, which is a nonprofit organization supporting advocacy, an organization of cruise victims and their families, and some of these members are with us today, and we just acknowledge their presence as well.

As I think the panelists know, we swear in all our witnesses. I failed to put under oath only one Member in my years as chairman, and that was the Senator from West Virginia. I chickened out. But everyone else has been, and so let me just first announce our witnesses. We have Mr. Kendall Carver from Phoenix, AZ. We have Mr. Son Michael Pham, Bellevue, WA. We have Ms. Deborah Shaffer of Tucson, AZ. We have Ms. Janet Kelly, Cottonwood, AZ. We have Mr. Ira Leonard of Hamden, CT, and we have Mr. Brian Mulvaney, Miami, FL.

And let me say to the witnesses that we would ask you to stand and we will now swear you in.

[Witnesses sworn.]

Mr. SHAYS. Note for the record all our witnesses have responded in the affirmative.

I suspect this is probably the first time you have ever appeared before Congress, and if not, you have had a little practice. But if not, the worst thing you can do is try to speak too quickly. It would be better to just close off your comments than try to rush through. Be assured that you are going to be able to make your points through the questions and so on. So you are not going to leave here wishing you did not say something, unless you simply forgot to say it, but you will be given that opportunity.

We are going to go down the line, and, Mr. Carver, the mic should have a light on it noting that it is on. Just tap it here just to see. Yes, you are all right. OK, welcome. Lovely to have you here.

STATEMENTS OF KENDALL CARVER, PHOENIX, AZ; SON MICHAEL PHAM, BELLEVUE, WA; DEBORAH SHAFFER, TUCSON, AZ; JANET KELLY, COTTONWOOD, AZ; IRA LEONARD, HAMDEN, CT; AND BRIAN MULVANEY, MIAMI, FL

STATEMENT OF KENDALL CARVER

Mr. CARVER. I would like to take this opportunity to thank the subcommittee for accepting our testimony in connection with the disappearance of our daughter, Merrian Lynn Carver.

Merrian disappeared during the third week of August in the year 2002. We contacted the police in Cambridge, MA, where she lived. They determined through credit card transactions that she had purchased a round-trip ticket to Seattle, returning from Vancouver, and a ticket on the Celebrity Cruise Line Ship Mercury leaving Seattle on August 27th. Merrian disappeared from that ship.

I provided supporting material to the subcommittee, which goes into considerable detail, and I would like to summarize our experience with the cruise line. Since they were not able to provide the necessary answers to our questions through the Risk Management Department, we retained both private investigators and law firms to investigate her disappearance.

Some months later we uncovered the following facts: The steward servicing our daughter's cabin reported her missing to the supervisor each day for 5 days. The supervisor told the steward "just do your job and that's it."

At the end of the cruise, some of Merrian's clothing and personal items were disposed of and other items were put in storage. No effort was made to report Merrian's disappearance either to the authorities or to her family. In effect, these actions or lack of actions kept Merrian's disappearance from being discovered until the Cambridge Police acted, which was over 3 weeks later, and in effect, she vanished from the Earth.

During the third week in September, the management of Royal Caribbean—"the owners" of the cruise ship, took steps to cover up the facts concerning her disappearance. These actions are covered in documents which are provided on the table under supplemental folder, which I have provided.

At the end of September, we hired the detective agency of Kroll and Associates and the law firm of Blake and Associates to investigate her disappearance.

Throughout the investigation, the Royal Caribbean Cruise Line took every step to impede the efforts of our detective agencies and law firms. Officials of the cruise line provided both inaccurate and misleading information and kept our investigators from questioning members of the crew.

Cruise line officials also withheld information that would have been helpful, including information that we had requested by subpoena on both December 2, 2004 and January 24, 2005.

Only after we went to the courts in Florida and Massachusetts at the end of December were we able to force crew members that had knowledge of her disappearance to be deposed. In other words, it took us 4½ months to get to one crew member that had seen Merrian on that ship.

On January 16th and 17th, we finally deposed the steward and the head of the hotel of the cruise. At that point we discovered for the first time the fact that our daughter had been reported missing daily starting August 29th and no action was taken. In other words, it took us, as I just said, 4½ months to interview a member of the crew and that cost over $75,000.

On February 9th, we received only one item from two subpoenas that had been issued, and that was a poor-quality picture of Merrian getting on the boat. So we took the direction of going directly to the Board of Directors of the Royal Caribbean Cruise Line with all the depositions showing the coverup, hoping that we could jump-start action concerning her case.

We are now a year later, and I must say that we still have not received the information that we subpoenaed on December 2nd, and that exercise was not helpful.

I do not understand why a reputable corporation would attempt to cover up the disappearance of our daughter. Did some officials of this cruise line assume that the families would not have the financial or emotional resources to investigate this matter thoroughly?

The needless stress that my wife and I have endured while we have struggled with a large corporation for information about our missing daughter has made our loss even more difficult to bear.

As a result of the last hearings, there has been much press concerning Merrian in various news media around the world, and we have received comments. There was a comment in the Arizona Republic, which I would like to read to you, and it says, in effect, "I agree with the other respondents; Royal Caribbean is grossly negligent in this case. By dragging their feet, providing misinformation, getting rid of a person with information (the supervisor) and destroying evidence they are at least guilty of obstruction of justice."

Now, is this case unique? I think it is unique because I don't think anyone else has spent the time and the resources to break through the coverup, which we did.

Mr. SHAYS. How much have you spent, just for the record?

Mr. CARVER. Way over $75,000.

Are we unique? If you read the attachments in my summary documents, you will find that few, if any, individuals are ever successfully convicted of a crime on a cruise ship. In fact, by their own statement in the Jacksonville Business Journal in June of the year 2005, a Royal Caribbean representative, Michael Sheehan, indicated they do not keep statistics on missing passengers. I find that hard to believe.

Now, what can we conclude from our experiences and the experiences of other victims?

If something happens to you or a loved one on a cruise ship, you are on your own. Don't expect the crew of the ship or governmental agencies, which I would include the FBI, onshore to assist you in your effort. You are on your own.

Because of jurisdictional issues, you cannot assume what laws will govern your situation. This issue was reviewed in great detail in the February 26th issue of the New York Times.

In my opinion, the current system is broke and desperately needs reform to assure the safety of passengers on cruise ships.

Unless something is changed in the current regulations, the cruise line industry will be able to treat the next family as we were treated. God save the next family.

After the subcommittee's hearing last December, the Smiths and I determined that we needed to make a change to the industry. As a result, we have formed a group of victims. This organization is called International Cruise Victims. Our Web site can be found at www.international-cruisevictims.org.

Mr. SHAYS. Mr. Carver, I am going to ask you to kind of close up here.

Mr. CARVER. OK. Well, let me just read a summary statement here.

Mr. SHAYS. Sure.

Mr. CARVER. From a crew member, we received this a week ago: As a crew member from Vancouver, with employment on several major lines over the last 8 years, your story only touches the tip of the iceberg. It is an exhaustive study you will find on behalf of your loved ones, which keeps this issue front and center. Many families have not come forward. Instead they intend to believe the

cruise line when they reiterate their old, tired response that this is a suicide. In addition to the many guests going missing, there are numerous crew members each year which go unreported because they are from Third World countries.

And to put a positive spin to what I have said, which is not a positive story——

Mr. SHAYS. You need to close up now.

Mr. CARVER. Yes. We would like to enter into the record a list of recommendations to be considered to change the cruise line industry.

[The prepared statement of Mr. Carver follows:]

TESTIMONY OF KENDALL CARVER

Before "The House Subcommittee on National Security, Emerging Threats, and International Relations,

Committee on Government Reform"

Hearing Scheduled For

Tuesday, March 7, 2006 at 2 p.m. Room # 2154

Concerning Special Hearing entitled

"International Maritime Security II: Law Enforcement, Passenger Security and Incident Investigation on Cruise Ships"

The Disappearance of Merrian Carver

I should like to thank the Committee for the opportunity to present this testimony concerning the actions of the Royal Caribbean Cruise Line in connection with the disappearance of my daughter Merrian Carver.

Merrian disappeared during the last week of August 2004. We contacted the police in Cambridge, Massachusetts where she lived. They determined through credit card transactions that she had purchased a round-trip airline ticket to Seattle, Washington and a ticket on the Celebrity Cruise Line Ship *Mercury* for a cruise leaving Seattle on August 27, 2004, going to Alaska and landing in Vancouver. Merrian disappeared from that ship.

I have provided supporting material to the Committee, which goes into considerable detail, and I'd like to summarize our experience with the cruise line. Since we were not being provided the necessary answers to our questions from the Risk Management Department of the Royal Caribbean Cruise Line we retained both private investigators and law firms to investigate the disappearance. After some months, they uncovered the following facts:

- The steward servicing my daughter's cabin reported her to be missing to his supervisor each day for five days. The supervisor told the steward "just do your job and that's it".

- At the end of the cruise, some of Merrian's clothing and personal property was disposed of and other items were put into storage in Florida. No effort was made to report Merrian's disappearance either to the authorities or to her family. The effect of these actions and lack of action kept Merrian's disappearance from being discovered until the Cambridge Police acted which was over three weeks after her disappearance.

- During the third week in September, the management of Royal Caribbean – "*the owners*" of the cruise ship – took steps to cover up the facts concerning her disappearance. These actions are covered in documents we have provided to the Committee.

- At the end of September, we hired the detective agency of "*Kroll and Associates*" and the law firm of "*Blake and Associates*" to investigate Merrian's disappearance.

- Throughout the investigation the Royal Caribbean Cruise Line took steps to impede the efforts of our detective agency and our law firm. Officials of the cruise line, both provided inaccurate and

misleading information and kept our investigators from questioning members of the ship's crew.

- Cruise line officials also withheld information that would have been helpful, including some information we had requested by subpoenas issued on December 2, 2004 and January 24, 2005.

- Only after we went to the courts in Florida and Massachusetts at the end of December 2004 we were able to force members of the crew that had knowledge concerning her disappearance to be deposed.

- On January 16th and 17th of 2005 we finally deposed the steward and the head of the hotel on the cruise ship. At that point we discovered for the first time the fact that our daughter had been reported missing daily starting August 29, 2004 and no action was taken. In other words, it took us 4 ½ months to interview any member of the crew and cost over $75,000 in legal and detective fees.

- On February 9, 2005, we had received only one item of those requested in our subpoenas, so I wrote a letter (a copy of which I have submitted to the Committee) to each member of the board of the Royal Caribbean Cruise Line along with the Chairman and CEO asking for their help in obtaining the requested information.

- A year later, some requested information has still not been provided.

I do not understand why a reputable corporation would attempt to cover up the disappearance of a passenger. Did some of these officials assume that families would not have the financial or emotional resources to investigate the matter thoroughly?

The needless stress that my wife and I have endured while having to struggle with a large corporation for information about our missing daughter made our loss even more difficult to bear.

* * *

As a result of our activities and the hearings of "The House Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform", the public has received some insight into the facts concerning Merrian's disappearance, and we have received many comments following articles appearing in newspapers, magazines and special news reports

made on both international and local media. One comment sent to the "Arizona Republic" included the following:

> "And, I agree with the other respondents; Royal Caribbean is grossly negligent in this case. By dragging their feet, providing misinformation, getting rid of a person with information (the supervisor) and destroying evidence they are at least guilty of obstruction of justice. (**Diane6487**, November 10, 2005 11:52AM)"

I have heard on television the officers of the Royal Caribbean cruise line state that they follow all the proper rules in regard to the safety of their passengers, I have to ask which rulebook they are following. The procedures they used in our case were clearly, by their own documents, designed to cover-up the true facts.

Are we unique? If you read the attachments in my summary documents you will find that few, if any individuals are ever successfully convicted of a crime on a cruise ship. In fact, by their own statement in the "*Jacksonville Business Journal*" in June of 2005, the Royal Caribbean representative, Michael Sheehan, indicated that they do not keep statistics on missing passengers.

* *

What can we conclude from our experience and the experience of other victims?

1. If something happens to you or a loved one on a cruise ship, you are on your own. Don't expect crew of the ship or governmental officials onshore to assist you in your effort.

2. Because of jurisdictional issues, you cannot assume what laws will govern your situation. This issue was reviewed in great detail in the February 26, 2006 issue of the New York Times.

3. It is my opinion that the current system is broke and desperately needs reform to assure the safety of passengers on a cruise ship.

4. Unless something is changed in the current regulations, the cruise line industry will be able to treat the next family as we were treated. God save the next family.

After the Subcommittee's last hearing in December, the Smiths and I determined that we should try to help change what is going on with this industry. As a result, we have formed an organization that includes other victims.

This organization is International Cruise Victims. Our website can be found at www.internationalcruisevictims.org.

This organization was formed early this year and now has victims coming to us from all over the world. The stories I have heard from these victims as to their treatment by the cruise ships make me sick. Many of these stories can be read at our website. For the first time, victims now have a place to come to take action and get support from other members.

If I were part of the Management of a cruise line or on the Board of Directors I would be concerned with the various stories from victims concerning their treatment by the cruise line personnel since I assume they do have a responsibility for the safety of their passengers.

We are also hearing from the general public plus crewmembers onboard ships. The following statement was received from a crewmember this past week.

> "As a crew member from Vancouver Canada, with employment on several major lines over the past 8 years, your stories only touch the tip of the iceberg. It is the exhaustive effort you make on behalf of your loved ones, which keeps this issue front and centre. Many families have not come forward; instead they intend to believe the cruise line when they reiterate their tired over-used response "that it was a suicide". In addition to the many cruise guests missing, there are numerous crew deaths each year, which go unreported because most crew are from 3rd world countries and have no idea of what to do other than believe the cruise line. I applaud your efforts and as a crewmember on the inside track, I can tell you are on the right track in holding cruise lines accountable."

What action needs to be taken? On a separate document members of International Cruise Victims have prepared a list of various suggestions that need to be considered to improve the safety and accountability of the cruise line industry. While we do not have the final answer, we feel that this is a starting point.

SUPPLEMENTALS ATTACHMENTS SUMITTED BY

KENDALL CARVER

Before "The House Subcommittee on National Security, Emerging Threats, and International Relations,
Committee on Government Reform"

Concerning Special Hearing entitled
"International Maritime Security II: Law Enforcement, Passenger Security and Incident Investigation on Cruise Ships"

Including

- ***Summary of the Disappearance of Merrian Carver***
- ***Copy of February 9, 2005 letter to the Board of Directors and the Chairman and CEO of Royal Caribbean Cruise Line.***
- ***Royal Caribbean Memorandums written in September 2004 concerning the disappearance of Merrian Carver***
- ***Quotes on Royal Carribbean Safey Record***

Merrian Carver, a 40 year old woman, disappeared from a Royal Caribbean cruise to Alaska in August of 2004. Her Steward reported her missing for 5 days to his supervisor and was told to "just do your job and forget it" At the end of the cruise, Cruise line officials simply boxed up her belongings and even disposed of most of her items. Royal Caribbean Cruise Line made no attempt to contact either the FBI or her family when she turned up missing and had not used her room. Cambridge Police took several weeks to even trace her to the cruise ship delaying the search for almost one month.

Once the Cruise line was contacted, it took them 3 days to confirm she had been on the cruise, 26 days after she had disappeared. They then confirmed that she was on the ship and after the second night did not use her room. However, they also indicated that this was not uncommon since she could have stayed with someone else and could have gotten off in Vancouver and they would be not record kept to confirm her departure from the boat. Since we could not really determine what happened we hired Private Investigators plus a Boston Law firm to start a major investigation. By then the trail was cold.

Our goal was to speak to someone on the ship that had seen Merrian. Attempts by the Private Investigator met with only frustrations indicating that there was no reports issued by the Steward and nothing unusual happened during the Cruise that Merrian was on. Finally, on November 4, 2004, an investigator was sent onto the ship. He was then advised that he could not speak to anyone of the ship and they would not provide the name of the Steward that had taken care of Merrian's room. They also indicated that the videos were erased every two or three weeks and there was no review of the videos concerning our missing daughter.

Since no progress was being made, subpoenas were first issued on December 2, 2004 for information concerning our daughter. The law firms then tried to arrange for an interview with the Steward and after meeting with no success, it was necessary to obtain a Court Order at the end of December to require that the Steward and the head of the hotel be disposed.

These depositions took place on January 16th and 17th of the year 2005. At that point, we realized that our daughter had been reported missing daily for the last 5 days of the cruise and nothing was done to search for her. Also we learned that the cruise line had disposed most of her items.

Again, another subpoena was issued on January 24, 2005 for additional material. By February 9th only one item had been sent to use as a result of these two subpoenas. That was a poor quality picture of Merrian getting on the boat.

Finally, we made the decision to go directly to the Board of Directors and CEO pleading for their assistance. Each member of the Board received the depositions showing the cover-up. No one from the Board responded to this plea but finally the Head of Risk Management called to indicated that we would received the requested material in our subpoenas plus any other material in their possession concerning Merrian.

We did obtain documents written by Cruise Line employees setting up the cover-up of any information concerning our daughter's case. We also determined from their own documents that at they had reviewed the video's concerning our daughter on the 26th day of her disappearance. Also, videos were on a 30-day cycle. This means that there should have been a video of Merrian. The material we had been given over the months was inaccurate about that fact the videos are kept on 2 to 3 weeks and there was no review by them of these videos.

A very sad, sad story

MR Hotel Director/MR/RCLShip@RCLSHIP
09/24/2004 02:58 AM

To: Katy Yaziciyan/RM/MIA/RCL@RCL
cc: MR Master/MR/RCLShip@RCLShip, MR Staff Captain/MR/RCLShip@RCLShip
bcc:
Subject: Re: Fw: Merrian Carver - Missing Guest Investigation

Please see my responses below

Best Regards,

Christos Hadjipetris
Hotel Director
M/V Mercury
Tel:Office 7331 [redacted]
email: mr_hoteldirector@celebrity-cruises.com
Katy Yaziciyan@RCL

Katy Yaziciyan@RCL
09/23/2004 10:17 PM

To: MR Staff Captain/MR/RCLShip@RCLShip, MR Hotel Director/MR/RCLShip@RCLShip
cc: MR Master/MR/RCLShip@RCLShip
Subject: Fw: Merrian Carver - Missing Guest Investigation

Hi...I tried calling but the line is always busy..I read all the statements...I need clarification on the following:

1. have you checked her onboard account...did she make any purchases? No purchases onboard Did she open one with a credit card? No credit card information in DTS therefore guest would be paying in cash If so what is the number and was any charges ever applied to it.

2. Can I please have her Seapass data with photo. Already sent

3. Did you check the surveillance cameras? the security is working on it

4. Please ask again the cabin attendant as I need to know if the times he saw her she was wearing the "blue dress" and "sandals". On embarkation day she was wearing the blue dress and sandals. The next morning (when he saw her))she was wearing only the blouse she had under the dress (he could see her underwear) In other words, was this the only clothing he ever saw her wearing? Yes she had nothing else with her according to the attendant (did not even use the bathrobes) If that is the case, noone thought it was suspicious that the only clothing she had with her were the clothing on her back..and that if it was left hanging in the closet that means she went around in public with her bra and panties? The attendant was reporting to his supervisor that the whole story was suspicious The supervisor did not think it was suspicious (pls see his statement) Was the dress found hanging in the closet? The dress was left in the closet as well as the sandals The 2 handbags were left on the bed side table Where are the belongings now..please ask Guest Relations what was done with the clothing, and jewelry, how, when and where. On the last day the attendant asked his supervisor what to do with the clothes and personal belongings left behind He told him to put everything in a bag and deliver it to the housekeeping locker. The stateroom attendant put in a Celebrity bag the dress, the sandals, the 2 small bags, some cosmetics items and a brown envelope (visible in the picture). He put the money ($106 and some loose coins) in an envelope along with the watch. The belongings were brought to the guest relations by the supervisor (asst chief h/k) and were treated as "left behind items" The Lead GRO went through the items one by one. She put the money in another envelope and secured it at the GRD since cash and very valuable items are not send as lost and found (they are still here in the envelope). She went through the rest of the items and send to the office as "lost and found" one of the small bags, the brown envelope and the watch The other bag containing cosmetics, the dress and the sandals were discarded

should have gone to Guest Relations only

what picture

19

Best Regards,

Christos Hadjipetris
Hotel Director
M/V Mercury
Tel:Office 7331[redacted]
email: mr_hoteldirector@celebrity-cruises.com
----- Forwarded by MR Hotel Director/MR/RCLShip on 09/29/2004 10:01 PM -----

MR Chief Concierge
09/30/2004 04:12 AM

To: MR Hotel Director/MR/RCLShip@RCLShip
cc:
Subject: Report

For each CFM's tho[redacted] questions were asked:

1) If they received in the past any strange outside calls (regarding a guest that sailed with us approximately a month ago)
2)If they received any outside calls, asking to speak to someone from the Housekeeping Department or the attendant of that room
3) If any one received an outside calls asking to speak directly with the S/A Domingo Monteiro.

Please take note that for all of them the answers were negatives.

Guest Relations Team:
Anna Briskman
John Young
Jeanine Duminy
Marcus Regenburg
Channa Suitella
Angela White

Telephonist
Jennifer Graham
Leslin Jones
Berenice thomas
Violy Jonson

Concierge
Janet David

Event Coordinator
Uma Samithyotin

Housekeeping Departement:
S/A: Domingos Monteiro
Chief HSKP: Christos Karadinas
ASST HSKP: Babis Eleftheriadis

Kind Regards,
Marie-Noel B.Levesque
Chief Concierge
mr_chiefconcierge@celebrity.com
Celebrity Cruises
Ext: Office 7694, Mobile 7833

----- Forwarded by Katy Yaziciyan/RM/MIA/RCL on 09/30/2004 01:32 PM -----

Katy Yaziciyan/RM/MIA/RCL
09/30/2004 01:32 PM

To MR Hotel Director/MR/RCLShip@RCLSHIP
Anthony Papageorgiou/HO/MIA/CCI@RCL, Austin Martin/RM/MIA/RCL@RCL, Captain Zissis Koskinas/MO/MIA/RCL@RCL, Jacques
cc Wulffaert/MK/MIA/CCI@RCL, MR Master/MR/RCLShip@RCLShip, MR Staff Captain/MR/RCLShip@RCLShip, Pamela Powell/RM/MIA/RCL@RCL
Subject Re: Fw: Report

Thanks Christos....I will keep you posted as to possible FBI investigation.
Thks again and make it a great day!
Katy
Katy Yaziciyan
Manager, Guest Claims
Risk Management Department
Royal Caribbean International/Celebrity Cruises
Direct Line: 305-982-2655
Direct Fax: 305-982-2228
Email: kyaziciy@rccl.com
MR Hotel Director/MR/RCLShip@RCLSHIP

MR Hotel Director/MR/RCLShip@RCL SHIP
09/30/2004 02:31 PM

To Katy Yaziciyan/RM/MIA/RCL@RCL
Anthony Papageorgiou/HO/MIA/CCI@RCL, Austin Martin/RM/MIA/RCL@RCL, Captain Zissis Koskinas/MO/MIA/RCL@RCL, Jacques
cc Wulffaert/MK/MIA/CCI@RCL, MR Master/MR/RCLShip@RCLShip, MR Staff Captain/MR/RCLShip@RCLShip, Pamela Powell/RM/MIA/RCL@RCL
Subject Re: Fw: Report

Katy,
I spoke to Domingos for the 3rd time and he confirmed once again that he did not speak with anybody. He says he understands the seriousness of the situation and is aware of the company's rules and regulations regarding confidentiality. He's been with the company for 14 years.

Thank you and i will be waiting to hear from you for further action

Best Regards,

Christos Hadjipetris
Hotel Director
M/V Mercury
Tel:Office 733[redacted]
email: mr_hoteldirector@celebrity-cruises.com
Katy Yaziciyan@RCL

Quotes on Royal Caribbean Safety Record

1. According to an interview on the August 1, 2005 Larry King show, maritime lawyer James Walker made the following statement in a discussion concerning Royal Caribbean Cruise Lines:

"KING: James Walker, what do you make of it? JAMES WALKER, MARITIME ATTORNEY: Well, this is the typical situation that we see, unfortunately, in passenger injury or death cases. The investigations seem to start slow. The **cruise** line, of course, has already run this through their risk management department. They've sent their attorneys, their defense attorneys, their trial attorneys from Miami to the scene. The passengers have scattered. The crime scene is now floating around in international waters from port to port. It's going to be a very difficult situation.

This particular cruise line has never had a successful conviction of any crime on their ships, as far as we know, for the past 35 years, and it looks like this may be another statistic"

2. According to an article written June 5, 2005 by Mary C. Moewe reporter for the Business Journal of Jacksonville, "Research found at least one person missing from Royal Caribbean Cruises Ltd. **The company does not keep statistics, spokesman Michael Sheehan said."**

3. HEADLINE: SCARBOROUGH COUNTRY For August 9, 2005

BYLINE: Clint Van Zandt, Ron Mott, Joe Scarborough

GUESTS: With me now is somebody who has spent 30 years on cases like this one, Miami attorney Charles Lipcon.

Charles, thank you so much for being with us.

We hear -- I mean, obviously, you have got a possible murder on this cruise. You have got a couple of other situations, a possible rape that was videotaped. This cruise sounded like it was out of control. Are sex assaults, rapes, violent crimes, the exceptions or the rules on these cruise lines?

CHARLES LIPCON, MARITIME ATTORNEY: Well, I think they are far more common than most people realize.

In handling these type of cases, I have come across statistics. With Royal Caribbean, they -- one statistic is that, **out of 173 sexual assaults in about a three-and-a-half year period, the cruise lines had a perfect record. That perfect record was, nobody was prosecuted.**

U.S. CONGRESSIONAL HEARINGS
MARCH 7, 2006

Suggestions Submitted By:

International Cruise Victims Association, Inc.

*** INCREASING SECURITY & PASSENGER SAFETY ***

- **BACKGROUND CHECKS (Crewmembers/Officers)**
  - Create a MAIN database for reporting all terminated individuals/employees, ensuring that the same employee(s) will not be rehired by another cruise line.

    a) Tighter security checks and screening of all employees
    b) Although the cost of vacation cruises may increase, reliable personnel should be stationed on all decks and all the time.

- **INTERNATIONAL POLICE/U.S. MARSHALLS**
  - An International police force should be established at the expense of the cruise lines, connected to Interpol or another international police organization:

    a) Such authority should not be affiliated with the cruise line or its' crew.
    b) U.S. Marshals to be present on cruise ships.
    c) When a crime is not reported to the appropriate authorities by the cruise lines, and in a timely manner, substantial fines should be imposed.
    d) All crimes must be made public - Not voluntarily, but mandatory.
    e) Require protocol for filing any form of incident and to be immediately processed through specific channels.

- **SECURITY – Crime Scenes**
  - Certified security training and security enhancements with documented procedures and check-off lists in place for the following:

    a) Roping off/securing the crime scene
    b) Securing surveillance videos
    c) Taking pictures of the crime scene
    d) Avoiding physical handling of evidence
    e) Properly bagging and securing such evidence
    f) Immediately interviewing and obtaining names of witnesses
    g) Documenting statements and details from witnesses
    h) Recording time frames for each step of the investigation
    i) Requiring a sign-off for each step
    j) Distributing photos of missing passengers (Recent photos, not video)
    k) Inspecting all cabins and all compartments throughout the ship
    l) Contacting authorities immediately (Coast Guard, FBI, etc.)

- **STRUCTURAL ENHANCEMENTS**
  - Increase the height of various places on the outside of each ship, making it difficult for passengers to go overboard:

    a) Higher glass walls
    b) Other design changes

- **VIDEO/SURVEILLANCE CAMERAS**
  - Upgrade existing surveillance systems and increase the number of cameras:

    a) Strategically place cameras in all areas, where passengers may frequent, i.e. decks, outside railings, non-glass elevators, etc.
    b) Monitor system and cameras 24/7
    c) Ensure and install proper lighting for image quality
    d) Require daily inspections and monitoring to ensure proper functionality

- **ACCESS/SECURITY BRACELETS**
  - Bracelets to be issued just prior to boarding the ship:

    a) Designed to include microchips
    b) Worn by passengers throughout the entire cruise (onshore & offshore)
    c) Bear the name of the ship and identifying each passenger; thus, if an individual is missing, falls overboard, etc., their location will be detected (similar to those on house arrest, microchips for our dogs, our children, and our vehicles).

- **MISSING or OVERBOARD PASSENGER(S)**
  - When a passenger is reported missing/overboard, the ship must stop immediately and complete a search:

    a) Rail alarms to go off if an individual should go overboard.
    b) Station 24/7 lifeguards on each side of the ship's decks.
    c) Require a full accounting of the # passengers who board vs. exit
    NOTE: The airlines do not permit someone to be missing from their seat on an aircraft without accountability, and flights are only for hours, not days.

- **RAPE KITS/RAPE REPORTING**
  - Rape kits MUST BE available on all ships:

    a) Doctors, who have a license to practice medicine, must be available 24/7.
    b) No requests should be refused or taken lightly.
    c) Written documentation to be provided, signed, and issued to the patient.

- **EXCURSIONS – SOLD & PROMOTED**
  - Cruise lines have selected specific on-shore companies for passenger excursions from which they obviously receive promotional revenue/commission:

    a) Since the cruise lines select and promote various excursions, they should be held accountable for the safety of their passengers, who purchase such excursions through them.
    b) Weather conditions should be verified, prior to allowing passengers to purchase excursions, such as sightseeing tours, scuba diving adventures, water-skiing etc.

- **CRUISE LINES' ACCOUNTABILITY & U.S. CONGRESS INTERVENTION**
  - Legislation changes must be made to hold cruise lines accountable for the safety of U.S. Citizens

  - Maritime Law was intended to protect countries and jurisdictions during wartime and boundaries of these countries. It was NEVER the intent for individual cruise line companies to hide under this Law and not be held accountable.

  - Cruise lines need to acknowledge the following:

    a) Agree to move forward with Congress to make changes for the safety of all passengers, as the cruise line industry continues to become the number one vacation preference for many thousands of people.
    b) Create consequences that are stricter for those who engage in foul play and for those who dismiss it, including these cruise ship companies, which are just shrugging their shoulders at the expense of so many families.

Mr. SHAYS. All right. Thank you very much. We have copies of that. Thank you.

Let me tell you that, in my judgment, however this hearing concludes and whatever we do, what you have gone through is outrageous, and we would respectfully request that the cruise line totally and completely cooperate with your need to know what happened, etc. So I just hope, if nothing else happens, we will at least see some change in how they have responded. To fire this superintendent is not satisfying the need for you to know.

Mr. Pham.

STATEMENT OF SON MICHAEL PHAM

Mr. PHAM. Thank you, Mr. Chairman and members of the subcommittee. I am honored to be here today along with several families of victims of the cruise industry immediately behind me, including John and Jill Savone, who lost a son from the same cruise ship in 1999, to speak on issues of cruise ship safety, security, and accountability.

I would like to start out by saying that I am not an expert on safety and security issues aboard cruise ships. However, I am more educated today than I was before May 2005. Unfortunately for my family, it is too late to prevent what happened to us. But I know by being here today it is not too late for me to help others from becoming victims like all of us.

Since the time is limited, I am going to skip through what I submitted to the record of my testimony and tell you a little of the background of my folks.

Briefly, more than 30 years ago my parents and five of us left South Vietnam on the day before Saigon City fell to the communists. We risked our lives spending 2 weeks in the Pacific Ocean with little food and water. We came here with nothing so that we could live in freedom. We came to the United States with nothing and worked hard for everything we have today. As American citizens, we obey the rules and laws of the country, we cherish our freedom, and we trust the justice system to protect our rights.

Last May 2005, all of the children treated Mom and Dad to a vacation, a trip to Chicago to visit the grandchildren followed by a 7-day Caribbean cruise, then back to Chicago for 2 more weeks with the grandkids. The cruise was a Mother's Day gift, traveling with their daughter and granddaughter. On May 12, 2005, my parents vanished from the Carnival Destiny when the ship was sailing between the islands of Barbados and Aruba. The Mother's Day gift turned into another tragic and mysterious disappearance from a Carnival Cruise Line ship.

On the evening of May 12th, a ship photographer reported that she noticed personal belongings by lounge chairs on the third deck, two pair of sandals, and a purse. The family hung our regularly in this area, lounging on the chairs, and Mom and Dad would leave their sandals and personal belongings on the chairs or deck between them. A crew member retrieved the found items, notified the assistant chief of security, and was told to log the items and phone the room. Thirty minutes later, the other family members came back to their cabin and received a phone call from the front desk

to retrieve the found items. Then they realized something unusual had happened and alerted the crew members. This is at midnight.

Following our parents' disappearance, it took almost 3 hours later before the first general announcement was made over the public speakers. The crew waited for over 4 hours before notifying the U.S. Coast Guard and allowed the ship to further distance itself from the location where our parents were originally reported missing. Too much time had elapsed between the U.S. Coast Guard notification and the first search and rescue from the Netherlands Coast Guard. Under the direction of the Coast Guard, the ship turned around to participate in the search mission. It took 12 hours before the Destiny vessel returned to the original location. The full search and rescue mission was called off. You know why it was called off? In less than 13 hours from the presumed time of our parents' disappearance, based on the information provided by the ship's captain to the Coast Guard that survivability was very low. We have that record from the Coast Guard.

We believe there is more detailed information on our parents' cause of death than what is actually being released by Carnival Cruise Line. Four hours went by before the security and surveillance on-duty investigator was contacted—4 hours. Then an additional 30 minutes went by before he contacted the FBI. It took them 4 hours to decide to look in the security camera to find out if they found anything about my parents. The area where the personal belongings were found was left unprotected for 7 hours until the FBI requested a crew to seal off the area. Guess what happened when the FBI showed up in St. Maarten? They boarded the ship when people got off the ship at the same time because they came there to take a report. They went on the ship to interview my family members and some of the crew members and that is it. People got off the ship. Nobody had a chance to speak or be questioned by the FBI.

Then another thing. My family reported last seeing my family at 7:20 p.m. Eleven and a half hours after my parents were reported missing, the cabin housekeeping attendant reported to the captain that he saw my parents at 8:45 p.m. So during all that time they were searching the wrong place in this big, big vast ocean. They were clueless. They did not talk to everybody, apparently. They were more focused on planning the next day's short activities in St. Maarten, which is a replacement for Aruba, than protecting crucial information and evidence pertaining to two of their missing passengers; our parents.

The FBI met the ship in St. Maarten to interview some crew members. I mentioned about that. These are two American citizens with no personal and financial problems, no serious health problems, living the happiest time of their lives, both, just like many others, vanished without a trace, witness, or surveillance tapes of what happened to them.

After my family members were left off in San Juan, the cruise ship, just clean up the ship, people got off, big chaos going on, and then that is when they handed out the flyer from the FBI that anyone having information to contact the FBI. And that is it. The arrogant "business as usual" attitude by Carnival Cruise Line is the normal "take no responsibility" reaction of the world's largest

cruise company, accounting for more than half the world's cruise industry travelers. It is important to note that the majority of their passengers are citizens of the United States of America.

I am going to wrap up. Currently the Death on the High Seas Act [DOHSA], a 1920's law enacted by the U.S. Congress, is still in effect, with complicated jurisdictional issues, continues to protect the cruise industry from being held accountable for the safety and security of its passengers. It is time for our Government to bring the DOHSA to the 21st century.

My only recommendation is nothing is going to happen from these hearings, nothing is going to happen with us being here today, nothing is going to happen until the cruise industry admits that we do have problems, we do have issues. Don't look at the statistics. We do have problems. And then that will be the very, very first step before something being done.

Thank you.

[The prepared statement of Mr. Pham follows:]

National Security, Emerging Threats, and International Relations

Son Michael Pham
Testimony before the House Government Reform Subcommittee
March 7, 2006

Mr. Chairman and members of the committee – I am honored to appear before you today along with several families of victims of the cruise industry, to speak on the issues of cruise ship safety, security, and accountability.

I would like to start out by saying that I am not an expert on safety and security issues aboard cruise ships however I am much more educated today than I was before May 2005. Unfortunately for my family, it's too late to prevent what happened to us. But I know by being here today, it's not too late for me to help others from becoming victims like all of us.

I am the son of Mr. Hue Pham and Mrs. Hue Tran, 71 years old and 67 years olds respectively at the time of their deaths. My parents would have celebrated their 50th wedding anniversary this year. Mom and Dad were retired and lived in the City of Westminster, California. This area in Orange County, California is known as 'Little Saigon', home of the largest population of Vietnamese Americans in the U.S. They lived the best time of their lives in this community, surrounded by so many friends. A typical day for Mom and Dad would consist of a trip to the local grocery store where they could find any type of Vietnamese food, visiting with friends and neighbors, cooking (they both loved cooking), tending to their large garden, or participating in events at the community center in their senior park. At least once or twice a week, they would gather with friends over dinner or card games.

Mom and Dad were the only family members in the area to provide comfort for our grandfather (my mother's father) living in a nearby nursing home. I am the oldest of the five children, and there are nine grandchildren in the family. Mom and Dad helped raise most of the grandchildren, and these kids are very close to Grandma and Grandpa.

More than thirty years ago, my parents and five of us left South Viet Nam on the day before Saigon City fell to the communists. We risked our lives spending two weeks in the Pacific Ocean with little food and water, so that we could live in freedom. We came to the U.S with nothing, and worked hard for everything we have today. As American citizens, we obey the rules and laws of the country, we cherish our freedom, and we trust the justice system to protect our rights.

Last May 2005, all of the children treated Mom and Dad to a vacation, a trip to Chicago to visit the grandchildren followed by a seven-day Caribbean cruise,

then back to Chicago for two more weeks with the grandkids. The cruise was a 'Mother's Day' gift, traveling with their daughter and granddaughter. On May 12, 2005, my parents vanished from the Carnival Destiny when the ship was sailing between the islands of Barbados and Aruba. The 'Mother's Day' gift cruise turned into another tragic and mysterious disappearance from a Carnival Cruise Line (CCL) ship.

On the evening of May 12, 2005, a ship photographer reported that she noticed personal belongings by lounge chairs on the third deck, two pair of sandals and a purse. The family hung out regularly in this same area, lounging on the chairs and Mom and Dad would leave their sandals and personal belongings on the chairs or deck between them. A crew member retrieved the found items, notified the Assistant Chief of Security and was told to log the items and phone the room. Thirty minutes later, the other family members came back to their cabin and received the phone call from the front desk to retrieve the found items. They then realized something unusual had happened and alerted the crew members.

Following our parents' disappearance, it took almost three hours later before the first general announcement was made over the public speakers. The crew waited for over 4 hours before notifying the U.S Coast Guard... and allowed the ship to further distance itself from the location, where our parents were originally reported missing. Too much time had elapsed between the U.S. Coast Guard notification and the first search and rescue from the Netherlands Coast Guard. Under the direction of the U.S Coast Guard to participate in the search mission, it still took more than 12 hours for the "Destiny" vessel to return to the original location. The full search and rescue mission was called off in less than 13 hours from the presumed time of our parents' disappearance, based on the information provide by the ship's Captain to the Coast Guard that survivability was very low.

We believe there is more detailed information on our parents' cause of death, than what is actually being released by CCL. Four hours went by before the Security and Surveillance on-duty investigator was contacted, then an additional thirty minutes went by before he contacted the FBI. The full ship search was concluded seven hours after the personal belongings were found. The area where the personal belongings were found was left unprotected for 7 hours until the FBI requested the crew to seal off the area. The search was conducted based on the information that my parents were last seen by other family members at 7:20pm. Then 11 and half hours later, the cabin housekeeping attendant reported to the captain that he actually saw my parents at 8:45pm. This is one of the several examples of a failed emergency system. The immediate actions taken by the cruise staff were acts of negligence and cover-ups. They were more focused on planning the next day's shore activities in St. Maarten (replacement for Aruba), then protecting crucial information and evidence pertaining to 2 of their missing passengers... Our parents!

The FBI did meet the ship when it arrived in St. Maarten, just to interview some crew members and family members. No passenger was questioned and passengers walked off the ship for shore excursion at the same time the FBI agents boarded the ship. Two days after the incident, Carnival Cruise Line's "Destiny" arrived at its' final destination in San Juan, Puerto Rico. Flyers were handed out during the chaos as passengers cleared immigration. Late in August 2005, the FBI notified us that they concluded their investigation and no sign of foul play was found. Two American citizens, with no personal or financial problems, no serious health problems, living the happiest time of their lives, both vanished without a trace or witness.

Since my family members disembarked in San Juan at the end of the seven-day cruise, Carnival Cruise Lines has refused to accept our requests for assistance or provided us with any information related to our case. The arrogant 'business as usual' attitude by Carnival Cruise Lines is the normal 'take no responsibility' reaction of the world's largest cruise company, accounting for more than half of the world's cruise industry travelers. It's important to note that the majority of their passengers are citizens of the United States of America.

I know that you will find many recommendations made today on what need to be changed in the way the cruise industry operates. These recommendations came from many victims and families of victims since a small group of us founded the International Cruise Victims organization. Unfortunately, none of the time and efforts spent here will improve any safety and security measurements for the traveling public until the cruise industry admits that there are problems on their ships and they way they operate. Currently, this is an industry which is allowed to operate outside of the boundaries of the U.S laws.

The current 'Death On The High Seas Act' (DOHSA), a 1920s law enacted by the U.S Congress, and which is still in effect, has complicated jurisdictional issues surrounding the following:

1. foreign-registered ships owned and/or operated by foreign-registered companies,
2. sailing in international waters, and
3. crossing territories and borders of countries.

This law has continued to protect the cruise industry from being held accountable for the safety and security of its passengers. It's time for our government to bring the DOHSA to the 21st century.

Today, my 94 year old grandfather still lives in the nursing home in Westminster, California. I am not sure he knows what happened to his children; he cannot speak or move. I fought through our government system so that my family does not have to wait for five years before we get the 'death certificates' for my parents. Last November, my parents would have traveled with me back to Viet

Nam for their very first time in thirty years. They were so much looking forward to this trip when they would have seen their relatives that they last saw before Saigon fell to the communists. The trip was one of "unfinished life business" when they did not come back home from the cruise last May. In two months from now, our family will gather together for Mother's Day, marking the one year anniversary of the loss of our parents and grandparents. I know for all of us, Mother's Day will never be the same again.

I am sure that my parents are with me here today. They always want me and my brothers and sister to do the right things, to help others. I hope by sharing our story with all of you, it is the right thing to do.

Thank you for allowing me to participate in this hearing and I trust that all of us here today can work toward better protecting the traveling public.

Respectfully submitted,

Son Michael Pham
Sammamish, Washington

Mr. SHAYS. Thank you very much for your testimony, and we will look forward to having dialog with you.

Ms. Shaffer, you need to bring the mic a little closer to you. Thank you, and take your time.

Ms. SHAFFER. Can you hear me?

Mr. SHAYS. I hear you fine.

STATEMENT OF DEBORAH SHAFFER

Ms. SHAFFER. I am Deborah Savage Shaffer, the mother of four daughters, all currently teenagers except for the oldest, who is 21 and living on her own. I have been a widow for the past 12 years and I am currently a full-time Mom.

The reason that I have been invited to tell my story today is because I am a member of International Cruise Victims, a group that was formed mainly to get the word out to the public, domestically as well as internationally, of the well-kept and expertly hidden secret of the criminal activities and dangers that are occurring on board these cruise ships and to educate the public of the cruise lines' standard procedures in dealing with criminal or potential criminal problems. We hope education, information, and regulations will gave passengers, as well as cruise line employees, rights, security, and protection.

In April 2003, I took a 10-day cruise with my four daughters to the southern Caribbean on board the Carnival Cruise Lines' Legend. I shared a balcony room with my 13-year-old and my 15-year-old. My other two daughters shared an interior room down the hall. When we departed from the dock, my daughters and I were standing on the balcony of our room as we slowly moved away from port. I should have been tipped off that all was not as it appeared, when as we stood enjoying the breeze and sensation of the departure we were bowled over by the strong, pungent smell of marijuana. We tried to see where it was coming from, but it was impossible because of the design of the ship and balconies.

Boarding the ship had taken hours, possibly half a day. It was the most detailed security check-in that I had ever been through and definitely surpassed the airports and airlines, in my opinion. So how did the marijuana get on board? But with the excitement of the day, I dismissed the thought. I felt safe, secure, and had no doubt that everyone on board this ship had to be reputable and of good character. It was not anything that I gave any more thought to. Passing through the intense security measures of the cruise line, once on board the ship I felt 100 percent safe, secure, and trusting. The crew seemed open, friendly, and professional. I subconsciously let my guard down. Right away, my kids met other kids their own age, and they were all busy running around the ship together.

The first evening on board, my 15-year-old daughter met a young girl her own age, and they were hanging out together. My daughter was supposed to be back to our cabin by 10 p.m., but when she arrived, I was already in bed asleep. She brought her new friend into the room to meet me. So we turned on the light, her friend sat down, and the three of us talked for a while. Then they said they wanted to go back to the girl's cabin to watch a video. I told my daughter to be back by midnight. I fell back to sleep thinking my

daughter would wake me up again when she got in. But at 4 a.m., I woke up, startled that she had not come back. I jumped out of bed, and in my pajamas I ran down the hall to Security.

It took about an hour to get everyone moving on finding my daughter, but after giving them a first name of the girl that she was with, it seemed that they only knocked on one door before finding my daughter. She came out of the room rubbing her swollen, puffy eyes. I was very angry with her, but believed that she had just fallen asleep. I asked her what had happened, as she was very defensive. She was overreacting to my questions, but at that time I had no suspicion that a rape had just occurred.

One or 2 days later, my 13-year-old daughter came to me and told me that she had been informed by my 15-year-old daughter and the new girlfriend that the girl's brother had raped my daughter that night.

I then confronted my 15-year-old daughter, but she denied it. She told me that nothing had happened. She became overly hysterical and cried in denial constantly, whenever I tried to approach the subject. I knew by her over-emotional behavior that she was lying and that something had happened. I took her to the ship's doctor 3 days in a row, but each time she would become hysterical and deny the rape. Each visit brought nothing but solemn and somber stares from the doctor for as long as I wanted to sit there requesting an examination. He told me that if my daughter is telling me the truth and if, in fact, she is still a virgin, having never had a pelvic exam, that by him examining her the examination in itself would be violating her and that my insistence of an examination would traumatize her for life.

I had become the perpetrator. The captain called me in to talk to me on two occasions after this. He told me that we were on "international waters." He did not tell me what that meant. He told me that he felt badly, but that since we have no proof of the rape, there was nothing that could be done. He told me that he has two daughters of his own and that he felt very badly about the incident. The rapist was the friend's 30-year-old brother who was sharing a cabin with her and her younger brother.

I had no one to consult with, no one to turn to. I didn't know what to do. Finishing up the trip on that cruise was laborious, and for much of the trip I didn't come out of my room. It was one of the worst experiences of my entire life.

I have since learned the true story of what happened that night, as 3 years of maturity have given my daughter the courage and character to discuss it. After becoming aware of the Jennifer Hagel-Smith story and the Ken Carver story, she told me that she was now ready to tell me what really happened on that first night on board the Legend after leaving our room to go to the newly found friend's room to watch the video.

My daughter had climbed into one of the bunks, and while watching the video she fell asleep. The next thing she knew, there was a man on top of her. The room was dark. She thought it was the girl's father. He had alcohol breath. She told him that she needed to get up, but he wouldn't let her. She started to scream and he covered her mouth, muffling her screams and proceeded to

rape her. The next thing she knew, there was knocking on the door of the room and that was when we found her.

She denied the rape because she thought it was her fault and also because she was embarrassed and didn't want "the whole world to know." She is not sure at what point she realized it was the girl's 30-year-old brother.

Rape is an earth-shattering, traumatizing experience that kills the person that you are and slowly changes you into someone else.

From that day forward, my daughter has distanced herself emotionally from me. Now she never shares her innermost thoughts with me. Losing her father almost 12 years ago and then being raped 8 years later is an enormous hurt in her whole being that could never begin to heal until she was able to address what had happened.

I am extremely thankful to the Hagel-Smith family and to Ken Carver for coming forward and standing up for what is right and being brave enough to insist that people listen to the truth. With their efforts and the efforts of other cruise victims who could not be here today, my daughter has been able to take her first step in the healing process. And as her mother, whose goal in life was to raise her four daughters to at least the age of 18 without being sexually abused, I have lived with the fact that I failed my daughter over these past 3 years. I was not able to protect her or defend her.

Thank you.

[The prepared statement of Ms. Shaffer follows:]

TESTIMONY

OF

DEBORAH SHAFFER

Before "The House Subcommittee on National Security, Emerging Threats, and International Relations,

Committee on Government Reform"

Hearing Scheduled For

Tuesday, March 7, 2006 at 2 p.m. Room # 2154

Concerning Special Hearing Entitled

"International Maritime Security II: Law Enforcement, Passenger Security and Incident Investigation on Cruise Ships"

DEBORAH SHAFFER

I am Deborah Savage Shaffer, the mother of 4 daughters, all currently teenagers except for the oldest who is 21 and living on her own. I have been a widow for the past twelve years and am currently a full time Mom.

The reason that I have been invited to tell my story today is because I am a member of ICV, International Cruise Victims, a group that has formed mainly to get the word out to the public, domestically as well as internationally, of the well kept and expertly hidden secret of the criminal activities and dangers that are occurring onboard These Cruise Ships and to educate the public of the Cruise Lines' standard procedures in dealing with criminal or potential criminal problems. We hope education, information, and regulations will give passengers, as well as cruise line employees, rights, security and protection.

In April 2003, I took a 10-day cruise with my four daughters to the southern Caribbean onboard the Carnival Cruise Lines' Legend. I shared a balcony room with my 13 year old and my 15 year old. My other two daughters shared an interior room down the hall. When we departed from the dock, my daughters and I were standing on the balcony of our room, as we slowly moved away from port. I should have been tipped-off that all was not as it appeared, when as we stood enjoying the breeze and sensation of the departure and were bowled over by the strong pungent smell of marijuana. We tried to see where it was coming from, but it was impossible, because of the design of the ship and balconies.

Boarding the ship had taken hours, possibly half a day. It was the most detailed security check-in that I had ever been through and definitely surpassed the airports and airlines, in my opinion. So how did the marijuana get on board? But with the excitement of the day I dismissed the thought. I felt safe, secure, and had no doubt that everyone onboard this ship had to be reputable and of good character. It was not anything that I gave any more thought to. Passing through the intense security measures of the Cruise Line, once on board the ship, I felt 100% safe, secure and trusting. The crew seemed open, friendly and professional. I subconsciously let my guard down. Right away, my kids met other kids their own age and they were all busy running around the ship together.

The first evening onboard, my 15-year old daughter met a young girl her own age and they were hanging out together. My daughter was supposed to be back to our cabin by 10:00pm, but when she arrived I was already in bed asleep. She brought her new friend into the room to meet me. So we turned on the light, her friend sat down, and the three of us talked for a while. Then, they said they wanted to go back to the girl's cabin to watch a video. I told my daughter to be back at midnight. I fell back to sleep, thinking my daughter would wake me up again when she got in... but at 4:00am I woke up, startled that she had not come back. I jumped out of bed, and in my pajamas, I ran down the hall and to Security.

It took about an hour to get everyone moving on finding my daughter, but after giving them a first name of the girl that she was with, it seemed that they only knocked on one door before finding my daughter. She came out of the room rubbing her swollen, puffy eyes. I was very angry with her, but believed that she had just fallen asleep. I asked her what had happened, as she was very defensive. She was over-reacting to my questions, but at that time I had no suspicion that a rape had just occurred.

One or two days later, my 13 year old daughter came to me and told me that she had been informed by my 15 year old daughter and the new girlfriend that the girl's brother had raped my daughter that night!

I then confronted my 15-year-old daughter, but she denied it. She told me that nothing had happened. She became overly hysterical and cried in denial constantly, whenever I tried to approach the subject. I knew by her over-emotional behavior that she was lying, and that something had happened. I took her to the ship's doctor three days in a row, but each time she would become hysterical and deny the rape. Each visit brought nothing but solemn and somber stares from the doctor for as long as I wanted to sit there requesting an examination. He told me that if my daughter is telling me the truth, and if in fact, she is still a virgin, having never had a pelvic exam, that by him examining her, the examination in itself would be violating her and that my insistence of an examination would traumatize her for life.

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I had no one to consult with, no one to turn to. I didn't know what to do. Finishing up the trip on that Cruise was laborious, and for much of the trip I didn't come out of my room. It was one of the worst experiences of my entire life!

I have since learned the true story of what happened that night, as three years of maturity have given my daughter the courage and character to discuss it. After becoming aware of the Jennifer Hagel Smith story and the Ken Carver story, she told me that she was now ready to tell me what really happened on that first night on board the "Legend", after leaving our room to go to the newly found friend's room to watch a video…

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Today, maybe healing can begin for me, as well.

Thank you.

Deborah Savage Shaffer

Mr. SHAYS. Ms. Shaffer, thank you so much for your testimony, and the one thing I am certain is you have not failed your daughter.

Ms. SHAFFER. Thank you.

Mr. SHAYS. It is pretty remarkable to raise four young ladies without a partner. Very remarkable.

Ms. Kelly, if you would bring that mic to you?

I just want to ask you, Ms. Shaffer, is your daughter in agreement that you should give testimony today or are you sharing this information without her consent?

Ms. SHAFFER. She is very ashamed. She has not even at this point——

Mr. SHAYS. How about just giving me the answer?

Ms. SHAFFER. She is 18. It is so hard——

Mr. SHAYS. Let me ask you the question, though. Is she asking you not to or is she just indifferent?

Ms. SHAFFER. She did not ask me not to.

Mr. SHAYS. OK. But she didn't ask you to.

Ms. SHAFFER. She is not happy about it, but she did not ask me not to.

Mr. SHAYS. OK. Well, we will just make sure that what you shared will lead to some good so that your daughter will see that.

Ms. SHAFFER. I hope so.

Mr. SHAYS. Ms. Kelly.

Ms. KELLY. Can you hear me?

Mr. SHAYS. We hear you fine.

STATEMENT OF JANET KELLY

Ms. KELLY. Thank you, Mr. Chairman, and the subcommittee also. My name is Janet Kelly. I would like to begin by telling a little bit about myself. I am a happily married woman to the same man, Rick Kelly. He is sitting behind me today.

Mr. SHAYS. For the record, he smiled.

Ms. KELLY. We are going on 30 years of marriage. God help us, huh? We live in an average size town in Arizona, and we have two sons, who are the love of our life.

I am a successful realtor for a large firm going into my 4th year of sales. My husband is also a hard-working man. We are a traditional family, traditional values. We work hard, pay our taxes, go to church, give back to our community. And, above all, we do obey the law.

In February 2000—we had been beat up pretty good—we had lost our daughter, and my husband had a heart attack 6 months later. I decided to do a "healing cruise," 4 days with some neighbors. I had hoped to relax, regroup, and return home to my family. It was a long overdue vacation, and I could have never anticipated the following: On the last night of the cruise, shortly before dinner, I was drugged by a bartender employed by the cruise line. He led me a remote bathroom marked "crew members only" and sexually assaulted me when I was in a semi-conscious and unconscious state.

I cannot begin to describe to you today the pain, humiliation, and suffering this incident inflicted on me and my family. Instead of

being able to regroup after everything that had transpired in our family, we were again totally fractured.

I did report the crime to my local authorities, who informed me that the FBI had jurisdiction over crimes at sea. But it took the FBI months to investigate and interview the assailant who raped me. They did not prosecute him, even though they had my clothing, the rape kit completed at my local hospital, the individual's identity, and my testimony. The authorities had my full and complete cooperation to do whatever was necessary to apprehend and bring the criminal to justice.

After the FBI interviewed this criminal, he remained on the same ship. I was terrified that I had been exposed to HIV, and it was only after filing my civil suit against the cruise line that the cruise line conceded to have his tested for HIV. They fired him and sent him back to his homeland, Jamaica.

I did write a letter to my Senator, along with 200 congressional leaders. I was concerned for others' safety as I walked off that ship, and for good reason. I felt that the injustice of what happened to me has never been righted. In my letter I proposed the same changes, back in 2000, which I will again propose today.

For the record, I would like to inform Congress that my assailant went on later that same year and was re-employed with yet another cruise line. And I am not happy about that. It was determined that he falsified his application and they fired him. But where is he now?

This is hardly the image portrayed on the cruise line advertisements. Could this rapist and others like himself be on another cruise line? And how is it that these huge cruise corporations continue to operate business as usual with absolutely no accountability for the crimes that occur on their ships?

I am going to suggest the following, and these are the same recommendations I had made back in 2000: U.S. Marshals be present on cruise ships; a main data base of terminated individuals and employees that all cruise lines must report to. I want to add here, too, that there needs to be communication between the FBI and the cruise lines because I think there is a real breakdown in that area. Changes in legislation, making these cruise lines safe for U.S. passengers. Warnings to passengers. This incident happened to me on my last night of the cruise, and I think that is when most people are vulnerable.

In closing, over the past 6 years since my ordeal, I have heard too many stories about cruise victim after victim. The injustice of these crimes burns my very soul. Two of the people that disappeared on these cruise lines—George Smith and Jim Scavone—disappeared on my youngest son's birthday, July 5th. Enough is enough. Having been a victim, I feel each one of these families' pain. I offer all the families that have lost loved ones my sincere condolences. Your children's deaths are not in vain. By being strong and coming forward with your testimonies, you can give your loved ones a voice today and prevent the next unnecessary death. I ask that you not be intimidated by these cruise companies. They are big, they are wealthy, they are powerful. But they will bend under the weight of your conviction.

I want to add I feel honored to be here today as a representative of hundreds of cruise victims who do not have a voice. And thank you for letting me speak today. I want to say a prayer to the Lord that you are successful in making the necessary changes so that crimes at sea diminish and all of us can get on with healing and put all this trauma behind us once and for all. Thank you.

[The prepared statement of Ms. Kelly follows:]

Hello. My name is Janet Kelly and I would like to begin by telling a little about myself. I am 49 years old. I am a happily married woman to the same man, Rick Kelly, for 29 years. He is seated behind me today. We live in an average size town in Arizona. We have two sons who are the love of our life.

I am a successful Real estate agent for a large firm going into my 4th year of sales. My husband is also a hard working man, who has devoted his life to managing auto dealerships. We are a traditional family, with traditional values. We work hard, pay our taxes, go to Church, give back to our community.We obey the law.

In February of 2000, after the sudden loss of our 18 year old daughter, and soon followed by my husband's heart attack and open heart surgery, I decided to go on a "healing 4 day cruise with some neighbors. I had hoped to relax, regroup, and return home to my family. This certainly was a long- overdue vacation, but I could never have anticipated the following.

On the last night of the cruise, shortly before dinner, I was drugged by a bartender employed by the cruise line. He lead me to a remote bathroom marked "crew members only" and sexually assaulted me when I was in a semi-conscious/unconscious state.

I cannot begin to describe to you the pain, humiliation, and suffering this incident inflicted on me and my family. Instead of being able to regroup after everything that had transpired in our family, we were again totally fractured. Every aspect of my life was changed with this event. Work, marriage, children, and our emotional stability.

I reported the crime to local authorities, which informed me that only the FBI had jurisdiction over crimes at sea....But it took the FBI months to investigate and interview the assailant who had raped me. They did not prosecute him, even though they had my clothing, the rape kit completed at my local hospital, the individual's identity and my testimony. The authorities had my full and complete cooperation to do what ever was necessary to apprehend and bring the criminal to justice.

After the FBI interviewed this criminal, he remained on the same ship. I was terrified that I had been exposed to HIV. It was only after filing a civil suit against the cruise line and the individual who raped me that the cruise line conceded to have him tested for HIV. They fired him and sent him back to his homeland, Jamaica.

In Sept of 2000, I wrote a letter to my Senator along with 200 congressional leaders. I am submitting a copy of the letter today along with my testimony. I had a total of one response from Senator John McCain. He said he said he was sorry of my circumstance, and their was little he could do to help. I was concerned for others safety as I walked off that ship, and for good reason. I felt that the injustice of what happened to me has never been righted. In my letter I proposed the same changes in which I will again propose today. Only this time it is after many more horrible tragedies.

For the record I would like to inform congress that my assailant went on later that same year and was reemployed with yet another cruise line. Through my own efforts this information came to light. I instructed my attorney to inform the cruise line which had hired him, that they had a rapist aboard the cruise ship. They determined that he falsified his application, and then they fired him. But where is he now?

This is hardly the image portrayed on the cruise line advertisements. Could this rapist and others like himself be on another cruise line? How is it that these huge Cruise corporations continue to operate business as usual, with absolutely no accountability for the crimes that occur on their ships?

The cruise industry continues to thrive in this lawless environment, just waiting for naïve passengers victims, like you and myself, who are innocent victims of prey. There are legal changes that must be made to increase safety on these ships.

I strongly suggest……

> US Marshals to be present on cruise ships
>
> A main data base of terminated individuals/employees that all cruise lines must Report to.
>
> Changes in legislation, making these cruise lines safe for U.S. passengers.
>
> Warnings to passengers: The last day and evening on these cruise lines is when Most of the foul play occurs.
>
> To the general public: I suggest traveling in numbers and staying together. Only Drink out of beverages that you have witnessed being prepared, or ask that your Bottled drinks come unopened. This goes for establishments on and off Ships.

The U.S. Government is desperately needed to intervene….and make it safe for U.S. passengers to travel on cruise ships.

In closing, over the past six years since my ordeal, I have heard too many stories about cruise victim after victim. The injustice of these crimes burns my very soul. Two of the people that disappeared on these cruise lines- George Smith and Jim Scavone, disappeared on my youngest sons birthday, July 5th. Enough is enough already! Having been a victim, I feel each one of these families pain. I offer the Carvers, Smiths, Nagels, and Scavones, my sincere condolences. Your children's deaths are not in vain. By being strong and coming forward with your testimonies you can give your loved ones a voice today, and prevent the next unnecessary death. Do not be intimidated by these cruise companies: although they are big and wealthy and powerful, they will bend under the weight of your conviction.

I feel honored to be here today as a representative of the hundreds of cruise victims who do not have a voice. Thank you Congress, for letting me speak today, I pray that you are successful in making the necessary changes so that the crimes at sea diminish and all of us can get on with healing and putting all this trauma behind us once and for all.

Mr. SHAYS. Thank you, Ms. Kelly. It is very admirable of you to come and testify today.

Ms. KELLY. It was not easy.

Mr. SHAYS. I am sure it was not.

Ms. KELLY. I got through it, though.

Mr. SHAYS. I can understand why your husband has a nice smile. I am sure he is very proud of you.

Ms. KELLY. Thank you.

Mr. SHAYS. Mr. Leonard.

STATEMENT OF IRA LEONARD

Mr. LEONARD. Good afternoon.

Mr. SHAYS. Mr. Leonard, I am going to ask you to put that mic on top of those papers you have there and put it closer to you.

Mr. LEONARD. Better.

Mr. SHAYS. That is better.

Mr. LEONARD. OK. Good afternoon. My name is Ira Leonard. My wife and I are retired college teachers. We do not represent any organization concerned with today's activities, nor are we involved in a lawsuit or possessor of any Federal grant or contract, now or during the last 2 years.

Mr. SHAYS. Mr. Leonard, we do hear you, but we need that mic closer to you.

Mr. LEONARD. OK.

Mr. SHAYS. I know you are a professor and so do not easily take suggestions.

Mr. LEONARD. We are here today because my wife and I were victims of a grand larceny on board a Royal Caribbean International cruise ship on June 2, 2004, in Bermuda. The Royal Caribbean International not only refused to discuss the theft with us, but eventually denied to an officer of the Federal Maritime Commission that it ever took place. This is the letter.

We reported the theft early in the morning when we discovered the loss. Six hours later, the official search was conducted, and the jewelry worth $6,700 was not found.

We filed a signed statement, using an RCI form, with the aid of the ship's chief security officer, William MacLaughlin. This is the signed statement.

MacLaughlin told us the theft was a crime of opportunity and the jewelry was most likely out on the streets. What made it a crime of opportunity, we are convinced, was the negligence of the staff before the theft as well as immediately after the theft.

First, there was no safe in the room. Our steward said the room was secure because it could only be entered with the key cards. The steward said there were only three people with access to the room: my wife, me, and himself. Yet my wife was issued four different key cards over a period of 2 days in order to have proper access to our room, which we reported in our signed statement.

The first key card did not work. The second did not work because it was to somebody else's room. The third key card worked, but had my name on it, so she had to be issued yet another card with her name on it. The fourth card worked. None of the key cards were destroyed in front of her. The third card worked and had the last three digits, 0–2–0, of our four-digit room number on it, as well as

our dinner seating time, 8:30 p.m., as did her fourth key card. Anyone with knowledge of the ship would know exactly when we would not be in the room and could try rooms 3020, 4020, etc.

Chief Security Officer MacLaughlin specifically told us after the burglary that the key cards should have been cut up in front of my wife. We feel that the key card incidents were evidence of negligence and lack of security. Guest Relations Manager Luis Martins kept dismissing the notion of multiple key cards as being a problem, insisting they had been deactivated when they were turned in. However, at approximately 3 p.m. in Guest Relations on Saturday after the burglary, we and several other passengers witnessed a crew member with a box of key cards cutting them up into little pieces.

Key cards are also used as credit cards, which presents another security problem. On May 31st, we ordered drinks in the Schooner Lounge at 11 p.m., our first drinks of the evening, and our only drinks, handing our key card to the waitress. When neither the drinks nor the card had arrived by 11:45 p.m., we went looking for her. She said she had asked another person to deliver our drinks. The card with all of our information was out of our presence for 45 minutes. A situation like this presents an opportunity for burglary, identity theft, planting of contraband in a room, etc., if someone was so inclined.

Luis Martins told us that our statement and the chief security officer's report about the burglary were being forwarded to Royal Caribbean International in Miami. He gave us their card and instructed us to contact them upon returning home. He also told us not to worry and to continue enjoying the cruise because "Royal Caribbean has a reputation for doing the right thing." We were naive enough at the time to believe that Royal Caribbean International would do the right thing, but we no longer enjoyed the cruise.

We repeatedly asked Mr. Martins for a copy of our signed statement reporting the theft and a copy of the chief security officer's report, but it was not until my wife told him on Saturday afternoon we were not getting off the ship without a copy of our report that he delivered a copy of our signed statement, but he would not give us a copy of the security officer's report.

We reported the burglary as instructed to Royal Caribbean Representative Betty Taillefer, Personal Property Guest Relations, in Miami on June 9th, the day after we arrived home. It is at this point that the saga really began for us.

She said she had not received any information about the theft from Empress of the Seas. Pursuant to our phone conversation with her, we faxed her a copy of our signed shipboard statement along with additional statements made to her that day and again on June 29th. Betty Taillefer sent us two identical RCI form letters in which she dismissed company responsibility, directing us to the cruise documents disclaimer of responsibility and officially referring to the grand larceny as "an unfortunate incident."

We reported the theft to the Federal Maritime Commission in August 2004. An agent told us that the Commission sought to act as an intermediary and work our solutions, but it had no coercive power to do so. On January 26, 2005, the Federal Maritime Com-

mission agent said she contacted Ms. Betty Taillefer, and Ms. Taillefer sent her the same form letter she sent us, referring her to the cruise documents. When the agent requested Ms. Taillefer to send her a copy of Security Chief MacLaughlin's report, Taillefer said she would, but it has not been forthcoming. Instead, Betty Taillefer faxed the Federal Maritime Commission this letter, which says, "We contacted our vessel and no notice of incident was reported."

"We have contacted our vessel and no notice of incident was reported." Yet I have here the signed report.

Mr. SHAYS. I am sorry, Mr. Leonard, if you would bring it to——

Mr. LEONARD. We are just about done.

Mr. SHAYS. OK.

Mr. LEONARD. We sent the president of AAA all of our information since AAA booked us and asked how AAA could in good conscience continue to book their members on Royal Caribbean International without informing them about the potential problems with key cards, thefts, etc. Vice President for AAA Travel Services Sandra Hughes sent us a letter in which she assured us, that our claim had been reviewed properly and appropriately, and AAA had "verified that when a new key card is produced, the previous key card is deactivated as a security measure." I guess that is why my wife and I and other RCI guests saw a Guest Relations staff member busily cutting dozens of key cards 2 days after the burglary.

Finally, on April 20, 2005, we wrote to Captain Howard Newhoff, Security Manager for Royal Caribbean International, asking for the official report by RCI of the grand larceny to some law enforcement agency. A few days later, Betty Taillefer called us to tell us personally that RCI did not have to report thefts of less than $10,000 and followed it up with this letter that says precisely that.

Mr. SHAYS. Thank you, Mr. Leonard. We are going to go to Mr. Mulvaney. If you want to just——

Mr. LEONARD. I have one more line.

Mr. SHAYS. Go for it.

Mr. LEONARD. This is "bingo" time. In this week's Time Magazine, Captain Bill Wright, head of RCI Fleet Operations, told the reporter that Royal Caribbean discloses every incident, even petty thefts, to authorities. We are still waiting to find out to which law enforcement agency RCI reported our grand larceny. Perhaps this subcommittee can find out for us.

Mr. SHAYS. Mr. Leonard, we will find out for you.

Mr. LEONARD. All right.

Mr. SHAYS. Because this subcommittee has some real questions about the accuracy of the statistics that the industry provides to us, so it will be a good follow-through.

[The prepared statement of Mr. Leonard follows:]

March 7, 2006

Testimony of Ira and Myrtle Leonard

Hamden, Ct 06518

Grand Larceny on a Royal Caribbean Cruise Ship, June 2004 and the surprising aftermath.

Good afternoon gentlemen:

Thank you for this opportunity to address the Subcommittee on National Security, Emerging Threats, and International Relations Hearing on International Maritime Security.

First, we are private citizens who suffered a **grand larceny** on a Royal Caribbean cruise Ship in June 2004. We are here to discuss and answer any questions about what happened, how we were treated on the ship after we reported the theft and thereafter by Royal Caribbean Cruise line officials, and our subsequent experiences with the Federal Maritime Commission, U.S. Coast Guard, the Travel Industry Media, the Prime Minister of The Bahamas, and AAA which booked us on the cruise.

Is it possible to generalize from one incident about a whole condition? In this case, we say yes, since ours is what might be called "The Classic Case". **A grand larceny on board a cruiseship that nobody would or could do anything about.** Every individual and agency, public and private, we appealed to either refused or failed to deal with the situation. **This goes beyond poor customer relations by a multi-billion dollar company doing business in the US; it involves a persistent refusal to deal honestly**

with a grand larceny, even to the point of denying it took place--and this was made possible because RCI, and perhaps other cruise lines operating out of American ports, are not subject to US laws.

That is why we are here.

My wife and I are both retired university teachers.

We do not represent any organization, nor are we involved in any law suit concerning this matter or the possessor of any federal grant or contract, now or during the last two years.

My remarks today supplement our lengthy testimony with supportive documents we submitted to Congressman Shays' office and which was placed in the permanent record of the December 13, 2005 Hearing, and an additional file recently provided to the Subcommittee staff.

And we will answer any specific questions that you may ask to clarify our testimony.

The bare facts are as follows:

We were the victims of a **grand larceny** while on a Royal Caribbean Cruise in Bermuda. Jewelry valued at approximately $ 6,774.00 was stolen from our stateroom aboard the Royal Caribbean ship, ***Empress of the Seas*** (cabin 3020; May 29,2004 sailing date), on the evening of June 2nd, and was reported to the ship personnel early on the morning of June 3rd, 2004.

We filed a signed statement, **using an RCI form**, with the ship's Chief Security Officer, William MacLaughlin, who conducted a search of our room with Chief Housekeeper Ann Marie. They did not find the jewelry which had been in a satin turquoise jewelry pouch buried in a suitcase, underneath another suitcase, on the porthole shelf.

We were told by Luis Martins, Guest Relations Manager, that our statement and the Chief Security Officer's report about the robbery were being forwarded to Royal Caribbean International in Miami. He gave us their card and his card and instructed us to contact them upon returning home. He also told us not to worry and to continue enjoying the cruise because **"Royal Caribbean has a reputation for doing the right thing."** We were naïve enough at the time to believe that Royal Caribbean would do the right thing, but we no longer enjoyed the cruise.

We repeatedly asked Mr. Martins for a copy of our signed statement reporting the theft and a copy of the Chief Security Officer's report. Finally, Saturday afternoon (we were disembarking early Sunday morning), my wife called Mr. Martins and said she was coming to his office to get the documents **and wasn't getting off the ship without a copy of our report.** He promised to bring it to our stateroom at 6 pm, which he did. **He said he could not give us a copy of the Security officer's report.** Subsequently, we asked for a copy of the report, through the Federal Maritime Commission, the US Coast Guard, and the Prime Minister of The Bahamas, where the ship is registered, but it was never provided .

We reported the robbery, as instructed, to Royal Caribbean Representative **Betty Taillefer, Personal Property, Guest Relations**, in Miami, on June 9th, the day after we arrived home. She said she had not received any information about the theft from the ***Empress of the Seas***. Pursuant to our phone conversation with her, **we faxed her a copy of our shipboard statement** along with additional statements made to her that day and again on June 29, 2004.

Ms. Betty Taillefer, sent us the first of two **identical RCI form letters**, dated June 30th 2004, in which she dismissed company responsibility, directing us to the Cruise Documents' disclaimer, and officially referring to the grand larceny as the **"unfortunate incident."** We are RCI file number #NE 05/29/04 BK3156907 .

We then sent a letter to the President of Royal Caribbean International, Mr. Jack Williams on July 12, 2004 requesting a mutually acceptable agreement by August 2, 2004. He did not respond to this letter, but Betty Taillefer sent us **a second copy of her June 30th, 2004 form letter, now dated August 20th 2004.**

We believe that the incident was due to negligence by ship personnel and lack of security procedures, which were documented in our statements to the ship's Chief Security Officer, among others, and to Ms. Taillefer and Mr. Jack Williams.

First, There was no safe in the room. Royal Caribbean's **official cruise booklet** said "most rooms" had safes. We found out most rooms did not (and that was confirmed by

Luis Martins when we asked him), although the ship had been completely **"Refurbished by 4/11/2004."** Our steward said the room was secure because it could only be entered with the key cards. The steward said there were only three people with access to the room, my wife, me, and himself.

However, my wife Myrtle, was issued ***multiple key cards*** over a period of two days in order to have proper access to our cabin.

1. The **first key card** was issued to her in Bayonne, N.J. as she was about to enter the ship. This card didn't work and the steward sent her to Guest Relations to receive another pass **(the second key card).**

2. When she later discovered the second key card didn't work, she returned to Guest Relations and was asked if she had changed rooms because the key card she had been given was for someone else's room in the 35 section of the ship (We were in the 30 section). She was given **another key card (the third key card).**

3. She was successfully using the third card until she later realized my name was on the key card instead of hers which needed to be there in order for her to leave and board the ship. She returned to Guest Relations and received a **fourth key card** with her name on it.

4. It took **four cards** in order for her to have valid access to our room. Keep in mind she was in each of those lines for 15 minutes to one half hour.

None of the key cards were destroyed in front of her. We don't know what happened to them after she turned them in, but we do know the third pass worked and had the last 3 digits (020) of our four digit room number on it as well as our dinner seating time of 8:30 (as did our fourth key card). Anyone with knowledge of the ship would know exactly when we would not be in our room and could try rooms 3020, 4020, etc.

Chief Security Officer MacLaughlin specifically told us, after the burglary, that the key cards should have been cut up in front of her. This is one example of several instances we have documented in our statements to RCI where proper procedure was not followed on board the ship after we reported the burglary.

We feel that the key card incidents described above were evidence of negligence and lack of security. If she was given a key card to some other room, how do we know some one wasn't given one to ours? Also, the third key card worked and had our information on it. We expressed our concern about people having further access to our room. Luis Martins kept dismissing the notion of multiple key cards as being a problem, insisting they had been deactivated when they were turned in. **However, at approximately 3pm in Guest Relations on the Saturday after the burglary, we and several other passengers witnessed a crew member with a box of key cards, cutting them up into little pieces.**

We'd like to point out that the key cards are also used as **credit cards** which presents another security problem. **Ship personnel walk away with them to complete transactions.** On May 3lst, we ordered drinks in the Schooner Lounge at 11 pm, handing our key card to the waitress. When neither the drinks nor the card had arrived by 11:45, we went looking for her. She said she had asked another person to deliver our drinks. The card with all our information was out of our presence for 45 minutes. A situation like this presents an opportunity for burglary, identify theft, planting of contraband in a room, etc., if someone was so inclined.

In the interest of security we feel key cards should not have room numbers or dinner times on them. (On a previous cruise on RCI *Enchantment of the Seas*, the card had our complete room number on it.) We also recommend ship personnel carry hand-held credit machines and complete credit transactions in front of passengers. (We found this to be common practice in hotels and restaurants in France in 2001.)

When Royal Caribbean dismissed our "unfortunate incident", we asked our AAA travel agent to which official agency should we report the crime. He directed us to the Federal Maritime Commission.

We reported the grand larceny to the Federal Maritime Commission.

We reported the theft to the Federal Maritime Commission on August 4, 2004 and received a file number 04-A-6-642. Ms.Pearl Carr-Notice (202 523-5807), of the FMC

informed us that the agency sought to act as an intermediary and work out solutions, but it had no coercive power to do so. On January 26, 2005, Ms. Carr-Notice said she contacted Ms. Betty Taillefer on January 25th and **Ms. Taillefer sent her the same form letter she sent us referring her to the cruise documents.**

We asked Ms. Carr-Notice if she would request Ms. Taillefer to send her a copy of Security Chief' MacLaughlin's report, which she did, but it has not been forthcoming . **In a letter faxed to Ms. Carr-Notice, dated February 9, 2005, Ms Taillefer, asserted: "WE HAVE CONTACTED OUR VESSEL AND NO NOTICE OF INCIDENT WAS REPORTED ON BOARD."**

More than nine months after we reported the burglary to RCI, which included our handwritten statement on the RCI-generated form, the company representative told the Federal Maritime Commission that "NO NOTICE OF INCIDENT WAS REPORTED ON BOARD".

We contacted the U.S. Coast Guard.

We sent a freedom of information request, as per Pearl Carr-Notice's suggestion to the U.S. Coast Guard (which contained the full file of documents in support) requesting information about the grand larceny, the ship's Chief of Security's official report, and to which law enforcement agency RCI had reported the grand larceny. We also pointed out the lax security with key cards on board the ship presented opportunities for identify theft and terrorism. If someone could enter the

room and steal, could they not also plant deadly contraband in the room of an unsuspecting cruise guest.

The Coast Guard Freedom of Information officer denied our request, indicating that was not his agency's responsibility, but in his letter suggested we contact the Prime Minister of The Bahamas. So, we sent a letter to the Prime Minister of The Bahamas and requested whether Royal Caribbean, whose ship ***Empress of the Seas*** is registered there, reported the grand larceny to any law enforcement agency in his country. **We never received even an acknowledgement of the letter and accompanying documents.**

We sent the President of AAA all our information and asked **how AAA could, in good conscience, continue to book their members on RCI.** Finally, Sandra Hughes, Vice President for Travel Services sent us a letter, on July 26, 2005, in which she assured us **"All parties are in agreement that the claim had been reviewed properly and appropriately,"** although she conceded **"our relationship with RCI is not one of authority in this matter."** And, she continued, **"with respect to the multiple card keys produced for our room we have verified that when a new key card is produced, the previous card key is deactivated as a security measure."** I guess that is why my wife and other RCI guests saw a Guest Relations staff member busily cutting dozens of key cards two days after the burglary!

We contacted the Travel Media

We contacted the **CondeNast *Traveler*** Ombudsman, Eric Jordan, who informed us (on June 20, 2005), that thefts were so frequent on cruises that his magazine cannot deal with the issue. **"Without cooperation from the company,"** he said, **" we simply do not have the resources nor the authority to conduct investigations related to a company's negligence."** The Manager of the Consumer Complaint Column of ***Travel and Leisure*** did not even have the courtesy to respond to our two letters outlining the issue.

Finally, we tried to contact the RCI Security Manager.
On April 20, 2005 we wrote to Captain Howard A. Newhoff, Security Manager for Royal Caribbean International, asking for the official report by RCI of the grand larceny to some law enforcement agency.

This prompted first a personal phone call and then, at our request, a letter from the company representative, Betty Taillifer; she indicatd that RCI (and perhaps all other cruise lines?) did not have to report thefts –grand larcenies on shipboard--of less than $10,000!

Bingo!

At long last, we finally understood: The CRUISE LINES ARE IMMUNE TO THE LAWS OF THE UNITED STATES and citizens board at their own risk, and we found the answer to our question: to whom can American citizens turn to when they are victimized on a cruise?

We also realized the statistics about cruise ship safety were totally unreliable if thefts under $10,000 were not counted. 10K is an outrageously high threshold for reporting of a crime.

We are now convinced that every Royal Caribbean ship should have a sign on the gangplank "ENTER AT YOUR OWN RISK!"

The TWO BASIC issues are:

1) cruiseline safety and the treatment of a cruiseline customers, and

2) the threat of terrorism

Most cruiseline passengers board the ship feeling it is safe and they are secure and if something happens, the ship's company will rectify it. Our experience with Royal Caribbean International since June 2004 has taught us that there is there is **NO ONE (not the Federal Martime Commission, lawyers, the Travel Industry Media, the booking agent in this case, AAA)** capable of advocating (or willing to do so) for the passenger should a major problem occur.

This has brought us to the realization that the cruise line passenger is entirely on his/her own unless they want to sue, which as it turns out, is not cost effective because of the way the cruise documents are skewed in the cruise line's favor. (Furthermore, most lawyers we have spoken to are hesitant to take on cases because of their lack of expertise

in Maritime Law and will caution about the expense involved, especially having to sue in a Miami, Florida court as RCI cruise documents require. **This allows the company to ignore safety procedures that are commonly practiced in most US hotels**).The Congress **must pass remedial legislation requiring cruise lines to make public the documented crimes committed on board and mandate that the companies not hide behind their Cruise Documents to deny reasonable remedies.**

There needs to be an agency to which passengers can report crimes and which can compile accurate statistics which are available to the public. If you don't feel safe in a hotel, you can leave and walk down the block to another, but one doesn't have that option on a cruise ship.Cruise ship officials should not be allowed by Congress to 'thumb their noses" to a government agency like the Federal Maritime Commission, as we believe Betty Taillefer of RCI did.

THE TERRORISM POTENTIAL:

If you can get into someone's cabin to steal property and personal identities, why can't you place contraband in the cabin? What about the transit of contraband from cruise ships into American ports-- the potential for terrorists -- using unwitting passengers to bring in deadly stuff? At this moment, the focus is on container ships coming into U.S.ports and the transit of containers all over the nation possibly carrying contraband, but wouldn't enemy action on a cruise ship coming into a major US port create a devastating impact?

Along this line, we and others noted that ship personnel screening passengers, as we entered and exited the *Empress of the Seas,* from port stops (Hamilton, in

particular), consisted of 3 and 4 persons of the same foreign nationality handling entry to the ship. ***That should never happen!***

One final question:Whose laws govern cruise ships using places like Bayonne, New Jersey, Miami, etc.?

We sincerely hope that this subcommittee will consider and recommend to the full Congress remedial legislation in the areas we defined.

Respectfully submitted,

Ira M. Leonard

NEW YORK TIMES, TRAVEL SECTION, February 26, 2006,TR, 9
Summer Cruises | Crime

Mystery at Sea: Who Polices the Ships?

By CHRISTOPHER ELLIOTT

MENTION crime on cruise ships, and George Smith, the honeymooner who vanished from Royal Caribbean's Brilliance of the Seas last year, comes to mind — particularly if you watch cable TV.

But Connie Eagerton is reminded of another kind of disappearance: the $32,000 worth of jewelry she found missing from her suite on a recent Mediterranean cruise.

"I'm not sure what happened to it," said Ms. Eagerton, who publishes a real estate magazine in Ocala, Fla. "And I can't get a straight answer from the cruise line."

The major cruise lines don't release comprehensive crime statistics. But it is safe to say that there are many offenses — burglaries, thefts and assaults — that don't necessarily make for good talk-show fodder.

It is these wrongdoings, which often go unreported to law enforcement officials, that raise two questions: How safe are you on a cruise ship? And what happens if you're the victim of an onboard crime?

"Anything can happen on a ship," said Thomas A. Dickerson, the author of "Travel Law" (Law Journal Press, 2006). "But how do you know what you are getting yourself into before you go on a cruise?"

In fact, your legal rights depend on whether the vessel is in port or within a country's territorial waters, where local law may apply, or on the high seas, where maritime law is in force. Few passengers are aware that the rules effectively change during their cruise, and when they find out what their rights are — and aren't — they are often surprised.

That was what happened to Ms. Eagerton. The last time she saw her jewelry, she was preparing to disembark from the Grand Princess in Venice, after a 12-day cruise last fall. She noticed it was missing on her return home the next day. After she made several attempts to contact the cruise line, Princess asked her to fill out a report and fax it back. To date, the cruise line has not recovered her belongings. (Her insurance company did, however, process a claim for $26,000 after she filed her report.)

Karen Tetherow, a spokeswoman for Princess, confirmed that Ms. Eagerton notified the cruise line that her jewelry was missing a full day after disembarking, but said that by this time the ship had left port. She added that Princess has "extensive fleet regulations in

place that provide guidance to our ships as to what action should be taken if a serious crime occurs."

The cruise industry, for its part, insists that floating vacations are perfectly safe. J. Michael Crye, the president of the International Council of Cruise Lines, a trade association for the cruise industry, says a cruise is as safe as "your average community in the United States and, I would think, safer than staying at a motel."

In recent Congressional testimony following Mr. Smith's disappearance, Mr. Crye cited the following statistics: the national rate of violent crimes is about 465.5 per 100,000 inhabitants, while the Federal Bureau of Investigation reports an average of only 50 crimes a year against U.S. citizens on cruises. According to the Bureau of Justice, 1 in every 1,000 people is raped or sexually assaulted on land each year; on cruise ships, there is only one alleged incident of sexual assault for every 100,000 passengers.

While legal experts don't necessarily dispute these statistics, they say that a closer look at the numbers suggests a deeper problem. For example, if a serious crime is committed at sea against an American citizen, the ship's security staff is supposed to report it to the F.B.I. But there are at least two exemptions: crimes against noncitizens are not included, and it is largely left up to the ship's security officers as to what constitutes a "serious" crime. Similarly, the statistics on assault and rape may be artificially low, according to legal experts. Many passengers are unwilling to report an assault because of the humiliating nature of the crime, and because they are uncertain of their legal status at sea.

"The cruise lines go out of their way to hide crime statistics," said Alexander Anolik, a lawyer, based in San Francisco, specializing in travel law. "They try to minimize their statistics and minimize their failures." Mr. Anolik says that in their efforts to make cruises appear safer, ships try to "handle" crimes internally. "But the reports that are taken by a ship's security officers are not always reported to the F.B.I.," he said. "So we don't have an accurate idea of how safe a cruise is." (Mr. Crye of the International Council of Cruise Lines denied that the industry conceals crime statistics, saying it has pledged "full reporting of any crime to the appropriate authorities.")

What are your chances of becoming the victim of a crime at sea? "Let's put it this way," said Paul S. Edelman, a maritime law expert with the New York firm Kreindler & Kreindler. "I wouldn't think that the chances of something happening to you on a ship are greater than if you were just staying at a hotel." The crimes can be different, though. Altercations between guests or between guests and staff members are more likely in the close environment of a ship.

The way in which the crimes are prosecuted can be different, too. "Crimes at sea are controlled by admiralty law," said Jeffrey Miller, a lawyer specializing in travel with the Columbia, Md., law firm of Lipshultz & Miller. "If the crime is committed in the territorial waters of a country or at port, then that country's laws and criminal justice system are in control," he said. "Thus a crime while in port in Cozumel or in Mexican waters would lead to Mexican justice — or lack thereof."

While this may seem confusing in principle, it isn't in practice, according to the cruise lines. "In port, a crime is reported to local law enforcement," explained Tim Gallagher, a spokesman for Carnival Cruise Lines. At sea, the ship's security officer is notified of a crime. "The security officer would meet with the victim or the person reporting the crime, and take statements. It's our policy to report any crime that occurs where an American citizen is involved to the F.B.I.," he said.

If someone is believed to have committed a crime on the high seas, the captain can decide whether to incarcerate a suspect until the ship reaches home port or to remove that person at the next port of call — even if it is in another country.

Mr. Gallagher said Carnival's standard operating procedure is to detain a suspect in a "serious" crime and hand the passenger over to the F.B.I. in the next port. Typically, he added, the kinds of passengers who are removed from the ship early are those who have engaged in unruly behavior.

He also argues, as do other cruise industry officials, that the line dividing a serious crime from a petty crime may be different for passengers than for security officers. "Is a missing pair of $200 sunglasses a 'serious' crime?" he asked. "It might be to a passenger, but it probably isn't to a security officer." Ms. Tetherow, the Princess spokeswoman, said "lesser crimes" like property theft or minor altercations between passengers are only reported to local law enforcement officials "if requested by one of the passengers involved."

As a matter of fact, said Mr. Gallagher, most items that are reported lost or stolen are eventually recovered.

Passengers bear some responsibility for their own safety, too. "You need to be as vigilant about crime aboard a ship or in port as you would be at home," said Mr. Miller. "Don't leave valuables out, and follow the guidelines issued by the cruise line." Legal experts say that if you are a victim of a crime onboard, it's important to find out if it will be reported to local or federal authorities. If it is, ask for a copy of the paperwork. If it isn't, they say, then there is nothing stopping you from reporting it yourself.

Royal Caribbean International
1050 Caribbean Way
Miami, FL 33132

tel 305 539 6000
www.royalcaribbean.com

June 30, 2004

Myrtle Leonard
[redacted]
Hamden, Ct 06518

RE: NE 05/29/04 BK # 3156907

Dear Guests:

We acknowledge receipt of your letter and were sorry to learn of the unfortunate incid
you described.

Although we genuinely sympathize with you for your loss, we regret we are unable to compensate you for your personal items. All claims are evaluated according to your Passenger Ticket Contract, which we suggest you review for further clarification.

If you have not done so already we suggest you consider submitting your claim to your travel or private insurers for consideration.

Sincerely,

Betty Tailleffer
Personal Property
Guest Claims

Royal Caribbean International
1050 Caribbean Way
Miami, FL 33132
tel 305 539 6000
www.royalcaribbean.com

August 10, 2004

Ira & Myrtle Leonard
[redacted]
Hamden, Ct 06518

RE: N.E. Bk # 3156907 s/d 5/29/04

Dear Guests:

We acknowledge receipt of your letter and were sorry to learn of the unfortunate incider you described.

Although we genuinely sympathize with you for your loss, we regret we are unable to compensate you for your personal items (jewelry). All claims are evaluated according to your Passenger Ticket Contract, which we suggest you review for further clarification.

If you have not done so already we suggest you consider submitting your claim to your travel or private insurers for consideration.

Sincerely,

Betty Taillefer
Personal Property
Guest Claims

Subject: RE: thank you

Date: Thu, 10 Feb 2005 17:46:39 -0500

From: "Pearl R. Carr-Notice" <[redacted]>

To: "myrtle Leonard" <[redacted]>

Dear Mrs. Leonard,

I have received a response and unfortunately, their decision has remained unchanged. The letter in and of itself is almost identical to your past responses. However, this time they have added on sentence:

"We have contacted our vessel and no notice of incident was reported on board"

Unbelievable, but there is really nothing more we can do. Of course, you can seek the advice of an attorney. I will mail a copy of the letter to you and Mr. Leonard in the morning.

Pearl Carr-Notice
Consumer Affairs and Dispute Resolutions Services
Federal Maritime Commission

Royal Caribbean International
1050 Caribbean Way
Miami, FL 33132

tel 305 539 6000
www.royalcaribbean.com

April 27, 2005

Ira & Myrtle Leonard
[redacted]
Hamden, CT 06518

RE: NE Bk # 3156907 S/D 05/29/04

Dear Guests:

As per our conversation of today, I have explained that we are not required to report alleged thefts with a value less than 10 k.

Although we genuinely sympathize with you for your loss, we regret we are unable to compensate you for your personal items. All claims are evaluated according to your Passenger Ticket Contract, which we suggest you review for further clarification.

If you have not done so already we suggest you consider submitting your claim to your travel or private insurers for consideration.

Sincerely,

Betty Taillefer
Personal Property
Guest Claims

Ira and Myrtle Leonard
[redacted]
Hamden, Ct 06518

Consumer Complaint Bureau
Federal Maritime Commission
800 N. Capitol NW
Washington, D.C. 20573-0001

August 4, 2004

TO WHOM IT MAY CONCERN:

I wish to register with your office a robbery of jewelry valued at approximately $ 6,774.00 from our stateroom aboard the Royal Caribbean ship, *Empress of the Seas* (cabin 3020; enclosure #1), May 29,2004 sailing date, which took place on the evening of June 2nd, and was reported to the ship personnel on the morning of June 3rd, 2004. We filed a signed statement with the ship's Chief Security Officer, William MacLaughlin, who conducted a search of our room with Chief Housekeeper Ann Marie. They did not find the jewelry which was in a satin turquoise jewelry pouch.

We were told by Luis Martins, Guest Relations Manager, that our statement and the Chief Security Officer's report about the robbery was being forwarded to Royal Caribbean International in Miami and we should contact them upon returning home.

We reported the robbery to Royal Caribbean Representative Betty Taillefer, Personal Property, Guest Relations, in Miami, on June 9th, the day after we arrived home. Pursuant to our phone conversation with her, we faxed her a copy of our shipboard statement along with additional statements made to her that day and again on June 29, 2004.

Ms. Betty Taillefer, sent us a form letter, dated June 30th 2004 in which she dismissed company responsibility, officially referring to the robbery as the "unfortunate incident." We are file number #NE 05/29/04 BK3156907 (enclosures #2&3).

We then sent a letter to the President of Royal Caribbean International, Mr. Jack Williams on July 12, 2004 requesting a mutually acceptable agreement by August 2, 2004. (enclosure #4). He did not respond to this letter.

We believe that the incident was due to negligence by ship personnel, which was documented in my statements to the ship's Chief Security Officer, among others, and to Ms. Taillefer and Mr. Jack Williams.

There was no safe in the room. Royal Caribbean's official booklet said "most rooms" had safes. (enclosure #5). We found out most rooms did not. Our steward said the room was secure because it could only be entered with the key cards. The steward said there were only three people with access to the room, my husband, me, and himself.

However, I was issued ***multiple key cards*** over a period of two days in order to have proper access to my cabin.

1. The first key card was issued to me in Bayonne, N.J. as I was about to enter the ship. This card didn't work and the steward sent me to Guest Relations to receive another pass.
2. When I later discovered the second key card didn't work, I returned to Guest Relations and I was asked if I had changed rooms because the key card I had been given was for someone else's room in the 35 section of the ship (I was in the 30 section). I was given another key pass.

3. I was successfully using the third card until I later realized my husband's name was on
the key card instead of mine and my name needed to be there in order for me to leave and board the ship. I returned to Guest Relations and received a fourth key card with my name on it.

4. It took four cards in order for me to have valid access to my room.

None of the key cards were destroyed in front of me. I don't know what happened to them after I turned them in, but I do know the third pass worked and had the last 3 digits of our four digit room number on it as well as our dinner seating time of 8:30 (as did our fourth pass). Anyone with knowledge of the ship would know exactly when we would not be in our room and could try rooms 3020, 4020, etc. (enclosure #6).*Chief Security Officer MacLaughlin told us that*
the key cards should have been destroyed in front of me.

We feel that the key card incidents described above are signs of negligence. If I was given a key card to some other room, how do I know some one wasn't given one to mine? Also, the fact that the third key was floating around with our information and it worked, is a major source of our negligence contention.

We want the shipboard robbery on record with the Federal Maritime Commission, we would like you to investigate the issue of multiple key cards and the robbery itself, and we would appreciate a copy of your findings as well a copy of *Empress of the Seas'* Chief Security Officer's report of the robbery.

Sincerely yours,

P.S. Complete copies of all our statements and correspondence will be supplied if you need further documentation.

(Subsequently informed: File Number: 04-A-6-642, dated August 05, 2004; Agent Pearl Carr-Notice)

FEDERAL MARITIME COMMISSION
Office of Consumer Complaints
800 North Capitol Street, NW
Washington, D.C. 20573-0001
(202) 523-5807
January 25, 2004

Ms. Betty Taillefer
Personal Property
Guest Claims
Royal Caribbean International
1050 Caribbean Way
Miami, FL 06518

Our Ref: 21:04-A-6-649
Transportation Specialist: Pearl Carr-Notice
Transportation Specialist e-mail address: pearl@fmc.gov

Dear Ms. Taillefer:

First of all, thank you very much for taking the time out of your schedule to speak to me about the Leonard's and their situation. I would like to have RCCL respond to two more additional points that tl Leonard's did mention in their letter to the Commission, when we were initially contacted by mail fro the them.

The attachment was filed as a complaint against Royal Caribbean Cruise Line ("RCCL") in reference t jewelry that Mr. & Mrs. Ira Leonard, **BK # 3156907**, believed was stolen during their RCCL cruise, sailing date May 29th 2004. Although they have contacted RCCL on at least one occasion, (response attached) they also request an explanation about the multiple key cards which were issued during their cruise, which they believe was related to the jewelry being stolen.

Further, they have also requested a copy of the Chief Security Officer's, Officer MacLaughlin, report c the incident. As it has been referenced in our previous conversation, the RCCL Guest Ticket Contract contains details concerning RCCL's responsibility in regards to a passenger's personal items. All pertinent information relating their particular cruise and the related details are attached. If RCCL can address any details of the Leonard's situation, as referenced above, it would be greatly appreciated.

Should any further information be required, please do not hesitate to contact the undersigned by phone (202) 523-5807 or email at pearl@fmc.gov.

Sincerely yours,

Pearl Carr-Notice
Transportation Specialist
Office of Consumer Affairs and
Dispute Resolution Services

Subject: FW: FOIA REQUEST 05-0802 - Royal Caribbean Cruise Line

Date: Wed, 9 Feb 2005 10:59:31 -0500

From: "Pearl R. Carr-Notice" [redacted]

To: [redacted]

Dear Mr. & Mrs. Leonard,

Please see the response from the US Coast Guard concerning information on a FOIA (Freedom of Information Act) request, which I last discussed with Mr. Leonard. It is a response on how to pursue getting a list of crimes committed aboard Royal Caribbean Cruise Lines. I hope you find this information adequate.

Should you wish to pursue getting the information I would recommend contacting both embassies listed below first and should that be unsuccessful, please use this response to contact the US Coast Guard for an appeal of their decision.

I received this response yesterday, February 8, 2005; you will have thirty days from that date to appeal their response (according to their message below).

I am still waiting on a response from Ms. Taillefer, as I explained to Mrs. Leonard today February 9, 2005; I requested that she not give me the same "canned" statement which you both have received and which she attempted to give me on January 26, 2005. I told her at that time that that would be unacceptable. I will contact her office again today, via phone, and get the status of my request.

Thank you very much for your patience.

Sincerely,

Pearl

Pearl Carr-Notice
Consumer Affairs and Dispute
Resolutions Services
Federal Maritime Commission

From: Flood, Thelma [mailto:TFlood@comdt.uscg.mil]
Sent: Tuesday, February 08, 2005 9:58 AM
To: Pearl R. Carr-Notice
Subject: FOIA REQUEST 05-0802
Importance: High

5720

FOIA 05-0802

Good morning,

Dear Ms. Carr-Notice,

We are in receipt of your request regarding information that can be obtained on the number of crimes committed aboard a cruise ship. The request came from a compliant who submitted their request to the Federal Maritime Commission. He and his wife were both passengers of ROYAL CARIBBEAN CRUISE LINE (RCCL). Since then, the couple is interested in the number of crimes committed aboard this particular cruise line.

Coast Guard does not maintain records regarding crime statistics. Crime statistics for cruise ships are captured by the national law enforcement agency for the nation in which the vessel is registered. Most Royal Caribbean Cruise line vessels are registered in the

Bahamas, but some are registered in Norway. You may be able to obtain this information from the nearest embassy or consulate for the nation of registry.

This is not a denial. You may appeal the adequacy of our search. Your appeal must be made in writing and submitted within 30 days from the date of receipt of this letter. The letter should indicate that you are making an appeal based on a "no records" determination of a request made under the Freedom of Information Act and the envelope should be prominently marked "FOIA Appeal." Include in your appeal the reason(s) why you believe the search was inadequate and a copy of this letter. Send your appeal to:

COMMANDANT (CG-611)
U.S. COAST GUARD HEADQUARTERS
ATTN: FOIA/PA OFFICER
2100 2ND STREET, S.W.
WASHINGTON, DC 20593-0001

If you have any questions regarding this matter, please contact Thelma Flood of my staff at (202) 267-0510.

Thanks,

Thelma Flood
G-M FOIA Specialist
U.S. Coast Guard Headquarter
2100 2nd Street, S.W.
Washington, DC 20593-0001

From: Flood, Thelma [mailto:TFlood@comdt.uscg.mil]
Sent: Tuesday, February 08, 2005 9:58 AM
To: Pearl R. Carr-Notice

Subject: FOIA REQUEST 05-0802
Importance: High

5720

FOIA 05-0802

Good morning,

Dear Ms. Carr-Notice,

We are in receipt of your request regarding information that can be obtained on the number of crimes committed aboard a cruise ship. The request came from a compliant who submitted their request to the Federal Maritime Commission. He and his wife were both passengers of ROYAL CARIBBEAN CRUISE LINE (RCCL). Since then, the couple is interested in the number of crimes committed aboard this particular cruise line.

Coast Guard does not maintain records regarding crime statistics. Crime statistics for cruise ships are captured by the national law enforcement agency for the nation in which the vessel is registered. Most Royal Caribbean Cruise line vessels are registered in the Bahamas, but some are registered in Norway. You may be able to obtain this information from the nearest embassy or consulate for the nation of registry.

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COMMANDANT (CG-611)
U.S. COAST GUARD HEADQUARTERS
ATTN: FOIA/PA OFFICER
2100 2ND STREET, S.W.
WASHINGTON, DC 20593-0001

If you have any questions regarding this matter, please contact Thelma Flood of my staff at (202) 267-0510.

Thanks,

Thelma Flood
G-M FOIA Specialist
U.S. Coast Guard Headquarter
2100 2nd Street, S.W.
Washington, DC 20593-0001

Ira M. and Myrtle S. Leonard [redacted]
[redacted]
Hamden, Ct 06518
March 4, 2005

COMMANDANT (CG-611)
U.S. COAST GUARD HEADQUARTERS
ATTN: FOIA/PA OFFICER
2100 2ND STREET, S.W.
WASHINGTON, DC 20593-0001

RE: FOIA 05-0802

Dear Sir or Madam:

My wife and I would like to appeal the denial of an FOI request to the US Coast Guard made for us by Ms Pearl Carr-Notice of the Federal Maritime Commission. The request was for the Coast Guard to obtain information for us concerning a theft of our personal property last spring
while on a Royal Caribbean International cruise ship, the *Empress of the Seas*.

We base our appeal request on a "no records" determination by your office.

We would like to obtain specific things from RCI, which its officers have repeatedly refused to supply.

A copy of Chief Security Officer MacLaughlin's report of the burglary of our cabin to RCI in Miami, Florida and a statement from RCI indicating which governmental agency RCI officially reported the crime against two US citizens under their protection.

We believe the Coast Guard has the authority --and should exercise it—to obtain this information for us, since we are American citizens who boarded (and disembarked from) a RCI cruise ship - in Bayonne, New Jersey, U.S.A.—which is the port for New York City-- and RCI's business headquarters is Miami, Florida, U.S.A.

Equally important, the issue of security aboard cruise ships using American ports should be a significant issue to the United States Coast Guard. If an individual (s) have such easy access to key cards and could get into our cabin and steal personal property—with no report of the episode by the cruise line to appropriate legal authorities -- they could also place contraband (drugs, gems, and bombs) in our cabin to be retrieved later or weapons of mass destruction to be detonated. If this scenario seems a stretch, how about 19 Saudis with box cutters commandeering two airliners and crashing them into New York City's World Trade Center? Are cruise ships immune from becoming floating bombs?

MULTIPLE KEY CARDS

My wife was issued multiple key cards over a period of two days in order to have proper access to our stateroom.

1. The first key card was issued to her in Bayonne, N.J. as we were about to board the ship. This card didn't work and the steward sent us to Guest Relations. After standing in line for over a half hour, we turned in the card and she received a new key card from Nadine.

2. When I, Myrtle, later discovered the second key card didn't work, I returned to Guest Relations and waited in line another half hour. I was asked if I had changed rooms because the key card I had been given was for someone else's room in the 35 section of the ship (I was in the 30 section). I stated that I had not changed rooms. After some discussion between the two men on duty, I was given a new card and turned in the old key card.

3. I was successfully using the third card until I realized my husband's name was on the key card instead of mine and my name needed to be there in order for me to leave and board the ship. I returned to Guest Relations, stood in line for 18 minutes, turned in that card which worked, and received a fourth key card.

4. It took four key cards to have valid access to my room.

THE KEY CARDS CONTAIN THE ROOM NUMBERS AND SEATING TIME OF DINNER

The key cards had the last 3 digits (020) of our four digit room number (3020) on them as well as our dinner seating time of 8:30. Anyone with knowledge of the ship would know

exactly when we would not be in our room and could try 3020, 4020, etc. On a previous cruise on Enchantment of the Seas, our key card had the whole room number on it. **None of the key cards we returned were destroyed in front of us**. Chief Security Officer MacLaughlin told us that they should have been destroyed in front of me. On the Saturday after the burglary, at approximately 3pm, we noticed a staff member in the Guest Relations area cutting up key cards into little pieces. Several other guests noticed it too.

THE KEY CARDS WITH ROOM NUMBERS ON THEM ARE ALSO USED AS CREDIT CARDS ON BOARD AND ARE HANDED OVER TO PERSONNEL WHO WALK OFF WITH THEM TO RECORD TRANSACTIONS.

On Monday, May 31st, we ordered drinks in the Schooner Lounge at 11 p.m., handing our key card to the waitress. When neither the drinks nor the card had arrived by 11:45, we went looking for her. She said she had asked another person to deliver our drinks. As a courtesy for the inconvenience, we were not charged for the drinks. However, there is a grave question of security here since the card with our room number was out of our presence for 45 minutes.

REPORTING THE BURGLARY

Even here, proper ship procedure was not followed by personnel. After discovering the theft, my husband and I spent two hours going through everything over and over as we did not want to make any false accusations. The steward helped us move furniture and turn over the mattresses. When we didn't find the missing pouch, the steward sent us up to Guest Relations to report it at approximately 11:45 am. Nadine, in Guest Relations, said we'd probably find it and if we didn't, she'd report it to security that evening. We told her we had been through everything over and over, but she insisted guests usually end up finding their missing things. When we returned to our cabin, the steward was very upset and said, "We can't wait 'til tonight. That's not proper procedure." He notified his supervisor, Cathy Munro, who came down and took some information and I filled out a form for her. We were arriving in Hamilton at this time (approximately 2pm). Because we booked a 2:30pm tour, we gave her permission to search our room with security personnel while we were not there. When we returned at 5:30 pm, the room had not been searched because the Chief Security Officer William MacLaughlin said we had to be there. Then the Chief Security Officer and Chief Housekeeper Ann Marie did the search. They both said the search should have been called for in the morning as soon as I reported the robbery.

We feel the incidents described above are signs of negligence and lack of concern for passenger security by Royal Caribbean. If we were given a key to someone else's room, how do we know someone wasn't given one to ours? The third key card that worked and contained our room and dinner information was not destroyed in front of us. What happened to it? What can happen when key cards are given to transact purchases and are out of sight of the passengers or "guests" as RCI likes to call us ? Aside from the theft,

what about the inconvenience we endured standing in lines because of staff negligence issuing 4 key cards to have valid access to our room? Another concern is if someone has access to the room to steal something, can they not come in and plant something---what kind of security is that? RCI officials Betty Taillefer, President Jack Williams and Executive Vice President Adam Goldstein refused even to discuss or take any responsibility for the conditions that made the jewelry theft or the "unfortunate incident," as they refer to it, possible.

It is this lack of security while on this cruise that troubles us the most. We were given a key card to someone else's room; my wife was given a key card with my name on it instead of hers and when she turned it in, it was not destroyed in front of her. These key cards have the passenger's mane, room number and dinner time on them. They are not only used to open cabins, but as credit cards. We ordered a drink in the Schooner Lounge on Monday, May 31st at 11:00PM, handing our key card to the waitress. When neither the drink nor the card had arrived by 11:45PM we went looking for the waitress. We feel there is a total lack of security.

Anyone has access to our room and RCI doesn't have to answer to anyone and can ignore the problems and concerns raised without having to address, explain, or compensate for them.

In fact, did RCI **have to report** the shipboard theft of our property and to whom?

Thus, The US Coast Guard should be as interested as we in the degree of security aboard RCI ships and the information we requested helps get to the heart of that matter—and your order to provide the information specifically puts RCI--probably the rest of the industry as well--on notice about the need to obtain, maintain and convey such data with all deliberate speed to the appropriate legal authorities, which includes the United States authorities. Because we take this issue of security so seriously, we intend to relay our concerns to the Homeland Security Department and our congressional representatives.

Sincerely yours,

U.S. Department of Homeland Security
United States Coast Guard

Commandant
United States Coast Guard

2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: CG-611
Phone: (202) 267-1086

5720

MAR 28 2005

Mr. & Mrs. Ira M. Leonard
[redacted]
Hamden, CT 06518

Dear Mr. & Mrs. Leonard:

You submitted a request under the Freedom of Information Act (FOIA) on January 26, 2005. Your request sought a information on the number of crimes committed onboard Royal Caribbean Cruise Line (RCCL) vessels last year. On February 8, 2005, the Chief, Data Administration Division (G-MRI) informed you that the Coast Guard does not maintain records regarding such crime statistics. The response also stated that crime statistics for cruise ships are captured by the national law enforcement agency for the nation in which the vessel is registered.

On March 4, 2005, you sent in an appeal of this determination. Your letter, however, did not meet all of the requirements to be accepted as an appeal. An appeal must comply with Title 49, Code of Federal Regulations, Section 7.21(d). That regulation states that each appeal shall "...be made in writing within thirty days from the date of receipt of the original denial... and... **include all information and arguments relied upon by the person making the request**." In accordance with this regulation, G-MRI's response to you stated that, "Your letter must include the reason(s) you believe the search was inadequate."

Your letter is being returned because it cannot be accepted as an appeal. The Freedom of Information Act (FOIA) provides for persons to request copies of existing agency records, and for the agency to furnish a copy of those records unless the information is protected from release by statute.

The FOIA is not an avenue for persons to query an agency, request the creation of records by an agency, suggest that the agency obtain records from outside of the agency, or to advocate that the agency should undertake other actions on their behalf.

We regret to learn that you have suffered loss of property while onboard a foreign-flagged vessel. We must inform you, however, that the FOIA is not a vehicle for you to advocate a U.S. Government investigation of the matter. You may want to consider contacting the government of the nation to which the vessel is registered regarding your loss.

Sincerely,

D. G. Taylor

D. G. TAYLOR
Freedom of Information Officer

above letter signed by "D.G.Taylor
Freedom of Information Officer
US Coast Guard
By direction"

Ira M. and Myrtle S. Leonard [redacted]
[redacted]
Hamden, Ct 06518
April 3, 2005

Prime Minister Perry Gladstone Christie
Cecil Wallace-Whitfield Centre
Cable Beach
P. O. Box N 3217
Nassau, N.P., The Bahamas

Dear Mr. Prime Minister:

We are seeking information about a theft of our property that took place on on the evening of June 2, 2004 while on a Royal Caribbean International Cruise line ship, ***Empress of the Seas*** (formerly the ***Nordic Empress***), which is registered in your country. XXX of the US Coast Guard suggested that we seek the aid of the Bahamas Government for this information.

Could you kindly let us know **whether RCI was legally required to notify any law enforcement or other legal agency of your government that a theft had taken place in our cabin** on the evening of June 2, 2004. **And if legally required, could you kindly send us the name and address of the agency?**

We have been unable to obtain any information about this episode from Royal Caribbean International.

Even the Federal Maritime Commission seems unable to find out from RCI whether this burglary, which we reported on to the ship's personnel, specifically to the ship's Chief of Security William McLaughlin and which he investigated, was ever reported by RCI to any legal agency in your country.

Here is a brief account which will explain why we are making this request of you. While on a cruise aboard Royal Caribbean International *Empress of the Seas* (sailing date, May 29, 2004 from Bayonne, New Jersey), approximately $7,000.00 worth of jewelry was stolen from our stateroom, 3020, on the evening of June 2nd and reported to

the ship personnel on the morning of June 3rd when we discovered the jewelry was missing. The enclosed signed, handwritten,statement -- on a form given to us – was filed with the ship's Chief Security Officer, William MacLaughlin, who conducted a search of our room with Chief Housekeeper Ann Marie. They did not find the jewelry, which was in a small satin turquoise jewelry pouch.

We were told by Luis Martins, Guest Relations Manager, that our statement and the Chief Security Officer's report about the cabin burglary were being forwarded to Royal Caribbean International in Miami and we should contact them upon returning home. We asked him for a copy of the Security Chief's report; he said he could not give that to us. He told us there was nothing he could do for us on the ship, but we shouldn't worry and should continue enjoying the cruise, because Royal Caribbean had a reputation for "doing the right thing".

In a detailed, written statement, we reported the burglary to Royal Caribbean Representative Betty Taillefer, Personal Property, Guest Relations, in Miami, on June 9th, the day after we arrived home. Pursuant to our phone conversation with her, in which she told us she had not received any papers from Empress of the Seas, we faxed her a copy of our shipboard statement along with additional statements made to her that day and again faxed her additional information to strengthen our case for reimbursement on June 29, 2004.

Ms. Betty Taillefer, sent us the enclosed form letter, dated June 30th, 2004 in which she dismissed company responsibility, officially referring to the theft as the "unfortunate incident". The letter referred us to the terms of the cruise documents. We are RCI file number #NE 05/29/04 BK3156907.

We then sent a letter to the President of Royal Caribbean International, Mr. Jack Williams on July 12, 2004 requesting a mutually acceptable agreement by August 2, 2004. He did not respond to the letter, but we received a second copy of Betty Taillefer's form letter (enclosed), this time dated August 10th.

We reported the theft to the Federal Maritime Commission on August 4th, received a file number 04-A-6-642. Pearl Carr-Notice (202 523-5807), of the FMC informed us that the agency sought to act as an intermediary and work out solutions, but it had no coercive power to do so. On January 26, 2005 Ms. Carr-Notice said she contacted Betty Taillefer on January 25th and Ms. Taillefer referred her to the cruise documents. Ms. Carr-Notice told us she requested Ms. Taillefer to send her a copy of Security Chief' MacLaughlin's report, but it has not been forthcoming and now Ms Taillefer, as of a letter to Carr-Notice received on February 10, 2005, In a letter faxed to Ms. Carr-Notice (copy enclosed), dated February 9, 2005, Ms Taillefer, asserted: ***"WE HAVE CONTACTED OUR VESSEL AND NO NOTICE OF INCIDENT WAS REPORTED ON BOARD."***

More than nine months after we reported the burglary to Ms. Taillefer of RCI, which included our handwritten statement on the RCI-generated form, she informed the Federal Maritime Commission that "no notice of incident was

reported on board." ***Closely examine the*** **enclosed handwritten form which we filled out on the ship with the aid of the Chief Security Officer—and which we sent Ms. Taillefer early in June 2004.**

At this point we wish to know whether indeed RCI was legally required to notify any agency of your government that a theft had taken place in our cabin. Could you kindly send us the name and address of the agency?

Sincerely yours,
P.S. We will provide any additional documentation we have, should you wish.

(NO RESPONSE WHATSOEVER)

Ira M. and Myrtle S. Leonard[redacted]
[redacted]n
Hamden, Ct 06518
May 11, 2005

Robert L Darbeinet, President and CEO, AAA
1000 AAA Drive
Heathrow, FL 32746

Dear Mr. Darbeinet:

As we are about to commemorate the anniversary of our shipboard theft, last June, we decided one last time to try and reason with AAA.

But first, here is the most recent Royal Caribbean International display of contempt for its "guests".

***

On April 20, 2005 we sent the following request to Captain Howard Newhoff, RCI Security Manager about the theft of $7,000 dollars of jewelry from our Empress of the Seas' cabin in June 2004.

> Please send us the name and address of the appropriate individual in the agency of the Bahamas Government agency to which RCI was required to send this information or in the Federal Bureau of Investigation.
>
> Please send us a copy of the official report of the theft by the then ship's Chief Security Officer, William MacLaughlin.

A week later, RCI's Betty Taillefer called to inform us that RCI (and other cruise lines using American ports as well?) *do not have to report thefts below $10,000 to any law enforcement agency*! We asked for her comments in writing and you have a copy.

Since RCI never reported the grand larceny on its cruise ship to any law enforcement agency, there was, in effect, no crime perpetrated—this simply cannot stand!

According to Ms. Taillefer's several form letters, RCI not only has washed its hands of a grand larceny perpetrated upon two of its ship's "guests," but still suggests we go elsewhere to make it right

We wonder: Had we bought the AAA Travel Insurance offered when we booked, would our under $10,000 theft have been covered—or that of any AAA member on a cruise?

Were you aware of this $10,000 theft threshold when we wrote you on March 19, 2005 or when we responded on April 19, 2005 to Karen Dunn's e-mail, with hard copies to you and Mr. Sutherland?

Had we known about the frequency of shipboard thefts, the lack of a sense of responsibility by RCI, and that grand larcenies of less than $10,000 were never reported to law enforcement agencies, we would never have carried any jewelry aboard the *Empress of the Seas.*

None of this was made clear when we booked with AAA.

***

We wonder:

Did AAA management and personnel know that shipboard thefts are quite common and that the cruise lines would deny any responsibility when the security broke down? If AAA management and personnel knew, how, in good conscience, could AAA not provide clear, cautionary statements, in writing, about these dangers, before it books its members on cruises or in the materials accompanying the CRUISE DOCUMENTS? If AAA knew but did not say, it is an unconscionable way to do business.

If, however, the grand larceny perpetrated upon us while on an RCI ship is very unusual, then why is AAA seemingly so reluctant to intercede on our behalf with RCI?

***

Here is part of the letter we *just* sent to Captain Howard Newhoff, RCI Security Manager:

"As you are undoubtedly aware, the theft of $7,000 is grand larceny in every jurisdiction in the United States and we plan to make a full report of this crime to the Bahamas Government, the FBI, and any other appropriate law enforcement agency since there might be some possibility that the jewelry might be found and the criminals captured. Since the crime was never officially reported by RCI to any law enforcement agency, there was, in effect, no grand larceny perpetrated—this simply cannot stand!

"Toward that end, I would like you to send me a copy of then Chief of Security William MacLaughlin's report of his investigation of the grand larceny scene, the cabin-lock recorder, and ship personnel after the theft happened which we will forward to the above mentioned agencies.

"I am certain you and RCI want to cooperate with the reporting and investigation of the grand larceny perpetrated upon two RCI "guests" while on the *Empress of the Seas*. Not to do so might, in some quarters, be regarded as obstruction of justice."

***

NOW TO THE CENTRAL ISSUE WHICH AAA AND RCI REFUSE TO DEAL WITH BUT SIMPLY WILL NOT GO AWAY:

As we have repeatedly told you, the burglary of our cabin and the grand larceny occurred because of negligence and security lapses by ship personnel and policies of RCI which we detailed and documented in statements to the ship's Chief Security Officer and which were all sent to Ms. Betty Taillefer in June 2004. This file (RCI file, # NE 05/29/04 BK# 315690) has been available to President Jack Williams (to whom we sent a letter to in July 2004 only to receive the second form letter from Ms. Betty Taillefer referring to "our unfortunate incident" (because the RCI Cruise Document made it possible to disclaim responsibility), and RCI Vice President Adam Goldstein.

An attorney in Florida examined the entire file and concluded that the ship personnel were "negligent" (and because of the RCI Cruise Document we would stand virtually no chance trying to take on RCI in Florida), as did a Connecticut lawyer and several travel agents we consulted. He wrote to RCI President, Jack Williams with a copy to Adam M. Goldstein, Executive Vice President on November 30, 2004, detailing his reasons for the negligence characterization and requested a response to our request for a settlement because of Royal Caribbean's "negligence" and the lack of ship-board security procedures. That letter, too, was ignored. . (Let us not forget that more than nine months after we reported the burglary, Ms. Betty Taillefer of RCI, informed Ms. Pearl Carr-Notice of the Federal Maritime Commission on February 9, 2005, "We have contacted our vessel and no notice of incident was reported on board.")

Virtually all of this information was sent to you, Mr. Darbeinet, on March 19, 2005 — and we specifically requested you to follow this up with RCI. What we got was Mr. John E. Martin's sorry-AAA-booked-you-on- RCI-but-AAA-can-do-nothing-about-it letter. AAA with millions of members and which books thousands (?) of them on RCI cruises can do nothing, said Mr. Martin, because RCI considers the case "closed." Mr. Darbeinet, that was precisely why we wrote to you in the first place.

For the last time, here are the salient details. *How do you think these details might be regarded by objective observers?*

SAFES

There was no safe in the room. Royal Caribbean's constantly referred-to official Cruise Document said "most rooms" had safes. We found out most rooms did not and that was confirmed by Louis Martins, Guest Relations Manager. A passenger from Huntington, LI said she had called in advance of the sailing and was told her room would have a safe. It did not. In order to use the limited amount of safes in the Guest Relations area, one had to stand in the long guest relations line to have access. This was extremely inconvenient each time one wanted to change a piece of jewelry. Most of the passengers I talked to felt the same way. By the end of the trip, when word of the burglary got around, many passengers were carrying their jewelry around with them.

When I asked our steward about the safes, he said the room was secure because it could only be entered with the key cards. The steward said there were only three people with access to the room: my husband, me and himself.

MULTIPLE KEY CARDS

I was issued multiple key cards over a period of two days in order to have proper access to my stateroom.

A. The first key card was issued to me in Bayonne, N.J. as I was about to board the ship. This card didn't work and the steward sent me to Guest Relations. After standing in line for over a half hour, I turned in the card and received a new key card from Nadine.

B. When I later discovered the second key card didn't work, I returned to Guest Relations and waited in line another half hour. I was asked if I had changed rooms because the key card I had been given was for someone else's room in the 35 section of the ship (I was in the 30 section). I stated that I had not changed rooms. After some discussion between the two men on duty, I was given a new card and turned in the old key card.

C. I was successfully using the third card until I realized my husband's name was on the key card instead of mine and my name needed to be there in order for me to leave and board the ship. I returned to Guest Relations, stood in line for 18 minutes, turned in that card which worked, and received a fourth key card.

D. It took four key cards to have valid access to my room.

THE KEY CARDS CONTAIN THE ROOM NUMBERS AND SEATING TIME OF DINNER

The key cards had the last 3 digits (020) of our four digit room number (3020) on them as well as our dinner seating time of 8:30. Anyone with knowledge of the ship would know exactly when we would not be in our room and could try 3020, 4020, etc. On a previous cruise on Enchantment of the Seas, our key card had the whole room number on it. None of the key cards we returned were destroyed in front of us. Chief Security Officer MacLaughlin told us that they should have been destroyed in front of me. On the Saturday after the burglary, at approximately 3pm, I noticed a staff member in the Guest Relations area cutting up key cards into little pieces. Several other guests noticed it too.

THE KEY CARDS WITH ROOM NUMBERS ON THEM ARE ALSO USED AS CREDIT CARDS ON BOARD AND ARE HANDED OVER TO PERSONNEL WHO WALK OFF WITH THEM TO RECORD TRANSACTIONS.

On Monday, May 31st, we ordered drinks in the Schooner Lounge at 11 p.m., handing our key card to to the waitress. When neither the drinks nor the card had arrived by 11:45, we went looking for her. She said she had asked another person to deliver our drinks. As a courtesy for the inconvenience, we were not charged for the drinks. However, there is a grave question of security here since the card with our room number was out of our presence for 45 minutes.

REPORTING THE BURGLARY

Even here, proper ship procedure was not followed by personnel. After discovering the theft, my husband and I spent two hours going through everything over and over as we did not want to make any false accusations. The steward helped us move furniture and turn over the mattresses. When we didn't find the missing pouch, the steward sent us up to Guest Relations to report it at approximately 11:45 am. Nadine, in Guest Relations, said we'd probably find it and if we didn't, she'd report it to security that evening. We

told her we had been through everything over and over, but she insisted guests usually end up finding their missing things. When we returned to our cabin, the steward was very upset and said, "We can't wait 'til tonight. That's not proper procedure." He notified his supervisor, Cathy Munro, who came down and took some information and I filled out a form for her. We were arriving in Hamilton at this time (approximately 2pm). Because we booked a 2:30pm tour, we gave her permission to search our room with security personnel while we were not there. When we returned at 5:30 pm, the room had not been searched because the Chief Security Officer William MacLaughlin said we had to be there. Then the Chief Security Officer and Chief Housekeeper Ann Marie did the search. They both said the search should have been called for in the morning as soon as I reported the robbery.

We were told by Luis Martins, Guest Relations Manager, that our statement and the Chief Security Officer's report about the cabin burglary were being forwarded to Royal Caribbean International in Miami and we should contact them upon returning home. We asked him for a copy of the Security Chief's report; he said he could not give that to us. He told us there was nothing he could do for us on the ship, but we shouldn't worry and should continue enjoying the cruise, because Royal Caribbean had a reputation for "doing the right thing".

We feel the incidents described above are signs of negligence and lack of concern for passenger security by Royal Caribbean. If we were given a key to someone else's room, how do we know someone wasn't given one to ours? The third key card that worked and contained our room and dinner information was not destroyed in front of us. What happened to it? What can happen when key cards are given to transact purchases and are out of sight of the passengers or "guests" as RCI likes to call us ? Aside from the theft, what about the inconvenience we endured standing in lines because of staff negligence issuing 4 key cards to have valid access to our room? Another concern is if someone has access to the room to steal something, can they not come in and plant something---what kind of security is that? RCI officials Betty Taillefer, President Jack Williams and Executive Vice President Adam Goldstein refused even to discuss or take any responsibility for the conditions that made the jewelry theft or the "unfortunate incident," as they refer to it, possible.

***

All of these things happened to us while we were "guests" of Royal Caribbean International. Several other passengers have indicated they will confirm our account of the events leading up to what Ms. Taillefer later characterized as "our unfortunate incident".

A travel agent we recently met while attending a wedding in DC, upon hearing our story, immediately suggested we send this information to *Travel Weekly,* of which he gave us a copy. He felt most travel agents would not want to book their clients into our situation, especially with *multiple key cards*, etc. and then be treated so "contemptuously by the parent company" (his words).

***

Lastly, the shipboard breaches of security could have enabled smugglers to deposit contraband of varying kinds in our cabin prior to our entering the New York City-Bayonne, New Jersey port facilities. To repeat: if someone has access to the room to steal something, can they not come in and plant something—what kind of security is that? This represents a potential threat of significant proportions.

***

ALL WE ASK OF AAA, OF YOU MR. DARBEINET AND NATIONAL AAA MANAGEMENT, IS TO

1) PERSUADE RCI TO DO THE "RIGHT THING" FOR US;

2)PERSUADE RCI TO CORRECT ITS METHODS OF DEALING WITH VICTIMIZED
"GUESTS;" AND,

3) PERSUADE RCI TO SOLVE THE SHIPBOARD SECURITY PROBLEMS WE ENCOUNTERED,
IN THE INTEREST OF FUTURE AAA-BOOKED MEMBERS AND OTHERS ON RCI CRUISES.

We have repeatedly informed you of the security and other problems we encountered as guests booked by AAA on Royal Caribbean International cruise line, which is now part of our file.

Sincerely yours,

Cc: Karen Dunn, Coordinator, AAA National Member Relations
William Sutherland, Vice President, Travel
John E. Martin, Southern New England AAA Director of Member Relations

P.S:
Why aren't all passenger-documented crimes (thefts and injuries, etc.) required to be reported?

With the availability of the internet, we feel there should be a website for passengers and their travel agents to report **documented** thefts of any amount and crimes aboard ships in order to have reliable statistics available to potential cruise passengers.

We will be asking our congressional representatives for their help to create such a mechanism in order to protect citizens. This information should be on line for potential cruise line passengers (and their travel agents)to consider when choosing a ship or cruise line.

An example is ebay's feedback system.

Sandra S. Hughes, CTIE
Vice President
Travel Services

1000 AAA Drive
Heathrow, FL 32746-5063
Phone: 407/444-7871
Fax: 407/444-7806

July 26, 2005

Mr. and Mrs. Ira M. Leonard
[redacted]
Hamden, CT 06518

Dear Mr. & Mrs. Leonard,

Thank you for your letter regarding your loss on the Empress of the Seas. We sincerely appreciate your patience as we reviewed your claim.

At our request, the passenger contract, Royal Caribbean policy and the handling of your claim were reviewed at the highest level management at Royal Caribbean. All parties are in agreement that the claim was reviewed properly and acted upon appropriately. Please be assured that AAA management has conveyed an ardent message of concern in this matter directly to Royal Caribbean. As a reminder, our relationship with Royal Caribbean is not one of authority in this matter.

We do agree that a $10k limit on reporting thefts may be perceived high and we are encouraging Royal Caribbean to re-evaluate its policy to reduce the threshold levels so a claim like yours would be passed along to the proper authorities.

With respect to the multiple card keys produced for your room, we have verified that when a new card key is produced, the previous card key is deactivated as a security measure. The absence of your card during a transaction with the cocktail waitress would have been a matter for the immediate attention of the ship's management at the time of occurrence.

Please know, we survey all AAA clubs on a monthly basis as to the service, quality and product of each preferred travel partner. Royal Caribbean consistently delivers high scores for guest experiences and we have no reason to believe that your loss was typical or a recurring pattern on Royal Caribbean or on any of AAA's preferred travel partners. While the risk of loss is present in any situation, it is ultimately the responsibility of the traveler to protect their valuables as they see fit through the use of available services such as a ship's safety deposit box in the purser's office.

Again, we understand the frustration about your loss, but are unable to provide any further assistance in this matter.

Sincerely,

Sandra Hughes

Sandra Hughes, CTIE
Vice President, Travel Services

c: Robert L. Darbelnet, President & CEO, AAA
Scott Campbell, Manager, Cruise Relations, AAA
Karen Dunn, National Member Relations, AAA
William Sutherland, Vice President, Travel, AAA Southern New England
John Martin, Director, Member Relations, AAA Southern New England

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William Sutherland, Vice President, Travel, AAA Southern New England
John Martin, Director, Member Relations, AAA Southern New England

Mr. SHAYS. Mr. Mulvaney.

STATEMENT OF BRIAN MULVANEY

Mr. MULVANEY. Good afternoon. I am appearing before you today to tell you about a terrible tragedy which happened to a beautiful young girl, Lynsey O'Brien. I want to tell you about this tragedy and how it could have been avoided and urge you to consider passing a new law to prevent it from happening to any other family.

I am a childhood friend of the O'Brien family. We grew up on the same street. The O'Brien children and my children are lifelong friends. The O'Briens traveled from Ireland to the United States to visit with us before we took off on a cruise from Fort Lauderdale and returned to Fort Lauderdale.

The O'Briens brought with them four children and returned with only three.

Lynsey, who was a vibrant 15-year-old girl, died as a result of a bartender on the Cost Cruise line serving her excessive amounts of alcohol, more than 10, knowing she was a minor. This bartender served these drinks despite the bold statement in the passenger contract that "no minor will be served alcohol under age of 21 years old." There were signs all over the ship to the effect that alcohol will not be served to any persons under 21 years of age. Despite those warnings and signs posted, Lynsey was served more than 10 drinks and died on January 5th as a result. The alcohol affected her so much, she was so intoxicated that it was reported she was vomiting over the balcony and fell overboard.

Through this tragedy, I have come to learn how difficult it is for victims and their families to seek justice. I know of no other commercial enterprise afforded such blanket coverage as the cruise industry. If alcohol is served to a 15-year-old in the United States, the bartender would be arrested, prosecuted, as well as the proprietors of the business and their liquor license would surely be revoked from the premises. Just because this action took place on board a ship should not insulate the bartender and the company from being held accountable for their criminal conduct.

The message must be delivered to the cruise lines that if they take passengers from a U.S. port, they are responsible to return them safely or be held accountable if they commit crimes or acts of gross negligence. I cannot imagine a worse crime than plying a 15-year-old girl with so much liquor she literally died as a direct result. What makes this utterly unbearable is that the cruise ships believe they have limited accountability for their actions.

There can be no moral argument to changing this law, only commercial. The shareholders demand great protection and receive that. Why not the lifeblood of the industry—we, the passengers? I do not support overregulation of private industry. What I do support is a victim's right to a full and fair account of their unfortunate circumstance and their ability to seek justice without being prohibited by laws enacted prior to the sinking of the Titanic. The pleasure cruise industry has grown today and was not envisioned to be this great by the sponsors of this law when it was originally enacted. This is a growth industry. The percentage of victims may not change; however, the number of victims certainly will over the future.

We encourage people from other countries to come to the United States and enjoy our country. We encourage people from other countries to spend money here. My childhood friend, Paul O'Brien, sought help from the FBI and was told that there was nothing that can be done because they were not U.S. citizens. The United States needs to change its laws so that cruise ships coming and going from U.S. ports such as this are held accountable to all people traveling on those ships.

Nothing can bring Lynsey back, but by changing the law, perhaps we can save another family a lifetime of anguish without their loved one.

What we ask of the subcommittee is for you to put into place policies and procedures on these cruise lines with teeth in them, not just signs that are window dressings, to be sure that alcohol is not served to minors. Cruise ships who pick up passengers in the United States should be protected by U.S. law so the FBI will have jurisdiction to investigate and determine if criminal law has been violated and so the violators should be prosecuted. The DOHSA should be amended retroactively, like the one following the airplane disaster, so there is responsibility to the cruise ships, the only real means of deterrence.

On behalf of the O'Brien family, I would like to thank you for allowing me to speak today.

[The prepared statement of Mr. Mulvaney follows:]

STATEMENT OF BRIAN MULVANEY, A FAMILY MEMBER OF LYNSEY O'BRIEN, A FIFTEEN YEAR OLD GIRL WHO DIED WHILE ON A CRUISE

I am appearing before you today to tell you about a terrible tragedy which happened to a beautiful young girl, Lynsey O'Brien. I want to tell you about this tragedy and how it could have been avoided and urge you to consider passing a new law to prevent it form happening to any other family.

I am a childhood friend of Paul O'Brien. We grew up on the same block. The O'Brien children and my children have all been raised as family together. The O'Brien's traveled from Ireland to the United States to visit with us before we took off on a cruise from FT Lauderdale and returning to Ft Lauderdale, Fl.

The O'Brien's brought four children on the vacation and cruise with them—they returned with only three children.

Lynsey O'Brien, a vibrant, 15 year old girl died as a result of a bartender on the Costa Cruise line ship Majica, serving her excessive amounts of alcohol (more then 10), knowing she was minor. This bartender served these drinks despite the bold statement in the Passenger Contract that no minor will be served alcohol under the age of Twenty One years old." There were signs all over the ship to the effect that alcohol will not be served to any person under 21 years of age. Despite those warnings and signs posted, Lynsey was served more then 10 drinks and died on January 4th as a direct result of this liquor. The alcohol affected her so much – she was so intoxicated that it was reported she was vomiting over the balcony and fell overboard.

If alcohol is served to a 15 year old in the United States, the bartender could be arrested and prosecuted as well the proprietors of the business and the liquor license would surely be revoked from the premises. Just because this action took place aboard a ship , should not insulate the bartender and the company from being held accountable for their criminal conduct.

The message must be delivered to the cruise lines that if they take passengers from a United States port, they are responsible to return them safely or be held accountable if they commit crimes or acts of gross negligence. I can't imagine a worse crime than plying a 15 year old girl with so much liquor she literally died as a direct result. What makes this utterly unbearable is that the cruise ships believe they have no accountability for their actions.

We encourage people from other countries to come to the United States and enjoy our country. We encourage people from other countries to spend money here. My childhood friend Paul O'Brien sought help from the .F.BI and was told that there is nothing they can do because Lynsey was not a US citizen. The United States needs to change its laws so that cruise ships coming and going from US ports such as this are held accountable to all people traveling on their ships.

Nothing can bring Lynsey back to us—but by changing the law perhaps we can save another family a lifetime of anguish without their loved one.

Respectfully Submitted,

Brian Mulvaney

Mr. SHAYS. We thank you for your testimony. We thank all of you for your testimony. We will look forward to the dialog we will have.

I am going to be calling on Mr. Lynch first, and then, Mr. Duncan, if you would like to go second. I am going to have the staff ask some questions, and then I will be asking questions.

Thank you. Mr. Lynch, you have 10 minutes.

Mr. LYNCH. Thank you. I appreciate that, Mr. Chairman, and at the outset I want to thank you for taking the leadership on this issue, and I commend you for your continued efforts to improve security and incident responses and investigation aboard international cruise ships.

In addition, I want to just take a moment to thank the witnesses because it is your powerful testimony here today that will eventually lead to changes. And we have a situation here that you have brought to the notice of the U.S. Congress and others that the heart of our problem here is that in each and every incident that was described here today, the cruise line themselves has control of the crime scene. They have control of the employees. They have control of the evidence. They have control of the notification of law enforcement authorities. And this situation has arisen haphazardly. It is because there has been a lack of focus on these very issues, and in some cases, it is because the incidents have been deliberately concealed from the public until you have testified here today and in other cases previously, and you have had the courage to come forward. I know it is very difficult for you in many cases to talk about your loved ones, Mr. Carver, Ms. Kelly, and others. And I appreciate the difficulty that must present to you. And I can only pledge my energies to try to help come up with a plan, along with the chairman, to try to introduce some law and order on these ships so that we can feel safe when our loved ones go on a cruise.

But, Ms. Kelly, I just wanted to ask you, after you reported the crime in your case, do you know of any actions that the ship's security officers took in response to your particular complaint?

Ms. KELLY. No, I know of nothing until it—well, it was a process, but what I did is I notified the authorities right away when I got home, and then I just assumed, like in America, that once you report something, that there was going to be followup. It was actually a couple weeks before the FBI actually went on—actually, no, no, no. It was 2 weeks before they came out and interviewed me, and then I just kept calling and trying to get answers as to what was going on. You know, and you would get no response. And then it was 2 months before they went in and actually interviewed him, but there was no prosecution. I mean, they did not prosecute him.

Mr. LYNCH. Was there any explanation given to you after you reported it, after the assailant was interviewed, he remained employed for a while until you brought—as I understand the record, it was not until you brought the civil suit——

Ms. KELLY. That is correct.

Mr. LYNCH [continuing]. That he was actually discharged.

Ms. KELLY. That is correct. If I had not done what I did—and it was my one and only lawsuit. I don't believe in suing people, truthfully. I mean, I am not going to sue over a hot cup of coffee. This is not in my nature. But had I not done that, he could have

still been working there all these past 6 years. It was only because of that action that he was actually terminated. Law enforcement totally failed me. I am sorry, but it did. And, actually, there was an investigation—or when I wrote Senator McCain, he forwarded my letter to the FBI, and they have some oversight—I don't know the name of who, you know, looks into their investigations to make sure that the FBI is doing their job properly. And they just determined that there was very little they could do because the individual did not deny it. He admitted it. But he said it was consensual. Well, it was not consensual. I was raped.

So, rape is a bad crime, and unfortunately it looks like you are the bad person. But, you know, so that is basically what happened.

Mr. LYNCH. I appreciate your courage in coming forward.

Ms. KELLY. Thank you. Let's just hope it does some good.

Mr. LYNCH. I really do.

May I ask you—and you may not be aware of this—did the FBI disclose if there was a mutual assistance agreement, a memorandum between them and the registered jurisdiction in this case?

Ms. KELLY. Repeat that again?

Mr. LYNCH. What flag were you flying under in terms of your ship?

Ms. KELLY. Because of—when I sued civilly, one of the terms of my statement was that I was not at liberty to disclose the cruise line.

Mr. LYNCH. OK, OK. I am sorry.

Ms. KELLY. No, that is OK. The cruise ship—no, I need to say that because I want it on record, or the terms of the settlement.

Mr. LYNCH. OK. I can get that from another source.

Ms. KELLY. But you know what? Like I said, no regrets, because had I not done it——

Mr. LYNCH. Oh, absolutely. Undoubtedly——

Ms. KELLY. But it would have been easier to bury my head and just tuck my head in the sand and say that it did not happen. That would have totally been the easier way to take.

Mr. LYNCH. OK. Mr. Chairman, I know you have questions. I am going to yield back.

Mr. SHAYS. Thank the gentleman. At this time the Chair recognizes Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Shays. I have appointments set up every 15 minutes this afternoon, with more still to come, before I knew about this hearing. But I did read the testimony of all of the witnesses, and certainly each of the witnesses has had a very terrible tragedy occur. I have four children, and I have always heard the worst thing that can ever happen to anyone is to outlive one of their children, and I certainly sympathize with that.

The only thing that I see is that, I mean we should be able to agree on some steps, like immediate notification of crimes and things like that. Maybe there should be some sort of requirement about signs being posted on these ships that would say something to the effect that while the incidence of crime on ships is extremely, extremely low, if you are the victim of a crime, that it is to be reported immediately to the ship's captain, and immediately reported by them to the authorities on shore, and there may be some other steps that we can take, but certainly, we want to do what we can

within reason, whatever that might be. That is all I have, Mr. Chairman. I do not really have any questions.

Mr. SHAYS. Thank the gentleman, and I agree with him, I agree with you and your points. Let me at this time recognize our counsel and the director of this subcommittee for some questions, and then I will be having some questions.

Mr. HALLORAN. Thank you. Mr. Mulvaney, Mr. Leonard, Ms. Kelly and Ms. Shaffer, as witnesses who actually were on a cruise, could you describe for the subcommittee what you knew about security when you got on the ship. Was there written information provided to you? Were there signs or pamphlets? What kind of security awareness did you have when the cruise started as opposed to when it ended?

Mr. MULVANEY. We had no idea of the dangers involved in a cruise, and it was only enforced after this incident, looking back on it, that you see the shortfalls within the cruise industry. And I was under the assumption that it was a safe environment. You heard one of the Congress Members mention early on about a party ship. What we actually went on was a family cruise vacation on a family cruise ship. we didn't go on a party ship, and——

Mr. HALLORAN. If as you are sailing and there was an incident, you saw something wrong, maybe you smelled marijuana or thought you saw a crime happening, was it clear to whom you would report that? Was there somebody——

Mr. MULVANEY. No, no. Neither was there any education or any literature on getting on the cruise ship, which if something was to occur, also like a man overboard policy or whatever it may be, who you actually notify or what went on, that was part of our confusion and problem on the evening our incident happened. We ended up ringing guest services. We didn't know who to get in touch with.

Mr. HALLORAN. Mr. Leonard.

Mr. LEONARD. We had no idea about specific security issues. We were lulled into believing that this was really secure, as is evidenced by the fact that we never took jewelry or anything valuable when we went on a trip to Europe or anywhere else. So the jewelry that my wife took, she took because we had been assured there would be a safe in the room, this was a secure ship. I brought my tux because we were lulled into this idea, seduced into this idea there would be formal nights and there would be fun, and everything would be secure. Then, lo and behold, there was no safe, although the ship was completely refurbished a couple of months in 2004 before we got on it. It had been the Nordic Princess, then it became the Empress of the Seas. So at least 30 to 40 percent of the ship, according to the Guest Manager, Luis Martins, didn't have safes, and so it was a question then of going up for a half an hour at least to Guest Security, waiting in a line to put anything into the safe, and then waiting for another half an hour to take anything out of the safe, and, frankly, we didn't get on the ship in order to be waiting on lines to put things here and there.

So we were very secure when after the burglary we reported it, and then 6 hours later everything started to fall apart. They could not secure the room and investigate for 6 hours.

Then when the Secretary Officer, Mr. MacLaughlin, came in, he said that there should have been things done differently.

Mr. HALLORAN. But before the robbery, was it clear who Security was on the ship? Could you——

Mr. LEONARD. No, no, absolutely not. I guess it is supposed to be even after September 11th obscure so that terrorists are not aware of how they might be surveilled, but I didn't notice anything. The only place that I ever had a sense that there might have been some big, large guys looking, was in the casino. Other than that, I never had a sense that there was anything. It was all very unobtrusive. There was no sign anywhere. There was nothing in the cruise documents, although we are now absolutely convinced that there should be a sign on every cruise ship, "Enter at your own risk," and that AAA and all other bookers should provide information that you should be aware that a ship is not completely secure, and you can be robbed or raped or brutalized, and that you might not have any recourse because the company has protected itself by requiring you to sue them in Miami, FL or in their headquarters, which makes suing rather expensive.

Mr. HALLORAN. Ms. Kelly.

Ms. KELLY. Thank you for asking that question. I didn't get a real strong sense of security. They have you sign all these disclaimers when you get on. I am like, what the heck? I thought, well, we are going to have some fun here. But, you know, even the paperwork that they have you sign is very intimidating.

I remember something about seeing something about a doctor when I got to the room. I don't remember if it was something posted or if I read it. My particular incident, when it happened, it was the night before, and then when I woke up that next morning, I was so traumatized, if I could have crawled underneath the carpet, so help me, God, I would have. And I was afraid for my own safety. So even though I had read or saw somewhere that there was a doctor on board, I would be damned if I was going to go to him.

So, in retrospect, even though I didn't report it on the cruise line, I am glad I didn't. I think I did right. My instincts served me right by just getting off there, and everything in my instinct said "Get off and get out of there in one piece," so that is what happened.

Mr. HALLORAN. Thank you.

Ms. Shaffer.

Ms. SHAFFER. I really can't remember. That wasn't my complaint, about the lack of security. It was the way it is handled, their procedures of how they handle, and how they cover up, and how they listen to you to find the loopholes to cover up what happened so that they continue to look good.

Mr. SHAYS. I am not clear by your response. They look for ways to?

Ms. SHAFFER. They look for ways to weasel out of taking responsibility for helping solve the crime.

Mr. SHAYS. Can you give me an example of what you mean?

Ms. SHAFFER. Well, for instance, when I took my daughter 3 days in a row, asking for an examination, a rape examination, and the doctor would just sit and stare at me, and sit and stare, and stare, and stare, and stare, and never anything—he said to me that I was traumatizing my daughter.

Mr. SHAYS. Right. Let me ask you this. Your daughter came in to see the doctor, but she was requesting that she not be examined?

Ms. SHAFFER. No, she wasn't requesting. She was just in denial that she had been raped. She was——

Mr. SHAYS. Just so that I can see the scene.

Ms. SHAFFER. She did not refuse to be examined.

Mr. SHAYS. Was your daughter with you when you went in?

Ms. SHAFFER. She was with me.

Mr. SHAYS. Right, that is what I thought, but—so she was neither saying yes or no. She was just traumatized.

Ms. SHAFFER. She was just saying no, she hadn't been raped, that nothing had happened. And she was crying, but she was willing to be examined.

Mr. SHAYS. OK. And he or she chose not to——

Ms. SHAFFER. He chose not to.

Mr. SHAYS. Thank you.

Mr. HALLORAN. Mr. Pham, Mr. Carver, in sort of different circumstances, but if you could describe in a little more detail, the problems with getting information from the company about, in the case of your daughter and your parents? In a sense they had lost precious cargo you had put on those ships. What was the explanation that was given as to where your loved ones were?

Mr. CARVER. When we finally got to them, they had disposed of her personal items. If you look at their regulations they say they are to keep items for 3 months. We are talking to them in 3 weeks. We asked up front was there any video of Merrian, and the answer was, "We only keep them for 2 or 3 weeks, and you got here too late."

Mr. HALLORAN. Excuse me. I just want to be clear on that. They actually had videos. They knew your daughter was missing. They had videos and they destroyed the videos?

Mr. CARVER. Well, let me finish the story. In fact, that is what happened. They denied to us that they had videos, and they said they only keep them 2 or 3 weeks and we got there too late. We sent somebody on the ship on November 4th, a detective. They said the same thing. There was no review of the video concerning Merrian, and we only keep them 2 or 3 weeks. But if you look at the documents in my supplemental statements, on their stationery, on September 23rd, Security is reviewing the videos. And if we look at documents written that they wrote on April 9th, the videos are not destroyed in 2 or 3 weeks, they are on a 30-day cycle. So in other words, on the 26th day of a 30-day cycle, they were looking at the videos.

Mr. SHAYS. Let me ask you this. Did they say any of this in writing?

Mr. CARVER. It is all in writing.

Mr. SHAYS. So their own information——

Mr. CARVER. Yes. We have their own internal documents. They are sitting on the table over here, where they are reviewing the videos, which they said they did not review, and it is all documented. Very discouraging. And, of course, those documents which we have brought, they are talking to the steward. Three times he is talked to by the head of the hotel, saying, "Do not discuss this with anybody. It is a serious problem." And he is reporting that to the management in Miami, FL.

Well, for us to finally get to that individual took us until January 16th to get his testimony, only after we had gone to court, gotten court orders, because they were clearly setting up in the 3rd week in September, the cover over, and they also discussed how they are disposing of her items. Now, why would you dispose of items, a brown manila envelope, putting them maybe in lost and found—they don't know what they did with it—why would you destroy it? They knew who the passenger was.

Mr. HALLORAN. So you first contacted the company at what level?

Mr. CARVER. Well, we called Miami. Then a representative of risk management came back to us the third week in September.

Mr. HALLORAN. And then what, and then the lawyers got involved? Because Mr. Leonard describes another kind of series of people and offices he heard from. Did you hear from a number of people in the chain?

Mr. CARVER. Well, we basically were talking to a woman named Katie with risk management. She was the go-between, literally telling us lies for the whole time. She was the one person that everybody zeroed into. When detectives went to her in October, said, "Was there any incident on this ship that the steward have reported?" She said, "No, absolutely none." There is a copy of a letter that I wrote to the board of directors giving her quote to our detective. They wouldn't even tell us the name of the steward. But she was clearly, I can only say, lying to them, because in fact, they had talked to them. There had been a hearing on the ship. They had fired the supervisor for gross dereliction of duties, and she is pretending that nothing happened.

In a report to the FBI, dated September 30th, she makes a statement, "There was no Oscar, Oscar, Oscar emergency on the ship." Well, there had been. They lost a passenger. They had had meetings, and yet that is what she is reporting to the FBI. It is my understanding, to write a misleading statement to the FBI is illegal, to deceive them. That, in and of itself is a crime.

Mr. HALLORAN. It is called obstruction of justice in many places.

Mr. CARVER. That is what I said in my report.

Mr. HALLORAN. Mr. Pham, what was your experience?

Mr. PHAM. Well, I have very little to say, because after the ship came back and they washed it, and they loaded the next group of passengers and they said. Since then we heard from them only once. The FBI concluded the investigation the end of August, supposedly couldn't find any foul play. We're still working on getting the detail of that investigation, but pretty much, you know, I don't think Carnival even knew we were there. I don't think they know who we are. I don't think that they know they have two passengers that left with them, paid the full fare, never came back, I don't think so.

The one time I finally got through one time to the office of the president of the Carnival Cruise Lines in Miami and talked to the Customer Service Manager from the Office of the President, and after 2 days, and she said, "Well, let me check with Legal before I can talk to you," and she got back, and now I learned a new term. In the dictionary it is called "lawyer up." Because that is exactly all she cared for when she called me back, to say that, "Mr. Pham, we couldn't tell you what to do. We couldn't tell you what hap-

pened. Very rare. This never happened before." Let me tell you, it happened in December 2004. Somebody disappeared on one of their ship. And they could have told me, "Well, this is what you should do next," and so on. They refused to acknowledge we were there.

You know what? Not a lot of people have the means to go after these cruise lines. My parents lost. They worked very hard for their money, and it is not fair for the State—and for all of us just to find out the truth, we have to hire an attorney, we have to pay all of that money to find out what happened to my mother and my father? That is not the America that we came to that we learned, and so that is all I have.

Mr. SHAYS. Let me just use your comment as just a matter that I want to state for the public record. When we started this investigation because of George Smith and Ms. Hagel Smith, we wanted to know what had happened and how they were treated. And in the course of doing that, Mr. Carver came to our first hearing, and I felt his story was beyond my comprehension, basically a father who has to spend money to find out what happened to his daughter. And all along the way there were breakdowns. It wasn't that the steward didn't do his or her job. Was it a man or woman, the steward, do yo know?

Mr. CARVER. He was a man.

Mr. SHAYS. Did his job, and he reported it to a supervisor. And then we are being told, well, basically, that was a mistake, and he was let go, a serious mistake. You would think at that moment in time, there would be just absolute full cooperation. You would think almost that the head of the company would come on bended knee to you, Mr. Carver, and say, "Whatever happened to your daughter, we apologize. Now, how can we cooperate so that you don't go through any more pain?" Even in fact, obviously, Mr. Carver, if your daughter had committed suicide, but that is irrelevant to your being able to get the facts you need.

So the point I want to make to all of you is, one, we want to help each of you in the cases where it is still outstanding, get all the information. We want to ensure that the cruise line fully and completely cooperates. Their failure to cooperate with you is a message to this subcommittee that they have things to hide, which only means that we will be more vigorous in pursuing this investigation. Their willingness to cooperate with you and with this subcommittee means that we can work together and solve whatever problems may exist.

So, one, I would want you to know that this subcommittee is asking publicly all the ships involved and the cruise lines involved to fully, completely, without hesitation, without any reluctance, cooperate and ease your pain, and help you. But also in the process they will help themselves.

Mr. Pham, the implication that we have received and read was that your mom and dad committed suicide, that their shoes were strategically placed, and it appeared like they just jumped overboard. There is nothing that you have told me that would indicate they would have any reason to, particularly at an event like that event. No note saying goodbye.

Mr. PHAM. As a matter of fact, I was in California a month ago to open—finally, we got the death certificate. I filed a petition with

the Superior Court of Orange County, CA, and I got 5 percent chance that a judge would approve. And instead of waiting for 5 years, I finally got the death certificate and opened the safe deposit a month ago, and everything, everything—and not only that, but——

Mr. SHAYS. Finish everything, everything, what?

Mr. PHAM. Everything was so normal, and they lived their lives, and we have so many unfinished—Mom and Dad had so much unfinished business. One thing I didn't verbally mention earlier, but it is in the record, that last November my parents left—when we left our mother land, our Vietnam, for 30 years, and it took them 30 years to finally have enough closure, enough closure, wanting to go back to Vietnam. I travel there a lot of times for charity work and business, and finally, in December 2004, Mom and Dad said—I asked them again, I said, "Mom, Dad, are you ready?" And I could tell in their voice that, yes, I am going with you next time.

Since then, 2 days before Mom and Dad boarded the flight to Chicago for their vacation, and Mom was on the phone with me and worried about some dumb thing, that, you know, when we arrive in Saigon in November, you know, if the car is big enough for our luggage. For them, waiting that long and go back and see their relatives, that is something that they would not want to leave this Earth before doing that.

And I had the honor and privilege, bringing my parents back, which had never happened to me. It is something that I will never forget the rest of my life. You know, nine grandchildren, and on top of that, after I opened the safe deposit box a month ago and saw everything was normal, the last time my father went in that safe deposit box was in December 2004, so nothing planned. I forgot—I didn't forget. It is in the record also—that we have a grandfather—we left our country without anything, and so family means a lot to us. My grandfather is 94-years-old. He is laying in bed now in a nursing home. He couldn't move. He couldn't speak. And I have no idea what is going through his mind about what happened to his children that never came back to him. Mom and Dad the only people that took care of my grandfather, and now they disappeared, they are gone. And none of us live in California.

You know, we have so many things going for us that, you know.

Mr. SHAYS. So the bottom line to this is there was no indication earlier on, no previous attempts to end life.

Mr. PHAM. You know what? If Mom and Dad did that—and they are not that type—that would be the cruelest thing, to go on a cruise, a mother's day present, with your daughter and your granddaughter and left them. You know, my parents, we—I was waiting for somebody to——

Mr. SHAYS. Let me just say you have the opportunity to say whatever you want. I was thinking of your imagery of having to be in the open sea with your parents leaving Vietnam and how dangerous that was, and the incredible, unbelievable circumstance that finds you on the water again, where your parents are now missing, and the way you appear to be treated. I just want to say to you that we will ask whatever question we need to ask to give you an opportunity to say what needs to be put on this congressional record under oath, under oath.

Mr. PHAM. Well, Mom and Dad look over us all the time, and I know they're looking over me today, and since they left, and so we have access to some information that's very important, I'm sure, to the cruise line, to everybody and to us, that the event happening immediately after the discovery of my parents' disappearance. And so, there's no way I could sit here, or anyone in this room could sit here, with the exception of the representative from the companies that operate these cruise lines, to say that what kind of procedures you have in place, and did you follow those procedures, and why didn't you? Because, see, there's no way for us to find out what happened to Mom and Dad if they goof from the very next second after they were told disappear. And I don't know if they goof on purpose, intentionally, unintentionally. We don't know. And maybe 1 day, justice can be done to our family, where we can sit face to face across and get the truth. And we've heard that word, the truth, over and over and over from that side and from this side. We want to know the truth. We can't change anything unless we know the truth.

Mr. SHAYS. Thank you.

Mr. Carver, let me just put on the record, because it will be stated outside this hearing, your daughter evidently had tried to end her life at a previous time?

Mr. CARVER. Going back several years ago after divorce and—one time.

Mr. SHAYS. So it is not your issue of whether or not she chose to end her life, or in fact, did, it is the issue that once she was determined missing, you and your family should have been notified immediately, and there should have been an effort first to find her, whether or not she had chosen to, if that was the case. So I think it is pretty much on the record. It is just an amazing story, both of your stories are amazing.

Mr. Lynch, would you like some questions?

Mr. LYNCH. Yes.

Mr. SHAYS. Let me give you time to ask questions.

Mr. LYNCH. Thank you, Mr. Chairman.

I would like to ask all of you. I have talked with folks that have been in this situation, and none of them approach the pain and the experiences that I hear about today from all of you, but the nub of this problem is there is no accountability, there is no liability. The incentives for the cruise line to hide information and to conceal information, and to not report, it is a financial incentive for them to do that, because if people found out, it would hurt their business. So there is a disincentive for reporting. There is a gap here. The FBI is not required, in a formal sense, to keep track of every single—even though safety of life at sea gives jurisdiction, and the maritime regs allow the FBI to exercise jurisdiction, the strength of that jurisdiction and their authority often depends upon the memorandum of agreement, the mutual assistance agreement with the individual country whose flag is being flown by that cruise ship.

It seems to me that at the very beginning, and I want to hear your own thoughts on this, but at the very beginning we need to have someone, someone needs to be responsible for reporting these incidents, and there have to be grave consequences, grave con-

sequences, from the captain of the ship to the operator. There has to be grave consequences when an incident occurs and it is not fully reported to begin with.

In talking with other people, and trying to create this accountability, they have suggested different things to me, and I want to hear your input on it. Some have suggested that because there was no U.S. law enforcement on a ship, that there was really no accountability for a U.S. citizen. And people were saying to me, we should have at least one officer on a ship. If they are calling on a port in the United States of America, there should be a U.S. law enforcement person on that ship.

Other people have said that when a ship returns and there is a passenger missing, there should be immediate removal of that captain subject to the investigation, and that would be a serious consequence to the cruise ship line in having their captain removed. Others have suggested, in taking children—and I know a number of incidents have occurred with children—is putting actual tracking devices on passengers when they come on the ship, so that in the event that someone does go overboard, and a couple of witnesses have said, we don't know if they made a mistake or whether there was some deliberate concealment here of the incident, and then they were embarrassed to go back and admit they had made a mistake.

Also, I have heard in a similar case with some of the witnesses here about these confidentiality agreements, and do we simply, in part of our response say, where someone has gone missing, there shall be no settlement that contains a confidentiality agreement that puts a gag on innocent American citizens from reporting a horrible wrong that has been done to them.

Again, going back to the reporting, make sure that it is mandatory, that it is reliable, and that people who are in your circumstance, my sisters, I have five sisters. They take cruises all the time with their kids. They are nuts about it. But in doing something like that with your family, there should be a report card, a report card of the ship line that you are traveling with, so that you can—you know, they have it on the Internet quite a bit now, different companies, a score card, a consumer report on incidents and people who have been—well, people who are very happy with the service they received, versus people who are dreadfully disappointed with the way they had been treated as a customer, and that is another mandatory, sort of shining a spotlight, an open air type reporting requirement that could be available to people.

I want to hear your thoughts in terms of any of those ideas that you think may be warranted, Mr. Carver?

Mr. CARVER. Well, we've proposed many items here, but there is a simple solution that can solve the cruise line problem tomorrow. There's something called a board of directors of that cruise line, and let's take the case of Royal Caribbean. They are under the New York Stock Exchange Rules. They have a fiduciary responsibility, in my opinion—I'm not a lawyer—to protect the safety of the members of the crew.

Now, in the case of Merrian, there's a letter sitting over there. I wrote the board of directors. I gave them the depositions. I proved the cover-up. Now, when you're on the New York Stock Exchange,

after Enron, I don't think you can clearly ignore those issues. You can't just push it down to somebody in risk management and say, "Hey, take care of Carver." You have a fiduciary responsibility for the safety of those passengers, as I see it as a non-lawyer.

Now, they could make changes immediately, and if in fact, they realize that they have that fiduciary responsibility, they might act a little bit quicker. They might take some steps they haven't taken. There's a company called Enron that took a lot of time to cover up the books, and the board said, "We didn't know what was happening." I think the accounting rules have changed. I'm not sure you can do that anymore.

Mr. PHAM. You know, I found something very interesting a couple days ago. I went to the State Department travel Web site, travel warning. And there's a couple warnings there I bet you a lot of people in this room wouldn't know. One is the spring break coming up in the Bahamas area, and one is the spring break coming up in Mexico. You know, that's the duty of the State Department.

Now, why did I look up? Because after my parents' disappearance, I worked a lot with the Bureau of Consular Affairs, try to get presumption of death on the high seas document from the State Department to help us with the death certificate issues. But, you know, what's the difference? If these ships leave our port, bring U.S. citizens into international waters, to other shores and things of that—and these incidents happen on these ships. And if they don't report it, if they don't have to report it, if nobody monitor it, they don't have a—keep the statistics—they don't have to do all those things. Why there's an exemption there? We don't understand. So maybe you can take that into consideration. Thank you.

Mr. LYNCH. Thank you, sir.

Ms. Shaffer.

Ms. SHAFFER. Well, I would just like putting up a big sign when you enter the ship, saying, "Enter at your own risk." I think they're very dangerous. I think the statistics that they have are bogus, and they don't hold up. And it's very dangerous.

What I would like to see is that the public, the general public becomes aware of the dangers, and when you take a trip aboard a cruise, that you're informed of the dangers, and that there's regulations put on children, curfews. Children should not be being served. My daughter was 18 when we were on the ship, and she was getting drunk every night in the disco. She was being served alcohol. So when I was on the cruise, I felt perfectly safe, and so I had no idea of the risks or the dangers, or this would not have happened. I am not a liberal mom. I'm a very conservative mom, and I pay close attention to my children, and this should have never happened. I just blinked my eye, and there it is.

Mr. LYNCH. Thank you.

Ms. Kelly.

Ms. KELLY. Yes, I would like to add a couple things. No. 1, I think that idea of a microchip is just outstanding, just personally. I mean I know this is an outrageous statement, and you're probably going to think it's outrageous, but I mean, there could feasibly be a serial killer on one of these ships. Because they're not reporting to one main data base, and when somebody gets terminated, like in my case, and they just go back to work for another cruise

line, I mean you could have a very serious criminal on one of these cruise ships. So anyway, I just really like the idea of the microchip because I just think that's a good idea as a tracking device.

Also, the U.S. Marshals, just to give you a little bit of background, I have 12 years in banking, and when I was a teller, and I know this sounds simple, but we had these secret shoppers. So when I waited on somebody I didn't know if they were a secret shopper and they were checking me to see if I was doing my job, or if it was just a regular customer. I think by having U.S. Marshals on those ships, even if it's random, I think it would be of great importance because those bartenders, those—I don't know how many, 52, or how many other bartenders are on the ship, they wouldn't know if they were, you know, serving a U.S. Marshal or if they were serving a Janet Kelly. So I just think that would be huge. I think it would just totally raise the accountability. I just think it would be awesome. So that's just my thoughts.

Mr. LYNCH. Thank you, Ms. Kelly.

Mr. Leonard.

Mr. LEONARD. I see that there are really two broad kinds of questions or issues. One concerns cruise line safety and the company's treatment of guests on the one hand and the threat of terrorism on the other. Now, I think to some extent both would be somewhat lessened as a problem if there was an agency to which the Congress directed the companies to provide all documented cases of crime which could then be made available to the general population through a Web site or which travel agents would be aware of.

Second, this would obviously require some sort of change in Federal law, because to some extent it seems the lack of accountability is part of the reason why these things take place, and that lack of accountability seems to be a byproduct of either the companies thumbing their noses at Federal law, or simply that there is a legal twilight zone where they can pick and choose what laws they will follow.

Part of public disclosure would be to make sure that passengers who have a documented case of a crime on shipboard get a copy of their report and the security officer's report, who investigates. Now, the business about the key cards is, I think, rather crucial. When my wife and I were in France in the summer of 2001, we noticed virtually everywhere we were, when you gave a waiter a credit card, he had a little machine, and he ran the card through it right in front of you, gave the receipt, which you signed, and your own receipt, right there and then, so that on ships that kind of technology, which is well proven, should be used so your credit card is never out of your hands when you use it on the ship. Remember, on a ship you are not in a hotel. You just cannot walk away and go down the street.

Now, insofar as terrorism is concerned, I think there has to be, obviously, some kind of tightening up concerning security, and this is at the larger level, the macro level, but also at the micro level. If you can get into somebody's cabin because of a key card being played with, then you cannot only steal property and personal identities, you can also place contraband inside that cabin, which might go off, as it lands in Bayonne, NJ in the Port of New York, or it is smuggled into the country by some unwitting guest on a ship be-

cause he or she doesn't even know there's something in his luggage. So the whole question of control of the key cards and making sure that they are the least likely way to lose your security, that anybody can somehow get into your cabin, has to be ensured. And there is no reason why every bit of information to potential thieves and others is on these key cards, telling them when you're going to dine, so if you know when somebody is going to go and eat, you can know exactly when the person is not going to be in the cabin.

Mr. LYNCH. Thank you, Mr. Leonard.

Mr. Mulvaney.

Mr. MULVANEY. I like the sea marshal idea, and we could charge the passengers for creating employment. But I think the real problem lies with the DOHSA law, and that means accountability of the ships. Some of the current laws have no incentive whatsoever to reform or to do anything——

Mr. SHAYS. Mr. Mulvaney, talk a little slower. Given that he is from Boston, he understands you really well.

Mr. LYNCH. I could translate for you, Mr. Mulvaney. [Laughter.]

Mr. MULVANEY. I will go back to the start. The sea marshal thing I like, and some of the other good ideas, but I think the problem lies with the DOHSA law itself. The DOHSA law affords the cruise industry too much blanket coverage. If you change this the ships have an incentive themselves to enforce certain laws on the ships and make sure that they no longer have that protection. Their insurance premiums naturally will rise. You know what I'm saying? But they will certainly have a fear of going out and doing anything, that if it ends up in U.S. court, they will be held responsible.

As far as somebody on board the ship needs to be in charge. If we have the captain in charge, the captain works for the cruise company. We're going to have the fox minding the hen house. He's there to make a profit for the ship. In Mr. O'Brien's specific incident, you had marked everywhere, "No alcohol served to minors." You had it on the ship's contract, no alcohol. It is the law here in the United States, no alcohol. Yet the ship's bartenders serve minors alcohol. We've heard that statement from another guest here today also.

Mr. LYNCH. Thank you, Mr. Chairman.

Mr. SHAYS. We have two more panels, but I do want to just ask a few more questions, and I thank you for your patience.

Ms. Kelly, I am going to ask you some questions that I do not know the answers to. I am not trying to prove your point or disprove your point, but I do want to understand. I don't want to assume.

Ms. KELLY. OK.

Mr. SHAYS. You say that you were drugged. Was that documented that you were drugged, or you believe you were drugged?

Ms. KELLY. OK, both. Well, no. I tried to document it. I went, and when I reported it to the hospital, I mean, it was a 9-hour emergency room.

Mr. SHAYS. Talk a little slower.

Ms. KELLY. OK. It was a 9-hour emergency room visit. It was very traumatic.

Mr. SHAYS. And this was right after you got off the ship?

Ms. KELLY. No. When I got off the ship, I got in a cab, I went to the airport. And there, I think the realization of everything that had happened, plus the effects of the drug, I was very sick, I was very traumatized, so I was hysterical, if you will.

Mr. SHAYS. Were you with other family members?

Ms. KELLY. Yes, I didn't have any family members, and I didn't really have any close, close friends. They were just neighbors and acquaintances. So anyway, what I did is I tried to contact my counselor, because I had been seeing a counselor from when we had lost our daughter.

Mr. SHAYS. Yes.

Ms. KELLY. But I couldn't reach her, and who I ended up reaching was my best friend from sixth grade, and she said, "Janet, get on an airplane." I told her what happened. I'm crying, sobbing. If I would see somebody in an airport terminal like myself, I would have been taking their hand and taken them to an authority. But unfortunately, nothing was done at that point, because there I was on safe ground.

Mr. SHAYS. But you can describe that you were somewhat in a fog as this——

Ms. KELLY. I know I was drugged. Mr. Shays, I know I was drugged, for a number of reasons. No. 1, I only had two drinks.

Mr. SHAYS. Was there anyone else that was with you that saw you being taken away?

Ms. KELLY. No. But you know what? Interestingly enough, after I was drugged and I came back—and what happened was, this is all right before dinner. Like I said, I'm not a heavy drinker. I came back to my cabin, and it's weird how it is when you're drugged, but it's kind of like you're in a dream state. That's the best way I can describe it. I made my way back to my cabin, and I passed out face forward on the bottom bunk, wasn't even my bunk, and I was just out cold.

But to answer your question, I know I was drugged because I've read the effects of the drug, and I was very sick for 3 days after. I probably only had one meal. I had severe diarrhea. I know I was drugged. There's just no doubt in my mind.

Mr. SHAYS. I hear you. It just helps if it can be documented.

Ms. KELLY. Exactly right, exactly right. No, I understand that. I'm sorry. What was the rest of your question?

Mr. SHAYS. But you basically told me that——

Ms. KELLY. Oh, yes.

Mr. SHAYS. And there was no proof of semen or anything like that?

Ms. KELLY. Well, you know what? Here's the thing. If they had it, they just dismissed it because of the fact that they said—see, he admitted it. As a matter of fact——

Mr. SHAYS. Oh, he did admit it.

Ms. KELLY. The bartender admitted it, and he actually said, "Did I hurt her?" This was the morning after. The girl I was with, one of the gals I was with, went and approached him.

Mr. SHAYS. So what he admitted to was breaking company policy, but he did not—this was an employee of the—so company policy is that you don't interact with——

Ms. KELLY. Oh, no.

Mr. SHAYS. So he's admitting to breaking company policy,

Ms. KELLY. Correct.

Mr. SHAYS. So grounds for dismissal, but he is not admitting that there was a rape that took place, obviously.

Ms. KELLY. What he says, and what the FBI said, is that he said it was consensual. He doesn't deny that we had intercourse.

Mr. SHAYS. Boy, that would drive me crazy.

Ms. KELLY. So the thing that makes me crazy about the whole thing is if it would have happened here, I mean, there would have been repercussions. I mean he would have been prosecuted. I would have made sure of it. But because of how—anyway, to answer your question though about the hospital, I had called a rape counselor, which I'm glad I did it because she told me what to do, and she guided me. When I went to the hospital I was educated on rape. I was like, OK, you have to take my blood, and you have to hurry up, and there's people having heart attacks and all this other stuff going on.

Mr. SHAYS. May I ask you, well, the bottom line is you experienced what evidently a lot of college students experience.

Ms. KELLY. Correct.

Mr. SHAYS. But you were older than a college student.

Ms. KELLY. But you know what? The unfortunate thing is that drug, it leaves your blood system right away, and that's why they use it, OK. And it would have shown up in the urine, and for some reason the hospital lost my urine sample. Had they had that, I would have had proof, and so it is very unfortunate. But I did it. I told them that they had to take my urine, they had to take blood. I mean I totally knew what I was doing.

Mr. SHAYS. You didn't have an adviser or anyone with you?

Ms. KELLY. An adviser?

Mr. SHAYS. You didn't have anyone with you when you went to the hospital?

Ms. KELLY. You know what? I had a co-worker that actually grabbed me and said, "Let's go."

Mr. SHAYS. She took you, but she was not——

Ms. KELLY. Yes. And then I had a call. My husband, who had just had open heart, and here I had to tell him what happened, just——

Mr. SHAYS. Takes a lot of courage. Thank you.

Mr. Leonard, I don't have many questions for you because you pretty much documented everything you went through. What you document most, from my standpoint, is that you would not have shown up in crime statistics, which is one of the problems that I have. I don't have much faith in the crime statistics.

So I just want you to know why I don't have questions for you. In part it was your professor-like thoroughness and assistance to speak even longer than I wanted, but you covered the territory.

Mr. LEONARD. Well, frankly, I felt I had to because this would the first and last time. I'm not planning to go on any——

Mr. SHAYS. What pleases me most is it's the first time you smiled all day today too. [Laughter.]

Because I mean, one of the things that you will go to the funny farm with the incredible aggravation you have had to go through, because, frankly, the crime was committed. All they had to do ac-

knowledge the crime was committed. They couldn't probably solve the crime. You had a right to expect them to make a good faith effort. So all they did basically was stiff-arm you and add to your misery, when in the end, taking the other tack would have maybe gotten you back as a customer because you would have basically said, "You know what? There was a screw-up and so on, but thank you for treating me with respect," and you obviously were not treated with respect, and I am sorry about that, obviously.

Mr. LEONARD. Well, ordinarily one doesn't——

Mr. SHAYS. Put the mic down a little bit so I hear you.

Mr. LEONARD. Ordinarily one doesn't generalize from one specific anecdote.

Mr. SHAYS. Ms. Kelly, would you help him out because you are really good at this. OK.

Mr. LEONARD. Thank you. Ordinarily one doesn't generalize from one specific example, but our case of this theft is a kind of classic example of everything being done wrong, and the refusal of the multibillion dollar corporation to simply admit that there might have been some responsibility on the part of the ship company, the personnel, and that the company accepts the possibility that a mistake might have been made. We're not talking about the kind of situations that have been presented here. This is horrifying. I mean this was simply a relatively small grand larceny of our property, but in the grand scheme of things, for a multibillion dollar corporation this is not even small potatoes.

For them to go out of their way to deny not only to me, but to the Federal Maritime Commission, that we even reported the crime on the ship, and we faxed this person, Betty Taillefer, the signed statement—which by the way, when you look at it, because you have a copy of it, at the end of their own form they have "retain for 1 year." So the probability is that this is a fairly common kind of experience, and they jettison this stuff.

Mr. SHAYS. I can understand in one respect that if the FBI doesn't want to investigate a crime committed, a certain dollar amount, the fact that the crime took place needs to be documented in all thefts. The cruise industry likes to compare themselves to towns, and if that is the case, when $100 is stolen, it is a crime, and it is reported and there is this statistic. And whether it is $100, $1,000, $5,000, $6,000, $10,000, it all needs to be reported.

Mr. Mulvaney, the bottom line is you were on board the ship; is this correct?

Mr. MULVANEY. Yes, that's correct.

Mr. SHAYS. And your experience was, one, you did not know who to contact right away, correct?

Mr. MULVANEY. Correct.

Mr. SHAYS. There is no phones periodically that say, "If emergency, call this number?"

Mr. MULVANEY. No. When you first get on the ship the first day, they do what they call a muster station, where they bring everybody down to the deck where the lifeboats is, and they explain to everybody at that point in time what goes on in the event of a fire on the ship or if you have to abandon ship on the lifeboats.

Mr. SHAYS. I mean if you are in a building and there is a fire, you can pull the fire alarm, a warning, and people can get out. If

you are on a bus, you are on a subway, you are on a train, the bottom line is you have something to pull, you know where to go to stop the bus or train or whatever. On a boat——

Mr. MULVANEY. There is a fire alarm system on the boat.

Mr. SHAYS. Fire alarm, yes. But if they have a fire alarm there is no system that would enable you—if you saw someone go overboard—I was just thinking if I was just there and I saw someone overboard, I wouldn't know where to run to, but I have never been on board a ship. So I am wanting to know if—my parents have been on many and love cruising—but what I am asking is, there was nothing that you were made aware of that if someone was overboard, you contact this person immediately, and then they would hopefully have a better chance of locating that person. They don't have such a——

Mr. MULVANEY. No, there was no procedure for the passengers set in place, nor do I think there was any procedure for the staff of the cruise line in place after the incident happened because they seemed somewhat confused about the issue also.

Mr. SHAYS. We have been joined by Mr. Mica. Mr. Mica, I am going to ask just two more questions, but do you have questions you would like to ask as well?

Mr. MICA. Yes.

Mr. SHAYS. It doesn't have to be quick.

Let me go to Mr. Mica first, and then we will just close up.

Mr. Mica, you have the floor as long as you would like.

Mr. MICA. Thank you, Mr. Chairman. I am a member of the full committee, but not the subcommittee.

Mr. SHAYS. You are welcome and we appreciate you being here.

Mr. MICA. But as you know, Mr. Chairman, I represent the State of Florida, and I came in a little bit late, didn't have a pleasant experience with my travel, even though I am chairman of the Aviation Subcommittee. [Laughter.]

But that is a matter for another hearing. [Laughter.]

Just one of my concerns. There have been some serious incidents reported here, and tragedies reported, and it is a slow news day, and they are picked up. I woke up this morning in Florida, highly recommend it if you want to travel someplace, absolutely gorgeous. But woke up this morning and turned on the news, and almost every channel, the cruise industry. I was very concerned. I am concerned about the welfare of people who have had some sort of a problem with a cruise experience, and I appreciate this hearing paying attention to any of those problems, and maybe some improvements that may be necessary in reporting or whatever. But coming from the State of Florida, it is one of our biggest industries. We have millions and millions of people, hundreds of thousands of jobs.

And I don't think people should leave the hearing and think that the cruise industry is not concerned, and in some way the cruise industry or your experience is typical of the experience that millions and millions of people have had in cruises. There are unfortunate incidences. We have a summer place up in the mountains, and people go camping. We have had people killed, missing, abducted, raped, attacked in camping incidents, most of it national park service area that is patrolled by national park folks. I also don't rep-

resent Disney, used to when I was in the State legislature. And we have had incidents at all of our theme parks and the surrounding areas and attractions, unfortunately, some of them even worse than what has been described here.

Again, my concern is that this hearing doesn't project the image that this is something that occurs every day, or the industry is not concerned about, again, some of the problems that have been raised. The fact is that, again, we have lower percentages of incidents of any of the types of activity or incidents that you have described today here in the general population. Is that not correct? Maybe we will go down——

Mr. MULVANEY. Like you, Mr. Mica, I am from the same area of Florida, and I visited on many occasions Disneyland, Universal Studios, all the theme parks and done everything else, and the security in place in all these standard land-based locations is far greater and far exceeds anything which is——

Mr. MICA. I would have to disagree with you. I see it every day. The only time I have seen the security that tight would be when we had the President there a couple of weeks ago. Most of these places hire part-time people or people who don't have a great deal of law enforcement. Most of them are not taking the hotel on the high seas, in international waters subject to various laws, so I would have to disagree with that.

Mr. Leonard.

Mr. LEONARD. In the absence of reliable statistics, how can you be so certain that it isn't far higher than what the cruise lines report when they wish to report it. We don't have any idea. And when a grand larceny is not reported to any law enforcement agency, I start to wonder what happens to smaller crimes.

Mr. MICA. Well, we do have, 305 crimes have been reported in the high seas over the past 5 years. Do you think it is necessary that we have some sort of official document for crime reporting?

Mr. LEONARD. Yes, precisely.

Mr. MICA. On each cruise ship?

Mr. LEONARD. On each cruise ship, reported to an agency.

Mr. MICA. I travel quite a bit. I have cruised quite a bit. I have never seen an industry that solicits more comments from their customers or passengers or clients than the cruise industry, none. In fact, they do everything but they harass you to get some response.

Mr. LEONARD. What's the problem with reporting? If there is no problem, then that would show up——

Mr. MICA. So you are suggesting a uniform, a question—I am looking for something positive that we could do with the industry, but that, of course, wouldn't fit into any official reporting document. It would just be a volunteer thing. Do you think it should be required?

Mr. LEONARD. Yes.

Mr. MICA. I mean required that the passenger fill it out.

Mr. LEONARD. Well, I am at the minimum of the opinion that documented cases of crimes on ships should be reported by each ship of each cruise line to a Federal agency and then made public. That way the cruise line is safe.

Mr. MICA. I am not an attorney, and we have some attorneys on the next panel, I guess, and I don't know the implications of doing

this, again, the settings and the different ports and also the registration on most of these ships is——

Mr. LEONARD. But this is the Congress of the United States, sir.

Mr. MICA. Yes. We can pass a law, but is it enforceable, and I don't know that. I am not an attorney, but we do have a lot of them around here, fortunately or unfortunately.

Mr. MULVANEY. Mr. Mica——

Mr. MICA. I want to get the other responses.

Mr. MULVANEY. I know. I just misunderstood what you said, and when you said to me you disagreed with me, does that mean you would advocate serving 15-year-olds alcohol at Disney World?

Mr. MICA. No, but we have instances across the board, where 15-years-old and people under the age of the legal age are consuming alcohol, not only on cruise ships and resorts, but throughout the world. If you would travel to Europe or some other destination, people drink without any restriction on age.

Again, my question, I am looking for any improvements that we can make, and also ask the question about whether or not these are limited instances, or you see that other areas of resorts, entertainments, have more or less or the general public is more at risk. Ms. Kelly.

Ms. KELLY. Yes. I just want to add—basically, I totally disagree with everything you have just said, but I think this is a very lawless environment. A number of these cruise lines are owned by foreign countries, so they don't answer to any laws. They cannot self police. They've done a horrible job of it. Have you personally been on any cruises?

Mr. MICA. I have been on many, yes.

Ms. KELLY. So it is your experience that you just think it is a wonderful——

Mr. MICA. As a matter of fact, let me make a response. Not only is it a huge employer in the State of Florida, not only is it a great opportunity for vacation and entertainment, I think the industry as a whole has done an incredible job in taking what used to be exclusively the luxurious activity of the wealthy, the rich and famous—less than half a century ago, cruises were pretty much limited to people who had huge incomes or were very famous—and made it into something that the average person can safely, reliably enjoy, and that is the——

Ms. KELLY. Safely, I don't think is an accurate word.

Mr. MICA. I am sorry. I didn't interrupt you. But I think, again, if you look at the statistical average—and we can take incidents. I came also asking for any ways that we could improve the system, and the gentleman next to you, Mr. Leonard, has recommended possibly reporting or having some form of reporting. But again, I think the industry has done an incredible job of taking this experience—let me just share with the subcommittee one experience on a cruise ship that I went on, and again, Florida, we are very fortunate because you have cruise ports up and down, and you can access them relatively inexpensively, and enjoy a time with your family, and I was with my family.

But I was on a cruise ship, and what I just said was brought home. I was walking down the hall toward dinner, and this gentleman approached me. And he was walking down the hall and he

had a tie, he had it around his neck. And he said, "Excuse me, sir." He said, "Could you just help me for a second." I was sort of taken aback. He says, "I drive a truck and I'm from Iowa. I've never had a tie on before." He says, "I wanted to wear the tie to dinner, and I don't know how to tie it."

And at that point I thought, my God, here is an industry that has allowed common people to have an opportunity to have a great experience.

Now, today's hearing doesn't focus on all those great experiences. It focuses on the rare exception. When you take 40 million people who are passengers who have sailed on cruise ships. I am a strong, unabashed supporter of the industry. They are a strong supporter of me because I have always been a strong support of the industry. If there are problems, I think what we need to do is correct those problems.

Ms. KELLY. OK. That's fine, and I've heard everything you said. I just want to interject before I lose my train of thought, if you don't mind. There's a couple of things. You've asked for recommendations. I don't know if you were here earlier, but——

Mr. MICA. No, and I am sorry. My plane was really late.

Ms. KELLY. One of the things that we had suggested was that passengers be required to wear a microchip or a band of some kind for tracing. Another suggestion that came up was using U.S. Marshals, and I said even randomly, because it would raise the accountability to the employees of these ships. No. 1, I also want to say too that most of these employees on the ship that I was from, they were from other countries, so they are not American crew members. They are coming in from other countries, Third World countries, with different standards, different morals, like my assailant was from Jamaica.

Mr. MICA. Again, I think this hearing does highlight some of the differences in, say, the cruise ship industry and other activities. As to those recommendations, if I may respond, Mr. Chairman, first the microchip, maybe some day, not today. It is almost impossible. I have reviewed, as a senior member of the Transportation Committee, the security relating to cruise ships. I am not concerned about what goes on on board relating to these instances, and the passengers who are sailing, the typical passengers. My concern is more of a terrorist threat. An incident in which a cruise ship is used in that fashion and the failure of the U.S. Government, which is a Federal responsibility, to adequately protect and secure both the ports and the cruise ships. That is my concern, not focusing on some of the, again, issues that this subcommittee is focusing on.

The second point, the U.S. Marshals. Again, I see very few industries that are more responsible as far as security is concerned. Let me give you an example. I chair Aviation. The Federal taxpayer right now underwrites the screening of every passenger in the United States by some $2 billion. It was not intended to be that way. The passenger was supposed to pay. They don't. It comes out of deficit spending. Right now we have a shortfall of $2 billion out of a $5.6 billion program. In addition, we pay all the costs of the U.S. Air Marshals. The plane I was just on had a U.S. Air Marshal on it. The cruise ships pay for their own security.

In addition, they pay for their own law enforcement and security because they are traveling on the high seas and they are responsible for law enforcement on the high seas, once you leave the U.S. boundaries.

I think they have done an excellent job, one, in security costs relating to terrorism, in screening passengers, in screening—it is very difficult—and I can tell you because I tried to do it—is to even bring your own booze on board. They even screen for alcoholic beverages that are not supposed to be in people's possession. I have never seen that at any resort, entertainment facility, whatever, and they pay all the costs for all of the above.

Ms. Shaffer, go ahead.

Ms. SHAFFER. Mr. Mica, who is responsible for the security and safety of the passengers?

Mr. MICA. Well, the cruise ship is.

Ms. SHAFFER. Then why don't they take care of business?

[Applause.]

Ms. SHAFFER. There you go. So I agree with everything you said. The cruise ship, superficially it is——

Mr. SHAYS. Ms. Shaffer, I am just going to interrupt you. It is important for us to have a sense of the audience, but this is a hearing, and we are going to really try to keep strict decorum.

I would like to know, just because I want to make sure you are recognized, how many folks are here from the Cruise Victims Association? Just raise your hand if you are here.

[Show of hands.]

Mr. SHAYS. Well, we appreciate you being here, and I will spend time after this hearing to talk with you about anything you want me to know.

But I also want to say that Mr. Mica is one of the most respected Members in Congress, and it is important that he share his views with you, and that you are very candid with him. So this kind of dialog that is taking place right now is probably more important than the dialog you will have with me.

Mr. Mica, we truly appreciate you being here.

Mr. MICA. Thank you.

Ms. SHAFFER. Thank you, Mr. Mica.

Mr. MICA. I did come back to try to get some positive comments, and you asked the question——

Ms. SHAFFER. I would like to continue my thought.

Mr. MICA. Well, again, you asked the question, who is responsible? And I said ultimately the cruise ship is for security on board the cruise ship, and as I mentioned, they take on responsibility for other types of security, port security, law enforcement on board the cruise ship. So there are different aspects of that, just to respond to you. Thank you.

Ms. SHAFFER. Well, superficially, the cruise industry looks great. You get on board, it seems to be very Americanized. You do see security on board the ship. You feel completely safe, and it's an illusion. It's a false sense of security, and your industry would do very well and would grow by adopting better protection and security for the public.

Mr. MICA. Thank you. I appreciate your comments. I might respond too that, you know, some of security, even that the Federal

Government does is an illusion. I just sat in on a classified briefing on aviation security on Thursday. It was a closed door hearing. I get the results back periodically. We test our system for security because it is a Federal system for aviation security. The failure rate is pretty dramatic. In fact, probably most of you would fall off the chairs if you understood how much of a failure that is, how much money we have spent, and we spent a fortune. I told you it cost us $5.6 billion, plus $2 billion in deficit spending, to put that system in place that is not the kind of system that we should have. Making changes is very difficult, something I work on every day. I am here to look at how we can make the cruise experience an even better and safer experience.

Mr. Pham.

Mr. PHAM. I do have a solution you're looking for. You know, my parents never came back from a cruise. There's nine grandchildren and five of us children, and I'm the only one here. It's very hard. It's not easy for us to be here today. We're here because we want to be part of a solution. We were part of the problem that cost to us now family, so we want to be here to become part of a solution. While I'm speaking for myself, I think I can speak for some other fellows of the new organization we formed, the International Cruise Victims Association. We went through—we were wronged, and that's why we're here to share the story.

We're willing to sit down and work with the Congress and with the people in the industry, and come up with a way to better improve, as you said, the experience, to better taking care of the victims, to eliminate what we went through, because if you look at statistic, and everyone's been saying statistics and compare and all that, but, you know, you can't compare a cruise to a city. How about amusement park? How about Disneyland? Let's look at that percentage, because when I send my children to Disneyland, there's some expectation that I have. So let's stop talking about a 3,000-person, versus a floating city in the ocean. That's totally different, that's apples and oranges.

Mr. MICA. My question, and I appreciate your comment and willingness to work with us, you described the problem as you see it. What is the solution you recommend?

Mr. PHAM. The solution is if people sit down with us. Since we founded this organization 2 months ago, we received hundreds of e-mails from crew members, sharing with us their experience as a crew member, what they think is right and wrong. We receive hundreds of e-mails from people all over the world, from Australia, from England, from Canada, and what happened to them. Well, if nobody listens, how can we fix the problem? Somebody has to listen, and we are willing to share that. We're willing to sit down and work together, and that's my solution.

Mr. MICA. So far I've heard microchip of some sort, and like U.S. Air Marshals, and then we had a required form for reporting, or a standard form for reporting. Did you have a specific recommendation, Mr. Pham?

Mr. PHAM. Working together as a group, with the Congress and us.

Mr. MICA. Thank you.

Mr. Carver.

Mr. CARVER. I appreciate the opportunity. Earlier today in our testimony——

Mr. SHAYS. Mr. Carver, I am just going to interrupt. Did you set this up as a lead to go right down the line? And you are a very patient man. I thought you might jump in in the very beginning, but you just timed it beautifully. So, Mr. Carver, you have the floor.

Mr. CARVER. We delivered to the subcommittee today a 10-point document of various changes to make to the cruise line industry. We're not going to change the cruise line industry, but if they were smart, they would take these various items that we have listed, and say, you know something? These makes sense. This will give the U.S. public a good feeling about being on a cruise ship.

Would they cost much money? I don't think they would cost much money. So you're asking for many suggestions, I have it. But I want to give you another——

Mr. MICA. I have the list of these, did you make this part of the record?

Mr. SHAYS. Yes.

Mr. MICA. Are there any other suggestions that you have?

Mr. CARVER. Can I just give another?

Mr. SHAYS. You can have the floor to talk about this, because he asked you suggestions. You got three pages of suggestions, and if Mr. Mica wants to go through it, that's—I am going to ask you to go through it afterwards.

Mr. MICA. Are there any other things that you think of that we need to pay attention to that haven't been raised?

Mr. CARVER. I have an analogy. This is kind of a different story, but let's say this is the Aviation Committee of the U.S. Congress. And an airline came to this committee and said, we have a new business plan. We're going to license the company in Liberia because that's very helpful. We don't have to pay Federal income tax. we're going to staff it with Third World people, but we want to fly out of New York City, we want to fly out of Miami, we want to fly out of Los Angeles. Once that airplane takes off, hey, we got a whole set of different rules. You may not understand them, but trust us. Now, over the past few years we've only lost 28 passengers, disappeared. We've had a couple of hundred people raped, but trust us.

Would you think the American public would allow that airline to be licensed in this country to fly out of their major ports?

Mr. MICA. Well, again, we do have very similar situations in aviation, and we do have many incidents, some reported and some unreported. Just to show you the way things are changing, 54 percent of all the airline maintenance is done outside the United States today, and as we speak, you have more and more international competition, and will have. In fact, that is on the front burner today, of planes flying into the United States. One of the problems I have as chairman is, sometimes we don't have the same protections for Americans, even flying on another carrier into the United States. And I have gone and personally reviewed the security in cases such as the shoe bomber with Richard Reid, he had overridden by the French police allowing him to board the aircraft carrying explosives on his person in his shoe. So, yes, I face this

all the time. We don't live in a cocoon, we live in an international arena.

We could actually close down—and maybe that is what we should do—is close down the cruise lines from docking in any American ports. That would solve the problem, because they are international and we don't know everything that is going on with them, as you said, for ownership. But would that really solve the problem? And the answer is no.

Mr. CARVER. I can only answer it this way. If you were me and had a daughter disappear from a cruise line, and it goes unreported and it is covered up, I think you would have a different passion——

Mr. MICA. Again, each of you have a case in which——

Mr. CARVER. Here are suggestions, lots of suggestions.

Mr. MICA. I appreciate your suggestions that you have brought forth, the positive suggestions because I think my intent in being here is to look for positive things that we can do to make it safer for everyone, and improve the system. So, again, I appreciate the recommendations. Some of them may or may not be practical. We have to look at them. And then we can take a safe industry and make it even safer.

Thank you, Mr. Chairman. Yield back.

Mr. SHAYS. I thank the gentleman. The gentleman was provided as much time as he wanted, and I just wanted, Mr. Carver, for the record to show that in response to suggestions, you provided a three-page, single typed document from the International Cruise Victims Association. It is thorough. It is thoughtful. You said background checks, create a main data base, reporting all terminated individuals, employees, ensuring that the same employees will not be rehired by another cruise line. (A) Tighten security checks and screening of all employees. (B) Although the cost of a vacation cruise may increase, reliable personnel should be stationed on all decks at all times.

Then just a second one, international police and U.S. Marshals. The international police force should be established at the expense of the cruise line, connected to Interpol or another international police organization. (A) Such authority should not be affiliated with the cruise line or its crew. (B) U.S. Marshals should be present on cruise ships. (C) When a crime is not reported to the appropriate authorities by the cruise line in a timely manner, substantial fines should be imposed. (D) All crimes must be made public, not voluntary but mandatory. (E) Require protocol for filing any form with incident, and to be immediately processed through specific channels.

This is an extraordinary document you have provided, very responsive. What I am thinking, you are dealing with the loss of your daughter. You are dealing with the fact that you can't get basic information from the cruise line. They have treated you as if you were, in some cases, the perpetrator, not cooperated. It's an outrage. I thank you from the bottom of my heart for dealing with your grief, but also coming up with a very constructive document. It would take me a long time to read this document publicly. All of it will be for the record. It will be very helpful.

And I really believe with all my heart and soul that Mr. Mica will appreciate this as well. He serves on the Transportation Committee. He can probably do more legislatively than I can do as an investigative committee. I view him as your friend, and he has voiced, obviously, concerns that this be an appropriate hearing, but one where we get at the truth. You provided a wonderful document on behalf of all of your members, so I salute all your members.

It is still the first panel—is there anything that you all want us to put on the record before we go to panel two? Real quick, Mr. Leonard. Put the mic close to you. Prove to me you can do that.

Mr. LEONARD. I have one specific issue to raise in the interest of preventing terrorism. We noticed, my wife and I and others, foreign nationals, three and four from the same country, screening passengers and their baggage on the ship in Bermuda. That should never take place. Three and four foreign nationals from the same country screening baggage.

Mr. SHAYS. Thank you.

Is there anyone else that would like——

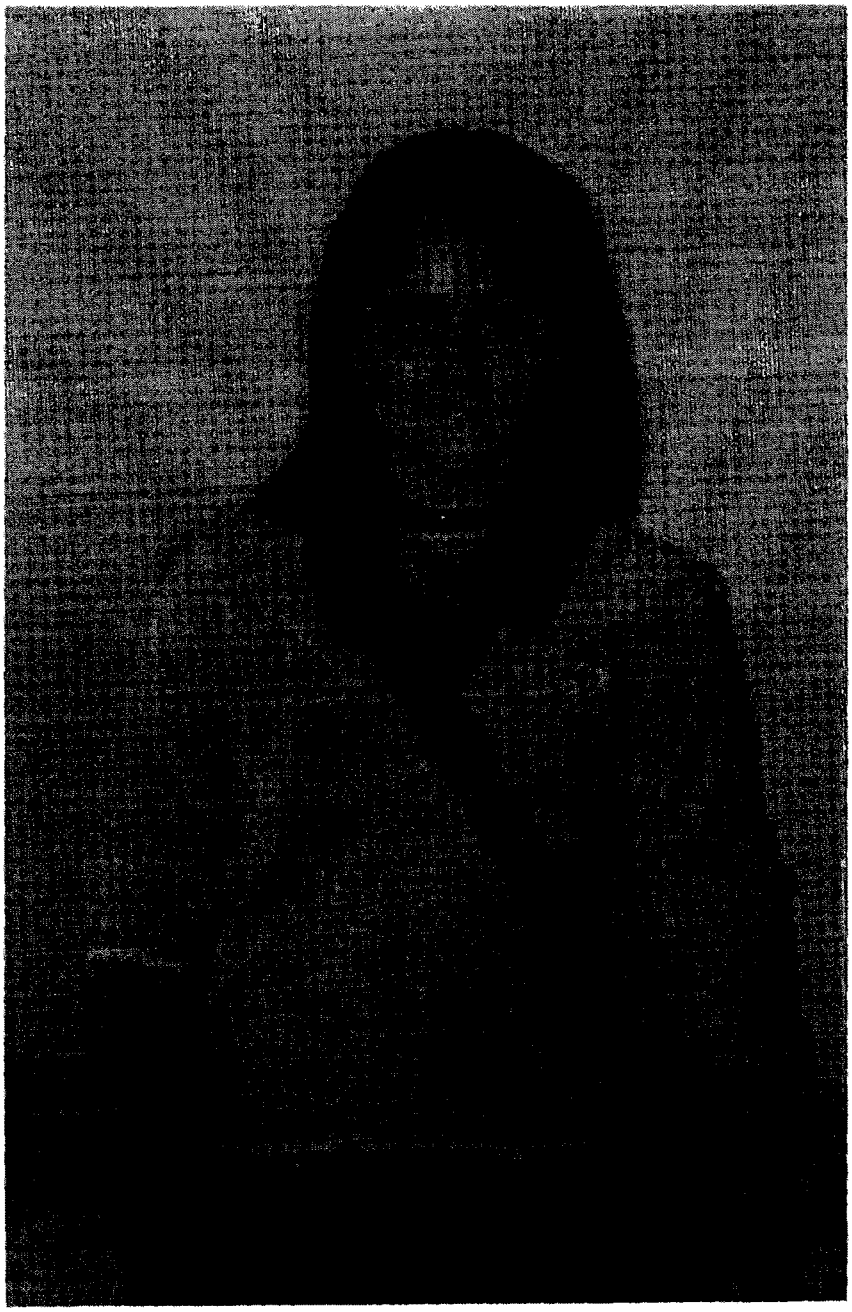
Mr. LEONARD. I am not the only one who saw this.

Mr. SHAYS. Anyone else who would like to—yes, Mr. Mulvaney?

Mr. MULVANEY. Can I put the picture of the 15-year-old girl who was killed in the record?

Mr. SHAYS. Yes, we will put that in the record.

[The information referred to follows:]



Mr. SHAYS. How is she related to you, Mr. Mulvaney?

Mr. MULVANEY. Distant, through marriage.

Mr. SHAYS. It is very nice that you came to testify today.

Mr. Pham, I want to say to you that how proud I am that you have become an American citizen. I am struck by how gracious you are, how thoughtful you are, how patient you are. You lost your mother and father. You love this country through and through, and I love the fact that you are a fellow citizen, and I appreciate your testimony more than you can know. I would say thank you to each and every one of you, but the image of you coming on a small boat to the United States eventually, is quite an image, and you have contributed wonderfully to the work of this Congress, all of you have, but I particularly want to thank you, Mr. Pham.

Thank you very much. We are going to go to the second panel.

In our second panel we have three panelists: Mr. Brett Rivkind, Rivkind, Pedraza & Margulies; Mr. Ron Gorsline, owner, Security Ocean Services; and Mr. Lawrence W. Kaye, Kaye Rose & Partners.

Before you sit down, I will swear you in, and that is probably a logical way to do it.

[Witnesses sworn.]

Mr. SHAYS. Note for the record, our witnesses have responded in the affirmative.

We attribute all three of you as experts on the cruise line industry. If you have in any way, just for the record, not so in any way it colors what you say, but it is just important, whether you are speaking independently or whether you have represented the cruise line industry, whether you do now, in other words, just so we get a sense of your perspective. And if we just run through that and then take your testimony, Mr. Rivkind.

Mr. RIVKIND. Good afternoon. Thank you for having me here. I am a maritime lawyer for the past 23 years in Miami, FL, handling cases mostly with the cruise ship industry. For the first 4 to 4½ years of my career, I represented cases brought against the cruise ship company. Since then, now I exclusively represent victims of accidents or crimes aboard the cruise ships.

Mr. SHAYS. It is just helpful to know that.

Mr. Gorsline.

Mr. GORSLINE. My name is Ron Gorsline. I am the owner and operator of Secure Ocean Services. My background is I have worked extensively in various different security areas, and I have worked in the cruise line industry for the last 3 years. Prior to that I have done work for the State Department as a security consultant on various contracts to protect different entities within the Government interests overseas. And prior to that, I had a 20-year military career in Special Operations in the Navy.

Mr. SHAYS. So do you represent the cruise industry, families, or somewhere in between?

Mr. GORSLINE. I was asked to be here as an independent expert to kind of balance things out, based upon my experience in doing audits in the cruise industry for various different companies.

Mr. SHAYS. Thank you. And you had met in my office as well earlier?

Mr. GORSLINE. Yes, sir. I gave you a full brief on my experiences with various different cruise companies.

Mr. SHAYS. Mr. Rivkind.

Mr. RIVKIND. Yes, Congressman Shays, I did forget to mention I am the attorney for the parents and the sister of George Smith.

Mr. SHAYS. Yes, that is important to put on the record. Thank you.

Mr. Kaye.

Mr. KAYE. Thank you, Mr. Chairman, Congressmen. My name is Larry Kaye. I'm a maritime attorney. I've practiced maritime law for 27 years. During that time I've been immersed in representing cruise lines and the cruise line industry. I've also served as outside counsel to the International Council of Cruise Lines, and I started my career as a maritime attorney after a clerkship with one of our chief Federal judges.

Mr. SHAYS. The bottom line is we have three experts in the cruise line industry and maritime travel, and we appreciate all three of you being here, and it is nice that you are so patient, and that you heard the first panel and what they had to say.

Mr. Rivkind, we will let you start.

Mr. RIVKIND. OK, thank you.

Mr. SHAYS. We are going to do a 5-minute. We are going to roll it over. I give a little bit more quarter to the second panel, since they sometimes have to go through a lot listening to the first. But we prefer, after you get in the second half, if you would bring it to a close. So 5 minutes. Then we will roll the clock over for another 5, but finish before the 10.

STATEMENTS OF BRETT RIVKIND, RIVKIND PEDRAZA & MARGULIES, P.A.; RONALD J. GORSLINE, OWNER, SECURE OCEAN SERVICE, LLC; AND LAWRENCE W. KAYE, SENIOR PARTNER, KAYE, ROSE & PARTNERS, LLP

STATEMENT OF BRETT RIVKIND

Mr. RIVKIND. OK. Thank you, Congressman Shays. Good afternoon. Again, my name is Brett Rivkind, and as I described, I am a Miami maritime lawyer for 23 years. All of my work, almost exclusively at least, has involved the cruise ship industry and handling cases with the cruise ship industry.

I am honored to have been asked to testify today before the subcommittee. I understand the purpose of this hearing is to address international maritime security, including law enforcement, and law enforcement is an important distinction, as Congressman Mica was talking about, terrorists and terrorism, and we are here, I believe, to discuss law enforcement on the cruise ships to protect passengers who actually board the cruise ships, which is a different issue, and passenger security, as well as the investigations of these incidents that occur to passengers, and I will limit my testimony to those areas, and these are major areas of concern at this time.

Twenty-three years ago when I graduated law school and went into maritime law, I was intrigued with the complexity of the jurisdictional issues and the foreign nature of shipping, and the complexities, and they made for good law school exams. Today, 23 years later, we are on the second hearing, still discussing complex

jurisdictional issues, 23 years later in a much more serious context. These are not law school exams, these are issues that are greatly impacting on the safety of our passengers on these cruise ships that operate out of our U.S. ports.

Cruise ships have just boomed. In the 23 years I have been doing this, the ships are getting bigger and bigger and bigger. Ships are carrying over 2,000 passengers, 13 to 14 decks high, with 1,000 crew members from Third World countries, with very little or minimum background checks. All the ships now are flying foreign flagships. We've just read recently where a ship is being built that will hold 5,000 passengers. This has to be of grave concern to us and to the safety of passengers on board the ship with this tremendous growth.

With this tremendous growth, we've seen an increase in the number of crimes. The statistics really are not what's important here. You have significant crimes on cruise ships, and cruise ships are confined environments, and it is easier to protect citizens and prevent crimes from occurring in the first place on a cruise ship than it is in a city.

I have always felt a concern for this industry which operates out of the United States and carries millions of U.S. passengers each year, yet has reaped the advantages of being able to incorporate in foreign countries and fly flags of convenience, enabling cruise ship operators to avoid many U.S. laws and regulations. I too am from Florida and understand the significant of the cruise ship industry.

The foreign nature of the cruise ship industry, as I said, has resulted in a situation where the employment of the crew is almost exclusively from countries outside of the United States. Many Third World countries, many poor countries, and in my experience over the years, although the cruise lines state that they have agents to hire crew members in the different countries who may be responsible for some type of background check, many crew members save for years to pay a fee under the table to these agents to secure an employment letter to come and work on a cruise ship that are carrying our U.S. passengers, with no background checks.

It's been necessary to discuss the foreign nature of this cruise line industry because it is the nature of the beast, which leads us to the questions that Congress is addressing for a second hearing already.

It's apparent from hearing these issues discussed today, and from the hearing that was held previously in December, that there is a big void or gap when it comes to the laws or regulations governing the cruise ship industry. That does impact upon the safety of a passenger who decides to embark on a cruise with one of these foreign incorporated, foreign flag cruise ships.

It's time to closely look at this industry. U.S. citizens should not have to rely upon the cruise ship industry itself for protection against criminal activity aboard a cruise ship. A U.S. citizen should not have to rely on the industry itself to adopt and implement their own internal standards governing crime on board the ships, especially when the bottom line of the industry is profits, billions of dollars in profits.

I heard mentioned earlier, and I would indicate that I am an attorney in a case, class action case involving a cruise ship that delib-

erately went into a storm to maintain an itinerary, and I heard that mentioned earlier by the panel, and I would just mention that as I do have some background in that case too, and some information.

The cruise ship industry attracted much more public attention in the mid 1990's, not that they wanted to, but due to an outbreak of Legionnaire's Disease, reports of sexual assaults on board the ships and how they were being handled by the cruise lines, as well as violations of the U.S. environmental laws.

The violation of the environmental laws led to numerous felony convictions and millions of dollars in fines being imposed. Some of the felonies that the cruise lines pled guilty to involved falsifying official ships' logbooks, which were referred to by the crew members as fairy tale books; destroying evidence and providing false testimony to a grand jury, and tampering with evidence. The U.S. Government and the U.S. public were lied to about environmental matters. Yet this is the same industry that currently U.S. citizens rely upon to, "voluntarily report crimes," as well as to voluntarily implement adequate security aboard the ships, and to adequately conduct investigations of any allegations of crimes aboard their cruise ships.

What we have learned today from listening to the victims from this great organization that has been formed, is that these stories are a result of the nature of the beast, of an industry that regulates itself, that conducts its own investigations on board the ships, and that has an incentive not to honestly and accurately report or investigate crimes. You can say all you want, "We report a crime, we don't have to, but we do, and here are the statistics," but it doesn't matter.

You need to know when they reported it, how they reported it, what happens before it's reported, what happens before any U.S. authorities get involved, and what do these statistics really mean if we don't have adequate classifications of the crimes, definitions, like we in the United States, where we have index crimes, we have uniform definitions of what constitutes a crime, methods of reporting, collection of that data sent to a centralized agency, and we can then say how much crime is there in each particular city throughout the United States and each county. We cannot do that in the cruise ship industry.

If a passenger reports something as stolen, and the cruise line decides, based on their own internal investigations, to say it's just a missing item, you don't have a crime there. These statistics cannot be relied upon.

I've heard the suggestions made by the International Cruise Victims organization. I've gone over those, and they are very good suggestions. One of the main things I believe is that you have an industry investigating their own crimes and accidents that they may be held accountable for in a civil setting, and there's something just inherently wrong with that.

Thank you.

[The prepared statement of Mr. Rivkind follows:]

STATEMENT OF

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ON

INTERNATIONAL MARITIME SECURITY II,
LAW ENFORCEMENT,
PASSENGER SECURITY AND
INCIDENT INVESTIGATION ON CRUISESHIPS

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON GOVERNMENT REFORM

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGENCY THREATS AND INTERNATIONAL RELATIONS

ON

MARCH 7, 2006

Good afternoon Chairman and Committee Members. My name is Brett Rivkind; I am a maritime attorney in Miami, Florida for the past twenty-three (23) years. My experience with maritime cases has been mostly with the cruise ship industry.

I am honored to have been asked to testify today before the Committee. I understand the purpose of this particular hearing is to examine the effectiveness of the current regimens governing international maritime security, including law enforcement, passenger security and incident investigation. I have been requested to focus my testimony on the following five questions:

1. What United States and international laws govern passenger security onboard cruise lines?

2. Who is the official responsible for enforcing such laws onboard a cruise ship?

3. What type of security measures, both trained personnel and equipment, are onboard cruise lines to ensure passenger safety?

4. If a crime occurs onboard a cruise ship, who investigates the crime and what are their training and qualifications?

5. How are jurisdictional issues handled onboard foreign flagged vessels?

Before I begin my testimony with respect to the five questions that have been posed to me, I would like to briefly provide you with my background in the area of maritime matters. I have attached to my testimony a more complete Curriculum Vitae.

I have focused my practice of law from the beginning on the field of maritime law. I have been handling maritime cases for twenty-three (23) years. At the beginning of my career, for approximately the first four (4) years of my career, I handled cases exclusively on the defense side, handling cases brought against cruise ship companies. Most of my maritime cases have involved the cruise ship industry, although some aspect of my practice has also dealt with incidents involving cargo and other types of watercraft.

Florida is the cruise ship capital of the world. Statistics from 2004 stated that Florida accounted for approximately five (5) million of the passengers embarking from United States ports, approximately fifty-eight (58) percent of all of the U.S. embarkations.

With cruise ships now holding in excess of 2000 passengers, and crews of 800 to 1,000, and with new ships being built that will hold in excess of 5,000 passengers, the trend is there will be a significant increase in these numbers.

My observation over the past twenty-three (23) years practicing maritime law has been that with this tremendous growth in the cruise ship industry, there has been increasing

numbers of criminal activity aboard cruise ships, and an increasing need to address issues, such as security aboard cruise ships. I have always felt this concern for such a huge industry which, although operates out of the United States, and carries millions of United States passengers each year, has the advantages of being able to incorporate in foreign countries and fly "flags of convenience", enabling cruise ship operators to avoid many United States laws and regulations.

As has been discussed in prior hearings, the shipping industry has emerged to a point where American flag vessels are almost non-existent. The foreign nature of the cruise ship industry has also resulted in a situation where the employment of the crew is almost exclusively from countries outside of the United States, including many poor, undeveloped third world countries.

It is necessary to discuss the foreign nature of the cruise line industry, because it is the nature of the beast which leads us to the questions you have asked me to address today. It is apparent, after consideration of these issues, not only today, but in the prior hearing that was held on December 13, 2005, there is a big void when it comes to laws or regulations governing the cruise ship industry that impact upon the safety of a passenger who decides to embark on a cruise with one of these foreign incorporated, foreign flag cruise ships. The jurisdictional questions alone discussed at the last hearing raise serious concerns to a United States passenger about what will happen to her or him in the event she or he is a victim of a crime during a cruise. It is time we look closely at this growing industry. United States citizens should not have to rely upon the cruise ship industry itself for protection against criminal activity aboard a cruise ship. A United States citizen should not have to rely on the industry to adopt and implement their own internal standards governing crime onboard cruise ships, especially when the bottom line of the industry is profits, billions of dollars in profits.

The cruise ship industry attracted much more public attention in the mid-late 1990's due to an outbreak of Legionaire's Disease, reports of sexual assaults and how they were being handled by the cruise lines, as well as the violation of United States environmental laws. The violation of environmental laws lead to numerous felony convictions, and millions of dollars in fines being imposed. Some of the felonies that the cruise lines pled guilty to involved falsifying official ship's log books, providing false testimony to a Grand Jury, and tampering with and/or destroying evidence. The United States government and public were lied to about the environmental matters. This is the same industry United States citizens currently rely upon to voluntarily report crimes, as well as to voluntarily implement adequate security onboard the ships, and to adequately conduct investigations of any allegations of crimes aboard their cruise ships.

The jurisdictional questions involving foreign cruise ships are complex, and sometimes without a definite answer, as we learned from testimony at the last hearing.

As an example, I would like to discuss a few cases which have had to deal with the authority of the United States to exercise jurisdiction over a crime which involves an American Citizen. An individual would assume that there would be no question the

United States would have authority over a crime committed against a United States citizen that occurs aboard a cruise ship. However, a United States citizen must rely on specific jurisdictional statutes applying to maritime jurisdiction over such crimes. The courts have then had to interpret what the term "Special Maritime Territorial Jurisdiction of the United States" means within the meaning of the jurisdictional statute contained in 18 U.S.C. Section 7.

The exact meaning of "Special Maritime Territorial Jurisdiction of the United States" has become the subject of several court opinions where jurisdiction over the crime has been debated, which shows the fact that there is not necessarily a clear cut definition of Special Maritime Territorial Jurisdiction of the United States in every case. In the case of United States v. Roberts, 1 F.Supp. 2d., 601(E.D. Louisiana 1998), the District Court was faced with a case involving sexual abuse of a minor which occurred onboard a Carnival Cruise Line's ship, the M/V CELEBRATION. The alleged assailant was a national of St. Vincent and the Grenadines, the victim a United States citizen. The incident occurred while the cruise ship was in "international waters". The M/V CELEBRATION is registered in Liberia and flies a Liberian flag. The Defendant in the case debated the applicability of 18 U.S.C. Section 7, which is the enabling jurisdictional statute for Special Maritime Territorial Jurisdiction of the United States.

Another case dealing with Section 7 interpretation is the decision of the United States v. Neil, 312 F.3b 419 (9th Cir. 2002). This case involved an alleged sexual assault upon a twelve (12) year-old girl, who was a United States citizen, by a citizen of St. Vincent and the Grenadines, which took place in Mexican territorial waters. The Court held the Special Maritime Territorial Jurisdiction of the United States extended to the particular crime in question. The issue of jurisdiction was raised because the crime occurred in the territorial waters of another country. However, the issue of jurisdiction had to be litigated in the court system.

I have briefly alluded to these two (2) cases just to demonstrate that an American citizen cannot feel comfortable on a foreign cruise ship that is sailing to ports outside of the United States, including foreign countries, and cannot be assured that the FBI will have jurisdiction, or in fact exercise jurisdiction.

This leads me to the five (5) questions that have been posed to me:

WHAT UNITED STATES AND INTERNATIONAL LAWS GOVERN PASSENGER SECURITY ONBOARD CRUISE LINES?

Without getting into a very detailed discussion of various treaties or conventions that apply in some manner to cruise ship security, I am assuming the Committee is most concerned with onboard security designed for protection of the passengers from crimes onboard ships, such as sexual assaults, assault and battery, thefts, as well as the more severe incidents involving a disappearance of a passenger (whether an accident or involving foul play). As to security in general, the International Maritime Organization (IMO), which is a maritime arm of the United Nations, has addressed international

security, especially following the September 11 terrorist attacks. World wide regulations were enacted known as the International Ship and Port Facilities Security (ISPS) Code, implemented as amendments to the International Convention for the Safety of Life at Sea (SOLAS). These regulations are geared primarily for developing security regulations and security plans, and security measures to protect the ship and port from acts of terrorism.

Therefore, with respect to the first question, the main security laws that are applicable to security of cruise ships involve the International Ship and Port Facilities Security Code, as well as legislation implemented by the United States, the Maritime Transportation Security Act (MTSA).

As to passenger security onboard the ship, including crime prevention measures, and law enforcement, I am aware of no United States or international laws which govern such. It is my experience that any measures taken onboard the vessel, which we would compare to law enforcement in a city, since the cruise lines like to use statistics and compare themselves to cities, are left to the discretion of the cruise ship industry, and is currently unregulated. Of course, there are civil liability laws that may hold a cruise line accountable depending on the circumstances. Although necessary, the threat of civil liability is not enough. If this remains the sole means to police the security onboard the ships, the cruise lines will continue not to have an incentive to thoroughly investigate a crime onboard its vessel in fear of establishing civil liability on its part.

WHO IS THE OFFICIAL RESPONSIBLE FOR ENFORCING SUCH LAWS ONBOARD A CRUISESHIP?

The Master is currently the official on any cruise ship responsible for enforcement of any matters pertaining to safety or security aboard his or her vessel. This is a description of some of the Master's responsibilities, which is taken from a manual of a major cruise lines:

- The Master's primary responsibility is the safety of passenger and crew, safety of the vessel and the protection of the environment. Should the vessel become endangered, the Master must use all available recourses to minimize the impact on person's property and the environment.

- The Master is also responsible for ensuring that the crew receives proper training and demonstrates proficiency in the operation of a life saving, fire fighting, security, navigation environmental systems.

- The Master is responsible for the implementation of the accidents/incident reporting system and the Master shall support the shipboard management team and any investigation monitoring the progress through the Staff Captain, particularly as to serious matters.

- The Master is the owner's representative and the ultimate authority onboard. The Master is charged to carry out the company's policies, and

> to comply with all applicable national and international laws and regulations. This authority vested to the Master by the government of the flag State.

Historically, under maritime law, it has always been the responsibility of a Master to enforce any rules or regulations onboard the ship, and to maintain security aboard his or her vessel. A Master is not necessarily qualified in law enforcement, or criminal investigation procedures. His main responsibility should be the navigation of the ship. A Master of the ship typically does not want to admit that anything criminal or wrong happens on his ship. Currently, there are no uniform laws or regulations as to the specific requirements for law enforcement personnel to be onboard a vessel to enforce any particular laws, at least which would address issues such as the number of law enforcement type personnel required, requirements for background checks, requirements for training and supervision, as well as the specific manner in which any type of law should be enforced onboard a cruise ship. There is also a Chief Security Officer who is also responsible for security. However, the Master has the ultimate responsibility for any rules or regulations aboard the vessel.

WHAT TYPE OF SECURITY MEASURES, BOTH TRAINED PERSONNEL AND EQUIPMENT, ARE ONBOARD CRUISE LINES TO ENSURE PASSENGER SAFETY?

Again, as to this particular question, I will need to answer it in the context of what I believe is the Committee's concern at this time, which is security measures, addressed toward protecting passengers onboard the ship from criminal activities that I have mentioned before, as opposed to outside terrorist acts, high-jackings of the vessel, or piracy acts. My experience is there is a security department onboard the vessel, which may be typically manned by a staff of eight (8) to maybe twelve (12) crewmembers, designated as security. There is usually a Chief of Security, and an Assistant Chief of Security among the eight (8) or twelve (12) crew deemed "security". Therefore, the actual number of active security patrols aboard the ship would be less. In addition, the security personnel maintain rotating shifts, which would leave even a lesser number of security actually patrolling the ship at a given time. It is important to know that the cruise ships are as high as thirteen (13) to fourteen (14) decks, with over 2000 passengers and 800-1000 crewmembers. The current system leaves only a few security personnel patrolling a thirteen deck cruise ship. Often times, one (1) or more of the security crew is assigned specifically to the casino, leaving even less security to patrol the ship. One of the major cruise lines employs security staff typically made up of crewmembers hired from the Philippines, who may have some military background or training, but do not have background in law enforcement as we know it, including investigative procedures or crime prevention measures. The security onboard the ship typically are not armed, and do not wear badges. There is not a clear presence of a strong police force onboard a cruise ship. A strong presence of security would act as a deterrence to criminal activity.

As to their training, my experience has been that the cruise line companies provide them with a training program involving security onboard the ship, but this training is minimal

and not similar to law enforcement training as we know it within a particular municipality. Again, the cruise line industry would like to compare itself to a municipality when it discusses criminal statistics about crimes. However, they do not have law enforcement personnel aboard the vessel as a municipality would. A typical law enforcement agency has standards that they adopt for hiring, training, as well as an agency or commission in charge of enforcement of any requirements. The cruise line has no similar laws that apply to their security personnel, nor any independent agency to oversee the security onboard a cruise ship.

The main security equipment onboard the vessel, putting aside security equipment that may be onboard a vessel to deal with terrorism type acts, would be the video surveillance systems onboard a particular ship. Over the years the video surveillance systems have not shown to be state of the art, and there has been a need for changes to the video surveillance systems to provide for better quality of their surveillance. It also does not appear that there is 24 hour monitoring of surveillance videos. There are no requirements to implement security cameras onboard a cruise ship, nor any requirements as to preserving any recordings that are made with the surveillance cameras. Often times, the recordings get destroyed before any investigation or claim is made, leaving any evidence that was obtained by the surveillance camera useless. The records may be kept for only a period of thirty (30) days, sometimes shorter.

There also appears to be a lack of surveillance cameras onboard the vessels, as there are no surveillance cameras in the hallways walking to a cabin. Passengers often walk back to their cabin very late at night or early in the morning. In addition, the representative of the cruise line industry from the ICCL stated that it is too expensive to install cameras on the railings around the ship, which currently do not exist.

As to the security measures that we are discussing, as well as the personnel involved in enforcing security aboard the cruise ships, I am again not aware of any specific United States laws or international laws that would govern these matters. There does need to be uniform laws to govern the selection, employment, training and supervision of crew, especially security personnel.

IF A CRIME OCCURS ONBOARD A CRUISE SHIP, WHO INVESTIGATES THE CRIME AND WHAT ARE THEIR TRAINING AND QUALIFICATIONS?

Again, the answer will depend on the particular policies and procedures of a particular cruise line. Since we do not have uniform laws addressing the investigation of a crime onboard a cruise ship, nor uniform standards regarding classification of crimes, and we do not have any standards or laws requiring reporting of these crimes, there are currently no uniform laws or standards regarding the investigation of an alleged crime. There are procedures for investigating accidents which have been implemented by each cruise, which would include investigation of a crime. Generally, there is a specific individual onboard, possibly the Chief Security Officer, or the Staff Captain, who will be in charge of investigating a particular crime or accident onboard a vessel. Ultimately, of course the Captain is the one in charge. As to the qualifications, they will vary from cruise line to

cruise line. I do not believe there are any requirements that the training and qualifications meet certain standards concerning law enforcement procedures, including proper investigative procedures, as well as proper crime scene preservation practices. In my experience, the individuals in charge of the investigation are not trained in investigating crimes, including properly investigating a crime scene, which would include preservation of the crime scene, collection of relevant evidence, as well as taking the appropriate statements of potential witnesses. My experience is that all investigations on the part of the cruise line will start by the cruise line staff, acting through the Risk Management Department of the cruise line, as part of the procedures to defend any potential civil liability it may have. In fact, the investigation of any crime or accident onboard a ship by the cruise line is often asserted by the cruise line to be privileged materials prepared in "anticipation of litigation", indicating that the investigations onboard the cruise ships are not geared toward a true investigation of the crime, but instead are geared toward protecting itself from liability. The cruise line does not have an appropriate incentive to thoroughly investigate a crime onboard a ship. The majority of crimes reported are alleged crimes committed by a crewmember. The crew itself is then entrusted with the investigation. The atmosphere then becomes one of "protect the company", which then pervades the entire investigation process. Neither Risk Management, nor the crew in charge, want to admit to an event, which could either lead to civil liability on their part, or lead to bad publicity. Crewmembers are also worried that they will lose their job if they do not help the company. Those in charge of security obviously have an incentive to keep crime figures low, either by not classifying an incident as a crime, or by not reporting it all. There is also an incentive not to conduct a complete, honest and accurate investigation. Therefore, consideration should be given to requiring the presence of an outside, independent security force.

HOW ARE JURISDICTIONAL ISSUES HANDLED ONBOARD FOREIGN FLAGGED VESSELS?

Returning to the discussion of the complexity of jurisdictional issues aboard a foreign cruise vessel, my experience has been that there is not necessarily uniformity on how the jurisdictional issues are handled. Pursuant to international maritime law, a cruise ship is an extension of the country where it is registered. Therefore, a crime onboard a foreign flag ship would be a crime occurring in the country where the ship is registered. At one point, the cruise line industry did not report crimes, such as sexual assaults, to United States authorities, even when a United States passenger was the victim. There are no requirements that a cruise line report such a crime to any United States authorities. In the recent past, the cruise line left it to the particular individual whether to report the crime to a United States authority. As was stated at a prior hearing, the cruise line industry, through the International Counsel of Cruise Lines, adopted a policy to voluntarily report any crimes involving a United States citizen to the United States authorities. There is no law requiring them to do so currently. It is also important to note that regardless of who the crime is reported to, under international maritime laws, the permission of the Master must be granted before any authorities can board the vessel, since the vessel is considered part of the country where it is registered. There may be some exceptions to this under

international law, such as a response to acts of piracy, but generally, even the FBI, must receive permission to board a foreign flag vessel to investigate. Also, a crime committed aboard a vessel which is in the territorial waters of a nation other than the nation of registry, will not provide the port where the crime occurs jurisdiction unless the crime involves the "peace and dignity of the port country". In one case when a United States passenger claimed she was sexually assaulted, the cruise line delayed the FBI for several hours before permitting boarding of the vessel. This passenger, who was allegedly sexual assaulted, stated that her room had been cleaned during this period of time, making it difficult for the FBI to gather evidence.

It should also be noted that investigating a crime at sea is inherently problematic because the authorities will have to routinely wait until the ship returns to a port, and address jurisdictional issues. In the meantime, the cruise lines have begun their internal investigation procedure, through the Risk Management Departments, which are designed to protect the cruise lines from any civil liability. Therefore, you have individuals with self interested motivations, who are not qualified in law enforcement investigation, conducting an investigation before the authorities. Most of the time the attorneys for the cruise lines will board the vessel prior to the authorities, and start investigating and taking statements before the authorities do.

In sum, how would I characterize how jurisdictional issues are handled aboard a foreign flag vessel? I would have to say not uniformly. There is too much discretion left to the cruise line. Many times, the port country, such as Turkey in the George A. Smith IV's case, is not necessarily set up to react to situations such as the Smith situation, nor do they have the appropriate incentive to conduct a complete and adequate investigation. There is no indication the flag country, such as Liberia, has any interest in conducting an investigation either. This leaves the United States passenger with great uncertainty as to protection by the United States authorities. At the present time, there does not seem to be uniformity in how a crime against a United States citizen is handled. Case law dealing with the interpretation of the Special Maritime Territorial Jurisdiction of the United States over crimes aboard vessels has raised issues, but has not resolved all of them.

CHANGE IS NEEDED

Although I understand I am not here to discuss any particular cases, I would like to add how the case involving George A. Smith IV demonstrates the need for change. George A. Smith IV was an American citizen. Why was a potential murder against a United States passenger investigated by Turkish police authorities, who did not have an interest in the possible crime, as it did not affect the "peace and dignity of the country"? In fact, the Turkish police authorities needed to go to a Turkish court to receive authority to conduct an investigation. This is an important matter to consider in response to the question about how jurisdictional issues are handled onboard foreign flag vessels. Currently, too much discretion is given to the cruise line. The cruise line in the George A. Smith IV matter deliberately turned over the investigation to the Turkish police authorities. While the cruise line did notify the FBI, it was after its Risk Management Department was notified first. Based on my discussions with the FBI, there appears to be many, unanswered

questions regarding legal jurisdictional issues, and procedures and protocol that should be followed in such a situation. There obviously needs to be much clearer guidelines and standards that are applicable in situations involving criminal activity onboard a cruise ship in the form of laws and regulations.

There is a need for uniform standards to apply to particular crimes, to accurately classify them according to some uniform definition. We need laws requiring crimes to be reported, even if it may only appear to be a likely crime. There needs to be uniform standards as to exactly what constitutes a crime, which will trigger a reporting requirement. We need a centralized agency to collect the data and make this data available to the United States public. Cruise ships do not warn the public about crimes onboard their ships, leaving our citizens in the dark about the existence of crimes onboard cruise ships. A citizen should be able to obtain accurate statistics of crimes, listed by cruise lines, maybe even by a particular ship. A security manager from Royal Caribbean Cruise Line previously stated that there is a sexual assault reported by one of their passengers occurring one (1) out of every fifty (50) thousand passengers. If this particular cruise line carries 3.5 million passengers per year, as has been reported, that would be a minimum of seventy (70) sexual assaults. This is a very significant number. It is important to note that these numbers do not include crimes committed by crewmember against another crewmember, which would be highly relevant if we are trying to obtain an accurate assessment of the amount of crime occurring aboard cruise ships.

As already stated, the cruise line recently adopted a policy to voluntarily report crimes. Referring to the period of time before the cruise lines voluntarily stated they were going to follow a policy of reporting crimes against United States passengers, the security manager for Royal Caribbean Cruise Line testified to the following, concerning reporting of crimes aboard this particular cruise line:

> Q: During the three years prior to the ... incident who, if anyone within the company would make the call as to whether or not a given incident would get reported to law enforcement authorities?
>
> A: That is difficult to say back in those days. We did not have clear policy on reporting such incidents, and largely the end result was if the victim requested us to do so, we would, or if we thought it was a major significant crime, we would do it in those cases too... It was not just sexual incidents. It was all alleged criminal activity in general, we just did not have good policy. Not only in my company, but in the industry in general. We just did not know where the line was to be drawn, what you reported and what you didn't.

* *Transcript can be supplied if requested. However, it is not supplied at this time to maintain any privacy aspects of particular case in question.*

CONCLUSION

At the present time there is a lack of uniform laws regulating security onboard the cruise ships regarding the type of criminal activity the committee is addressing. We obviously need a concerted effort by the government to institute change. The President of Royal Caribbean Cruise Lines stated on national television that the cruise line industry is a unique industry. He said it is the only industry not required to report a crime. I believe the legal position recently taken by this company, in defense of the lawsuit filed by Kendall Carver involving the disappearance of his daughter, Merriam Carver, illustrates loudly the big problem we are faced with regarding the cruise line industry. The position taken should raise many eyebrows. In a Memorandum of Law filed in court by the cruise line in response to Kendall Carver's claim that the cruise line did not properly investigate the disappearance of his daughter, and intentionally withheld information from him, the cruise line said it has "no duty to investigate", and no duty to provide information to any third party. The Memorandum of Law is attached. This demonstrates the industry currently is not accountable to anyone, at least that is the position they currently stated in legal proceedings involving Mr. Carver.

I hope the information that I have been able to share with the Committee has been helpful. It is obvious from the questions being raised there is an awareness change is needed in the fastest growing travel industry. This is an area that needs rules, laws and regulations to protect our United States citizens, not only from criminal activity occurring in the first place, but also to protect United States citizens once a crime has been committed by assuring them that a complete and adequate investigation will take place, and those responsible will be appropriately brought to justice.

Thank you again for giving me the honor to speak to you.

Brett A. Rivkind

Mr. SHAYS. Thank you, Mr. Rivkind.
Mr. Gorsline.

STATEMENT OF RONALD J. GORSLINE

Mr. GORSLINE. Thank you, Mr. Chairman. Good afternoon or evening, as it is right now. My name is Ronald Gorsline, and I'm the owner of Secure Ocean Services, LLC, and I thank you for the opportunity to be present to testify as an expert witness in the subject of maritime security as it relates to the cruise industry.

My company is a small company providing internal compliance auditing services for security programs in the cruise industry. Our job is to act as an honest broker while conducting internal audits and marking recommendations to correct program shortfalls, and identifying program strengths, as we identify them in our findings.

Today I am testifying about security practices, training, qualifications, jurisdiction of foreign flag vessels as incidents may occur on board those vessels. My testimony is not intended to point fingers as to cause, or add speculation on a company's conduct, but rather to clarify process and procedures as required by law.

In the United States and in the International Maritime Organization, there are rules that govern how the security program is set up aboard ship. For the United States, we are governed by 33 CFR part 101, and Part 104, specifically 104 for ships. International Maritime Organization adopted a regulation called the International Ship and Port Security Facility Code [ISPS], Parts A and B. Those are the cornerstones for the security programs on board ships.

The officials who are responsible for enforcing such laws on board the cruise ships ultimately is the master of the ship. He is the law enforcement authority while a ship is at sea and under way. The master overall is responsible for the vessel as shown, and is governed by regulations Part 104 CFR 33, 140.205 in the U.S. Code, and by the ISPS Code, Part A, Section 4.10 in the International Code. And at all times, the master of a ship has the ultimate responsibility for the safety and security of a ship, even at security level 3. A master may seek clarification or amendment of instructions issued by those responding to a security incident or a threat thereof, if there is reason to believe that compliance with the instruction may imperil the safety of the ship. That's his job.

The overall structure, as reflected in my testimony, gives you a brief breakdown of how it can be looked at in a picture. You have a company that has a company security officer, who is ultimately the program manager for the security program in the system. On board the vessel you have the master, who is the ultimate authority, and you have a vessel security officer. The vessel security officer is responsible for security on board the ship, but he reports to the master. If an incident occurs on board, the vessel security officer is the point to address the problem on board. The master is responsible overall for the execution of the process.

The company security officer is notified in that process, and then they consult on how to address the problem, upon which the company security officer notifies the law enforcement entity or agency that is to be the investigating authority.

Training overall, what is available on cruise ships for security as far as technology and application of those items as a security plan is considered security sensitive information, so I can't go into specifics on ships' numbers or anything like that, but I can give you a general idea.

There are metal detectors, both walk through and hand wands. They have x-ray machines. They're experimenting with new trace detection technology. They're looking at microchips. There is training on all of these items that are out there. Alarms and weather decks in certain areas where the passenger is not authorized to be working as far as the line handling area, forward section, chain locker and those areas.

They have a swipe card system that is attached to an ID photo that was taken upon check in, and that ID photo is transmitted into the system, and then every time somebody swipes their card to come on board it is confirmed by visual biometrics of who they are.

Modern vessels today are basically totally automated. Those cards are used to access, as was identified and spoken to earlier in the first panel, to basically handle your accounts, access in your rooms and everything else. The older vessels have a swipe card system for identification purposes, and normally you'll be issued a key for the room if they don't have the automatic key locks.

Personnel training. I've enclosed in here in my testimony and I won't go through each line item. Each position on a ship, as identified by both U.S. and International Code, what the training requirements are for each position. The companies have to meet that. That training is done. It is logged and it is entered into the training records as individuals are carried on board the ship.

As I said earlier, you have the master, the vessel security officer or the ship security officer under ISPS Code. You have those individuals that their primary responsibilities is security, and then you have those individuals who have secondary responsibilities in security. They have varying different levels of degree. Then after all that is said and done, there's a secondary training process where companies set up to do report writing, handle issues that come on up as far as techniques and circumventing security techniques and doing crime scene collection of evidence, and then packaging it and turning it over to that authority once they report on board to do the investigation.

The special maritime territorial jurisdiction of the United States has been expanded to include places outside of the jurisdiction of the Nation when those offenses are against the Nation of the United States as part of U.S.C. Part 18, and among those offenses is special maritime territorial jurisdiction of the United States are the crimes of murder, manslaughter, maiming, kidnapping, rape, assault and robbery. That comes under all Title 18.

As stated earlier, the Federal Bureau of Investigation is the investigating entity under maritime code, and the Coast Guard captain of the port is overall responsible for those items in the port when a ship is stateside the United States.

The policy is a single industry standard that requires allegations of on board crime be reported to the appropriate law enforcement authorities with vessel calls on U.S. ports of crimes involving U.S.

citizens would include the Federal Bureau of Investigation. They are the responsible authority to do that.

The companies, the industry as a whole has a zero tolerance for crimes on board committed on board vessels. If crimes do occur, the appropriate law enforcement authorities will be called to investigate, to prosecute to the fullest extent of the law. The cruise industry continues to cooperate with authorities to ensure that the perpetrators of crime are brought to justice. This is a requirement.

As previous testimony in December 13, 2005, the agreements are in place with the membership of the ICCL companies, and the flag states addressing communications with the lead agencies to investigate all cases once reported.

In addition to the above, trafficking of illegal drugs and narcotics is included and is also investigated by the Customs and Border Agency.

While on board the vessel, the vessel security officer and the ship security officer will refer to the incident report procedure to collect evidence, interview witnesses, assemble the report, package all material to be turned over to the investigating authority upon arrival in the next port. Additionally, the company security officer will be notified of the incident and give direction to the VSO and coordinate actions with the master and the VSO and the appropriate agency. In the event forensic evidence is to be collected of a scientific nature, then ships doctors will more likely be pressed into service to administer such things as rape kits to confirm a complaint.

Personnel training and capability will vary from company to company. Some companies have their own academies to provide this training. Other companies will subcontract their training out to an appropriate training authority that can do that. Others will have people come on board and do what they call training programs. But training is occurring. They have to meet these guidelines.

In short, on the jurisdictional issues on the flag vessels, I really don't want to go into that too deeply because I'm not a lawyer. I do know this, that foreign flag vessels are flag states. Flag states are contracting governments who signed up to the IMO and adhere to the ISPS Code in addition to their own laws. Flag states also have their own recognized security organizations that are referred to as RSOs. The RSO in most cases is a class society designated by that flag state as a verification arm to ensure that the ISPS Code is being followed by the ship or the company that is flagged under that flag. The RSO will ensure the ship flagged has a security plan that meets the ISPS Code. The RSO ensures the international ship security certificates, issues them on out for the flag state, and ensures that the vessel will have an IMO number of registration, fly a flag of that nation. Examples are Bahamas, Panama and Liberia. The foreign flag ships avoid U.S. domestic maritime policy and taxes.

The United States isolates domestic policy from international through the Jones Act. Domestic policy requires that you have to build at home, crew at home and own at home to carry cargo between U.S. ports.

Mr. SHAYS. I need you to finish up here.

Mr. GORSLINE. I'm going to do that right now, sir.

In short, there are five areas that need to be addressed here that verify the Congress has the ability to act upon requirements to enact laws to meet the territorial jurisdiction of the United States.

One, there is a territorial jurisdiction if a ship enters or acts occur within a territory of a particular country, then that country's laws apply.

Two, under the "national" theory, the country where any alleged crime perpetrator resides has jurisdiction over the matter involving a perpetrator.

Three, the nation with the custody of any alleged perpetrators of certain types of crimes can claim jurisdiction under the universality principle.

Four, under the "passive personality doctrine," the Nation where the victim resides can exercise jurisdiction over a matter.

Five, any country whose national interests are affected by an incident can assert protective jurisdiction.

I hope I have answered your questions.

[The prepared statement of Mr. Gorsline follows:]

STATEMENT OF

RONALD J. GORSLINE

SECURE OCEAN SERVICE, LLC

ON

INTERNATIONAL MARITIME SECURITY II:

Law Enforcement, Passenger Security and Incident Investigation on Cruise Ships

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON GOVERNMENT REFORM

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS AND INTERNATIONAL RELATIONS

ON

MARCH 07, 2006

Good morning Chairmen and members of the Committee. My name is Ronald Gorsline; I am the owner of Secure Ocean Service, LLC. Thank you for the opportunity to present testimony as an expert witness on the subject of maritime security as it relates to the cruise industry.

SOS is a small company providing internal compliance auditing service for security programs in the cruise industry. Our job is to act as an honest broker while conducting internal audits and identifying program strengths and weaknesses reporting to clients and making recommendations to correct program shortfalls as shown in our findings.

Today, I am testifying about security practices, training, qualifications and jurisdiction of foreign flag vessels as incidents may occur onboard those vessels. My testimony is not intended to point fingers as to cause or add to speculation on a company's conduct, but rather to clarify process and procedures as required by law.

1. What United States and International laws govern passenger security onboard Cruise Lines? **Response:**
   1) 33 CFR Part 101
   2) 33 CFR Part 104
   3) International Ship & Port Facility Security (ISPS) Code parts A & B

2. Who is the official responsible for enforcing such laws onboard a cruise ship? **Response:** The Master is overall responsible for the vessel and is as shown below by regulation both US and international.

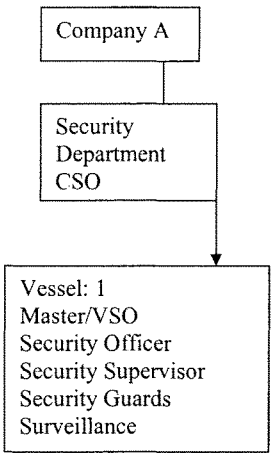
§ 104.205 Master. (US)

(a) Nothing in this part is intended to permit the Master to be constrained by the Company, the vessel owner or operator, or any other person, from taking or executing any decision which, in the professional judgment of the Master, is necessary to maintain the safety and security of the vessel. This includes denial of access to persons—except those identified as duly authorized by the cognizant government authority—or their effects, and refusal to load cargo, including containers or other closed cargo transport units.

(b) If, in the professional judgment of the Master, a conflict between any safety and security requirements applicable to the vessel arises during its operations, the Master may give precedence to measures intended to maintain the safety of the vessel, and take such temporary security measures as seem best under all circumstances.

ISPS part A, section 4.10 (Intl.): At all times the Master of a ship has the ultimate responsibility for the safety and security of the ship. Even at security level 3 a Master may seek clarification or amendment of instructions issued by those responding to a security incident, or threat thereof, if there are reasons to believe that compliance with any instruction may imperil the safety of the ship.

The over all structure reflects the following for security:



3. What type of security measures, both trained personnel and equipment are onboard cruise lines to ensure passenger safety? **Response:**

The response to this is classified SSI in accordance with 49 CFR 1520 and ISPS code part A, section 9.8.1: *If* the officers duly authorized by a Contracting Government have clear grounds to believe that the ship is not in compliance with the requirements of chapter XI-2 or part A of this Code, and the only means to verify or rectify the non-compliance is to review the relevant requirements of the ship security plan, limited access to the specific sections of the plan relating to the noncompliance is exceptionally allowed, but only with the consent of the Contracting Government of, or the master of, the ship concerned. Nevertheless, the provisions in the plan relating to section 9.4 subsections .2, .4, .5, .7, .15, .17 and .18 of this Part of the Code are considered as confidential information, and cannot be subject to inspection unless otherwise agreed by the Contracting Governments concerned.

Vessels in general are outfitted with various types of security equipment and technology to include:

- Metal detectors, walk through and hand wand
- x-ray machines for handbags, and Luggage
- video surveillance
- Alarms and weather deck doors with open indicator sensors
- Swipe ID card system for passengers/ship access and room key, Each passenger is issued an access card that has a down loaded picture to confirm facial identification.

The passengers' pass is a computer generated plastic swipe card. It shows the following:

Front	Rear
Picture of ship	Magnetic stripe
Name of ship	Company name and logo
Name of bearer	Condition of use
Assembly station	Bar code for cabin lock
Disembarkation date	Name of bearer
Ship Phone Number	Cabin number
	Account details

For modern vessels this is the normal mode. For older vessels operating who do not have card activated room keys they would issue keys for their cabins with cards for Identification purposes.

- Heat sensors for fire sprinkler systems,
- Cipher locks for controlled access to restricted areas,
- Lighting to cover the vessel 360 degrees in port and underway.
- Ship Security Alert System (SSAS)

Personnel Training requirements: **33 CFR 104 (US)**

§104.210 Company Security Officer (CSO)

a) **General.**

1) Owner/Operator must designate a CSO in writing.

2) If more than one CSO, each CSO must have designated ships for which responsible.

3) CSO may perform other duties including those of the VSO, provided he/she is able to perform required of CSO.

4) The CSO may delegate duties, but the CSO remains responsible for the performance of those duties.

b) **Qualifications.**

CSO must have general knowledge through training or equivalent experience in the following:

1) Security administration and organization of company's vessels;

2) Vessel, facility and port operations relevant to that industry;

3) Vessel and facility security measures, requirements at the different MARSEC Levels;

4) Emergency preparedness and response and contingency planning;

5) Security equipment and systems;

6) Methods of conducting audits, and techniques for inspecting, controlling, and monitoring techniques; **and**

7) Techniques for security training and education, including security measures/procedures.

c) **Responsibilities**

In addition to duties specified elsewhere, the CSO for each vessel must:

1) Keep vessel appraised of potential threats;

2) Ensure a Vessel Security Assessment is carried out;

3) Ensure a Vessel Security Plan (VSP) is developed, approved and maintained;

4) Ensure the VSP is modified when necessary;

5) Ensure the vessel's security activities are audited;

6) Arrange for Coast Guard inspections under 46 CFR Part 2;

7) Ensure timely correction of problems identified by audits;

8) Enhance awareness and vigilance within the ship-owners organization;

9) Ensure personnel receive adequate security training;

10) Ensure communication/cooperation with vessel, facility, and/or port;

11) Ensure consistency between security requirements and safety requirements;

12) Ensure that vessel specific information is included when several similar types vessel plans are submitted;

13) Ensure compliance with Alternative Security Plan (ASP) or equivalent, if appropriate, **and**

14) Ensure security measures give consideration and/or convenience to vessels crew.

§104.215 Vessel Security Officer (VSO)

a) **General**

1) A VSO may perform other duties within an Owner/Operator's organization, provided he/she is able.

2) For manned vessels the VSO must be the Master or a member of the crew.

3) For unmanned vessels the VSO must be a company employee and may serve as VSO for more than one unmanned vessel. If serving as VSO for more than one unmanned vessel, list of vessels for which responsible must be in the VSP.

4) The VSO of any unmanned barge and the VSO of any interfacing towing vessel must

coordinate/implement security measures for interfacing period.

5) VSP may assign security duties to other vessel personnel; however VSO responsible.

b) **Qualifications**

VSO must have knowledge through training or equivalent job experience in the following:

1) Those items listed in 104.210 (b) (1) and (b) (2) of this part;

2) Vessel layout;

3) The VSP and related procedures including scenario-based response training;

4) Crowd management and control techniques;

5) Operation of security equipment and systems; **and**

6) Testing, calibration, and maintenance of security equipment and systems.

c) **Responsibilities**

In addition to the duties and responsibilities mentioned elsewhere, the VSO must perform the following:

1) Regularly inspect the vessel to ensure security measures are maintained;

2) Ensure maintenance and supervision of implementation of the VSP and amendments;

3) Ensure coordination of handling cargo, vessel stores and bunkers in compliance with rule;

4) Propose modifications to the VSP to the CSO;

5) Ensure any problems during audits/inspections are reported to the CSO and implement;

6) Ensure security awareness and vigilance onboard the vessel;

7) Ensure adequate training for the vessel personnel;

8) Ensure the reporting and recording of all security incidents;

9) Ensure the coordination/implementation of the VSP with the CSO and Facility Security Officer (FSO) when applicable;

10) Ensure security equipment is properly operated, tested, calibrated, and maintained; **and**

11) Ensure consistency between security requirements and proper treatment of crew.

§104.220 Company or Vessel Personnel with Security Duties

These persons must have knowledge, through training or equivalent experience in the following areas:

a) Knowledge of current security threats and patterns;

b) Recognition and detection of dangerous substances and devices;

c) Recognition of characteristics/behavioral patterns of those likely to threaten security;

d) Techniques used to circumvent security measures;

e) Crowd management and control techniques;

f) Security-related communications;

g) Knowledge of emergency procedures and contingency plans;

h) Operation of security equipment and systems;

i) Testing, calibration and maintenance of security systems while at sea;

j) Inspection, control and monitoring techniques;

k) Relevant provisions of the security plan;

l) Methods of physical screening of persons/personal effects/baggage/cargo/vessels stores;

and

m) The meaning and consequential requirements of different MARSEC Levels.

§104.225 Security Training for all Other Vessel Personnel.

All other personnel including contractors must have knowledge of, through training, or equivalent job experience in the following, as appropriate:

a) Relevant provisions of the VSP;

b) The consequential requirements of the different MARSEC Levels;

c) Recognition and detection of dangerous substances and devices;

d) Recognition and characteristics/behavioral patterns of those likely to threaten security;

and

e) Techniques used to circumvent security measures.

ISPS Code part B section 13 (Intl law):

Security Personnel Training

13.1 The Company Security Officer (CSO) and appropriate shore based Company personnel, and the Ship Security Officer (SSO), should have knowledge of, and receive training, in some or all of the following, as appropriate:

.1 security administration;

.2 relevant international conventions, codes and recommendations;

.3 relevant Government legislation and regulations;

.4 responsibilities and functions of other security organizations;

.5 methodology of ship security assessment;

.6 methods of ship security surveys and inspections;
.7 ship and port operations and conditions;
.8 ship and port facility security measures;
.9 emergency preparedness and response and contingency planning;
.10 instruction techniques for security training and education, including security measures and procedures;
.11 handling sensitive security related information and security related communications;
.12 knowledge of current security threats and patterns;
.13 recognition and detection of weapons, dangerous substances and devices;
.14 recognition, on a non discriminatory basis, of characteristics and behavioral patterns of persons who are likely to threaten security;
.15 techniques used to circumvent security measures;
.16 security equipment and systems and their operational limitations;
.17 methods of conducting audits, inspection, control and monitoring;
.18 methods of physical searches and non-intrusive inspections;
.19 security drills and exercises, including drills and exercises with port facilities; and
.20 assessment of security drills and exercises.

13.2 In addition the SSO should have adequate knowledge of, and receive training, in some or all of the following, as appropriate:
.1 the layout of the ship;
.2 the ship security plan and related procedures (including scenario-based training on how to respond);
.3 crowd management and control techniques;
.4 operations of security equipment and systems; and
.5 testing, calibration and whilst at sea maintenance of security equipment and systems.

13.3 Shipboard personnel having specific security duties should have sufficient knowledge and ability to perform their assigned duties, including, as appropriate:
.1 knowledge of current security threats and patterns;
.2 recognition and detection of weapons, dangerous substances and devices;
.3 recognition of characteristics and behavioral patterns of persons who are likely to

threaten security;

.4 techniques used to circumvent security measures;

.5 crowd management and control techniques;

.6 security related communications;

.7 knowledge of the emergency procedures and contingency plans;

.8 operations of security equipment and systems;

.9 testing, calibration and whilst at sea maintenance of security equipment and systems;

.10 inspection, control, and monitoring techniques; and

.11 methods of physical searches of persons, personal effects, baggage, cargo, and ship's stores.

13.4 All other shipboard personnel should have sufficient knowledge of and be familiar with relevant provisions of the SSP, including:

.1 The meaning and the consequential requirements of the different security levels;

.2 knowledge of the emergency procedures and contingency plans;

.3 recognition and detection of weapons, dangerous substances and devices;

.4 recognition, on a non discriminatory basis, of characteristics and behavioral patterns of persons who are likely to threaten security; and

.5 techniques used to circumvent security measures.

In addition to the published regulatory security requirements companies will conduct training to cover law enforcement issues such as:

a. Gangway procedures

b. Ship Patrolling Procedures

c. Report writing techniques

d. Incident scene preservation

e. Bomb search procedures

f. Missing persons search procedures

g. Use of force

h. Principles of investigation, protection of the crime scene and the collection of evidence

i. Crime on the High Seas

4. If a crime occurs onboard a cruise ship who investigates the crime and what are their training and qualifications?

Response: This varies company to company, and by vessel size and type of crime committed. **Crimes Committed Within the Special Maritime Jurisdiction of the United States are investigated by the FBI and are defined as follows:**

- **Arson 18 USC 81,**
- **Assault 18 USC 113**
- **Maiming 18 USC 114**
- **Murder 18 USC 1111**
- **Homicide 18 USC 1112**
- **Kidnapping 18 USC 1201**
- **Sexual assault, rape 18 USC 2241**
- **Robbery and burglary 18 USC 2111**

The "special maritime and territorial jurisdiction of the United States" has been expanded to include any place outside the jurisdiction of any nation when the offense is committed by or against a national of the United States (see 18 U.S.C. § 7(7)). Among the offenses within the special maritime and territorial jurisdiction of the United States are the crimes of murder, manslaughter, maiming, kidnapping, rape, assault, and robbery. Pursuant to 18 U.S.C. § 7(1) there is also jurisdiction over such offenses when they are committed on the high seas or any other waters within the admiralty and maritime jurisdiction of the United States that is out of the jurisdiction of any particular state. See USAM 9-20.000 et seq. (Maritime, Territorial and Indian Jurisdiction).

The Federal Bureau of Investigation (FBI) is the lead agency in enforcing the 18 USC provisions outlined above. In recognition of this fact, in 1999 the ICCL membership issued the following public statement implementing a policy of "zero tolerance for crime:"

"This policy establishes a single industry standard that requires allegations of onboard crime be reported to the appropriate law enforcement authorities which, for vessels calling on U.S. ports or crime involving U.S. citizens, would include the Federal Bureau of Investigation.

The companies, and the industry as a whole, have zero tolerance for crimes committed on our vessels. If crimes do occur, the appropriate law enforcement authorities will be called in to investigate and prosecute to the fullest extent of the law. The cruise industry continues to cooperate with the authorities to ensure that perpetrators of crime are brought to justice." (J Michael Crye testimony 13 December 2005)

As previously testified to by the President of the ICCL J Michael Crye on 13 December 2005, agreements are in place with the Membership of the ICCL and the Flag States addressing communications with the lead agencies to investigate all cases once reported. In addition to the above the possession and or trafficking of illegal drugs and narcotics is included as an action and investigated by Customs & Boarder Protection agency (CBP).

While onboard the vessel the Vessel Security Officer (VSO)/Ship Security Officer (SSO) will refer to the incident report procedure to collect evidence, interview witnesses and assemble the report and package all material to be turned over to the investigating authority upon arrival in the next port. Additionally, the Company Security Officer (CSO) will be notified of the incident and give direction to the VSO, and coordinate actions with the Master/VSO and the appropriate agency. In the event forensic evidence is to be collected of a scientific nature then the ships doctor will more likely be pressed into service to administer such things as a rape kit to confirm a complaint.

Personnel training and capability will vary company to company. Some companies have their own academy to train their personnel. Where other companies subcontract that training to training contractors or maritime academies to qualify their personnel in investigation and evidence collection procedures. All training is recorded and entered into a company data base to show when training occurred for personnel in the company. The incident plan shows by positions responsibilities during a given type of incident and who is responsible for the assembly of the incident report.

In comparison a police to population ratio in a major city of the US is 1-2 per 1,000 where onboard a cruise ship it is 5-7 security personnel per 1,000. Additionally, the response is more rapid usually less then 5 minutes.

5. How are jurisdictional issues handled onboard foreign flagged vessels?

Response: Foreign flagged vessels are Flag States. A Flag State is a contracting government who signed up to the IMO and adheres to the ISPS code in addition to their own laws. Flag States also have their own Recognized Security Organization (RSO). The RSO is in most cases is a Class Society designated to be the verification arm of the Flag State. The RSO will ensure the ship flagged has a ship security plan that meets the ISPS code. The RSO issues the international ship security certificates (ISSC) also for the flag state. The vessel will have an IMO number of registration and fly the flag of that nation. Examples are the Bahamas, Panama and Liberia. The foreign flag ships avoid US domestic maritime policy and taxes.

The US isolates domestic policy from international through the Jones act.

- Domestic policy requires build at home, crew at home, and own at home to carry cargo between ports in the US.

However, various nations, such as the United States, can and regularly do assert jurisdiction over Cruise Ships under international law based upon a number of well-established factors. Congress can enact criminal laws that apply extraterritorially if any of the five criteria below are met:

1) There is "territorial" jurisdiction. If a ship enters or an act occurs within the territory of a particular country, then that country's laws apply. This is true for any international traveler. Legally, a ship is also considered to be part of the territory of the flag state where it is registered, and thus the flag state's laws also apply on board that ship, in addition to the laws of the country where the ship is physically located.
2) Under the "national" theory, the country where any alleged criminal perpetrator resides has jurisdiction over a matter involving the perpetrator's conduct.

3) The nation with custody of any alleged perpetrator for certain types of crimes can claim jurisdiction under the "universality" principle. Piracy, for example, has been identified as such a criminal act and every country has jurisdiction to take enforcement action against persons in that country's territory for acts of piracy that occur on the high seas.
4) Under the "passive personality" doctrine, the nation where the victim resides can exercise jurisdiction over the matter, regardless of where it occurs.
5) Any country whose national interests are affected by an incident can assert "protective" jurisdiction.

(ICCL Testimony: International Maritime Security December 13, 2005)

I hope that I have answered your questions regarding what international and national laws pertaining to security on cruise ships and jurisdictional issues onboard foreign flagged vessels traveling outside of US territorial waters.

Ships move from port to port and changes in jurisdictions are fluid crossing international boundaries. As shown above governments and agencies exercise law enforcement authority over each ship based upon its location. Criminal acts involving U.S. citizens are reported to the appropriate law enforcement authority which may include the FBI. Other incidents involving security are reported to the flag state, and to any reporting requirements applicable in the US such as the Coast Guard incident reports.

Mr. SHAYS. Thank you.
Mr. Kaye.

STATEMENT OF LAWRENCE W. KAYE

Mr. KAYE. Mr. Chairman, Congressman Mica, I thank you again for inviting me to testify today. I am very proud of my representation of the cruise industry over the last 30 years, but I'm even prouder of my role as a son, brother, husband and father of three. There is nothing that I can say to detract from the tragedies that these families who have testified here today have told us about, and I want to begin by extending my deepest sympathies to each of them and their families.

Hopefully, the information I've been invited to provide will assist them and you in understanding the legal obligations that currently govern this industry, and that's my sole purpose in being here. I commend you and the subcommittee for taking the time to explore them.

The fact is that we don't have a very complex system of laws governing cruise ships. It may seem that way if you're confused about it, but our U.S. criminal jurisdiction on cruise ships does provide a very high level of protection to Americans traveling anywhere in the world. It starts with the U.S. Constitution, which states in Article I that Congress is authorized "to define and punish felonies committed on the high seas." That is exactly what our Congress has done. Over the years it has asserted our national power over some 20 different categories of crimes in what is referred to as the special maritime jurisdiction of the United States. These include everything from sexual misconduct to robbery and theft, to terrorism and murder, and everything in between.

On U.S. flag ships—and there are some today in fact sailing in Hawaii—our Federal Government has jurisdiction over those crimes anywhere the ships operate, involving any soul on board. On foreign flag ships, our criminal jurisdiction in these crimes extends to anyone in U.S. waters, Americans on the high seas on those vessels, or even Americans in foreign waters if that voyage on that foreign ship starts or ends in the United States. It is as simple as that.

In my 27 years of legal practice I have never heard of a situation where an agent of the FBI has been denied access to a foreign flag vessel seeking to do an investigation. I've just never heard of that happening. Usually there is a report made. There is a request to do the investigation, and with open arms, they board the ship.

These same Federal maritime statutes ironically have been incorporated into the Federal aviation scheme, and as Congressman Mica no doubt is aware, the Federal criminal laws that apply to international aircraft boarding passengers in the United States, incorporate by reference the Federal crimes that apply in the special maritime jurisdiction. So Congress was so satisfied that scheme was clear and comprehensive enough that it simply rolled it over into the aviation industry.

We know there are 31 million passengers, 10 million a year approximately in the cruise industry. There are 72 million passengers a year in the airline industry boarding foreign craft in U.S. airports.

Even though cruise ship passengers, I think we can all agree, are much safer from crime than inhabitants of even small cities cross the United States, because of these Federal criminal laws, they have the protection of the FBI as their enforcement resource. On land, where these crimes are much more prevalent, victims are relegated to the protection of the local police station. Crimes on cruise ships can and have been prosecuted under the full panoply of our Federal court system, including nationwide subpoena power over witnesses and evidence, national and international extradition, and a worldwide investigative capability second to none.

I'd like to turn now to crime reporting because I think this is an issue that has sadly been very misunderstood, perhaps even by the attorneys that are advising some of the people who have suffered these tragic losses. The fact is that regulations on the security of passenger vessels were passed by this Congress in 1998, and amended in 2001 and 2002. They expressly requires all ships, regardless of registry, sailing to or from a U.S. port, to report any felony that occurs in a place subject to U.S. jurisdiction to the FBI.

Now, as we've just seen, places subject to the U.S. jurisdiction include the high seas and even foreign waters of other nations when an American is involved. About 85 percent of the North American cruise industry are voyages out of U.S. ports, Florida, California, Hawaii and Alaska. For the 15 percent or so of cruises that don't touch a U.S. port, the cruise lines, nonetheless, still report all felonies involving Americans to the FBI. That is where the industry's zero tolerance voluntary reporting policy kicks in, and that is in addition to the mandatory requirements.

Now, even so, on January 10th of this year, immediately after this subcommittee's last hearing, the International Council of Cruise Lines arranged a meeting with the FBI, Coast Guard, Immigrations and Customs Enforcement and others. The purpose was to discuss a thorough review of those reporting procedures to ensure a consistent and uniform protocol, so that every agency interested in a particular class of matters would receive whatever report it desired.

I also want to add that in checking the airline industry, despite the fact that there are seven times the number of patrons flying on international carriers from U.S. airports, and despite the fact that the same Federal crimes apply on aircraft, there is absolutely no requirement legally for airlines to report any crimes to anyone.

The statistics of crime in the cruise industry are reliable because of the mandatory reporting, and they show that cruise ships are remarkably safe. Out of the more than 31 million passengers carried over the past 3 years, passengers and crew I should say, there were 178 total claimed sexual assaults, 24 missing persons, excluding the 5 who were rescued or found, and 4 robberies. When you factor in how many of the incidents involve passengers, it works out to less than 4 claimed sexual assaults per million carried, which ironically, happens to be the exact same statistical chance of a person being struck by lightning. I was surprised to find that out myself. The numbers translate into 1 reported robbery for every 8 million carried; 12 of the 24 missing persons were tragically determined to be likely suicides, and I am not including Mr. and Mrs. Pham in

that number, one an accidental fall overboard, and that leaves 11 truly missing out of 31 million.

This is by no means to minimize these occurrences because even one such incident on a cruise is one too many, especially if it were your loved one.

Briefly, I want to outline that U.S. civil jurisdiction on cruise ships also gives passengers as high or higher protection than patrons on land. It's another reason why the cruise industry has every incentive to ensure that their ships are safe. United States and even foreign passengers have very broad access to U.S. courts. If the cruise line is based in the United States, as is every major line of the ICCL, a U.S. form for resolution of their grievances must be provided. By Federal statute, if the ship even touches a U.S. port, any provision of the ticket that weakens the right to a trial or tries to limit damages for negligence is legally void.

I can tell you that all cruise ships today have security teams with extensive military of law enforcement backgrounds. Closed circuit cameras, x-ray screening, computerized door locks that record all entrances into cabins, computerized ship access identification systems that match passenger and crew photos to the individual boarding, rape kits, strict segregation of passenger and crew areas, non-fraternization policies, no guest policies, security rounds, and zero tolerance for crime are commonplace in the cruise industry today.

Until the FBI or other appropriate authorities begin investigations, cruise lines provide the same or better response to potential crimes as their shore-side counterparts, but like airlines, hotels, restaurants, theme parks, resorts and the like, they neither have the expertise, nor the legal authority to perform criminal investigations or prosecute crimes. So they rely on the responsible authorities to do so, but the next port of call is typically less than a day away, and the ships are in constant radio communication with the authorities, and follow any and all instructions given.

I thank you again for the opportunity to testify.

[The prepared statement of Mr. Kaye follows:]

Testimony of

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Senior Partner
Kaye, Rose & Partners, LLP

Before the House Subcommittee on

National Security, Emerging Threats, and International Relations

March 7, 2006

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I. INTRODUCTION

Chairman Shays and Subcommittee members. I am pleased to be here today at the Subcommittee's invitation to testify as an expert witness concerning the legal regimes governing cruise lines in the areas of passenger security, law enforcement and jurisdiction.

My name is Larry Kaye, and I am the Senior Partner of a leading maritime law firm Kaye, Rose & Partners, LLP, which is based in California and maintains offices in Los Angeles, San Francisco and San Diego. I and the other members of my firm, in addition to representing most of the major cruise lines operating in the United States, have often consulted with and advised the International Council of Cruise Lines ("ICCL"), the industry trade association for the 15 leading cruise lines operating in North America. Since 1995 I have served as the Chairman of the ICCL's Associate Member Council, representing the interests of the 100 shore based companies, ports, suppliers and service providers who transact business regularly with the leading cruise lines. I also sit on the ICCL Board of Directors.

I have been a practicing attorney since 1979 and began specializing in maritime law and the cruise ship industry in 1980. My partners and I have been involved in many precedent-setting court decisions in maritime cases over the years in numerous state and federal jurisdictions. I am a member in good standing of the Maritime Law Association of the United States and serve on its Cruise and Passenger Ship Committee. I have lectured at maritime law seminars that have been certified for continuing legal education credit in California and Florida, and have published several articles on cruise industry legal issues affecting operators, passengers and crew. I am also the author of Chapter II of Volume 10 of the leading legal treatise on Cruise Ships, Benedict on Admiralty, entitled "Governmental Regulation."

As legal counsel to various cruise lines and to the ICCL, I know that the safety of cruise passengers and crew is of a highest priority to my clients. In representing this industry for over a quarter century, I have personally observed the changes over time and the increased care and concern the cruise industry has demonstrated to ensure the safety of passengers, regardless of where they may be sailing. As you will hear from others who are testifying today, the cruise lines are well aware of the adverse impact that even a single incident can have on the American public perception. The reality is that various U.S. law enforcement agencies not only have jurisdiction under present laws to investigate and prosecute crimes, but also are, as a matter of normal practice, routinely requested by the cruise lines to ensure American passengers are fully protected wherever they may be traveling. As a result, despite the unfortunate tragedies which inevitably occur in an industry with more than 10,000,000 patrons each year, cruise ships are an extremely safe vacation environment.

Before addressing the issues raised by the Committee's letter, I will provide an overall summary of some key issues to put my responses in the appropriate context. I believe the Committee should understand the jurisdictional power already exercised by various U.S. law enforcement agencies over criminal matters involving cruise ships. Next, I will provide the Committee statistics showing that criminal activity is not at all common at sea, and considerably more likely to occur on land. I will summarize existing laws that govern claims by passengers

relating to their shipboard safety. This legal scheme creates further incentive to ensure safety is maintained at its highest levels. Finally, I will respond to the specific questions raised, although my expertise is of a legal nature, and I will leave the operational issues to those more qualified to address them.

II. U.S. CRIMINAL JURISDICTION OVER CRUISE SHIPS PROVIDES A HIGH LEVEL OF PROTECTION TO AMERICANS TRAVELING WORLDWIDE

The contention that cruise ships registered in nations outside the U.S. are somehow immunized from U.S. criminal laws or jurisdiction is completely false. In point of fact, Article 1, Section 8 of The Constitution gives Congress the authority "To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations." Congress, by Act in 1799, provided that foreign vessels, within four marine leagues could be boarded by and compelled to present their manifests to U.S. authorities.[1] By the early part of the twentieth century, the Supreme Court had held that U.S. law extended to an act done on a U.S. vessel on the Congo River in Africa.[2]

As a result, crimes on voyages outside the U.S., even if committed on the high seas or in foreign territorial waters, can and have been investigated and prosecuted by and within the U.S. Federal law, as embodied in Title 18 of the United States Code, expressly permits the U.S. to exert its jurisdictional power over a host of crimes committed anywhere within the "special maritime and territorial jurisdiction" of the United States. That jurisdiction is delineated in 18 U.S.C. § 7 as encompassing crimes involving American victims or perpetrators ***anywhere in the world***.

Pursuant to federal statutes and long-standing and widely accepted principles of international law, today the United States exercises jurisdiction in a wide range of cases involving alleged crimes at sea, including the relatively few on cruise ships, regardless of their nations of registry. Our national jurisdiction, in the case of U.S. ships, extends to offenses committed anywhere those ships operate, regardless of the nationality of the perpetrator or victim. 18 U.S.C. § 7 (1). On foreign vessels, the "special maritime and territorial jurisdiction" is defined to include not only such offenses committed ***by or against anyone in U.S. territorial waters***, but also when committed ***by or against Americans on the high seas***. Id., § 7 (1), (7) and (8). U.S. jurisdiction even extends to offenses on foreign ships ***by or against Americans in foreign territorial waters on ships departing from or arriving at the U.S.*** Id., § 7 (1). Therefore, U.S. criminal jurisdiction extends to the high seas and even foreign territorial waters in many circumstances.[3]

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[1] See Act of March 2, 1799, ch. 22, § 54, 1 Stat. 627,668.

[2] See United States v. Flores, 289 U.S. 137, 159 (1933).

[3] United States v. Neil, 312 F.3d 419 (9th Cir. 2002), and United States v. Roberts, 1 F. Supp. 2d 601, 606-07 (E.D. La. 1998), both involved crimes allegedly committed by non-U.S. citizens on foreign cruise ships on the high seas or in foreign waters. In both cases charges were brought under federal statutes which operate within the "special

Among the crimes over which the U.S. asserts such broad criminal jurisdiction are: abusive sexual contact (18 U.S.C. § 2244), aggravated sexual abuse (18 U.S.C. § 2241), arson (18 U.S.C. § 81), assault (18 U.S.C. § 113), assaulting or resisting U.S. officers (18 U.S.C. § 111), embezzlement or theft (18 U.S.C. § 661), kidnapping (18 U.S.C. § 1201), maiming (18 U.S.C. § 114), malicious mischief (18 U.S.C. § 1363), manslaughter (18 U.S.C. § 1112), murder (18 U.S.C. § 1111), receiving stolen property (18 U.S.C. § 662), robbery and burglary (18 U.S.C. § 2111), sexual abuse (18 U.S.C. § 2242), sexual abuse of a minor or ward (18 U.S.C. § 2243), stowaway (18 U.S.C. § 2199), terrorism (18 U.S.C. § 2332), and transportation for illegal sexual activity (18 U.S.C. § 2421). These statutes should allay any concerns that the U.S. lacks the necessary legal power to investigate or prosecute crimes involving its citizens or interests, even if the incident arises on the high seas or abroad on foreign ships. My own experience in hundreds of cases over the years is that crimes on board cruise ships, while quite rare, are routinely reported by cruise lines to U.S. law enforcement authorities, and are routinely investigated by the same authorities with full cooperation from each of the involved lines.

Flowing directly from the myriad of federal statutes asserting criminal jurisdiction over incidents arising at sea, even outside the U.S., are the investigative tools and resources of the nation's most powerful criminal investigative agency, the Federal Bureau of Investigation. With regard to activities in foreign countries over which the FBI may have jurisdiction, the Bureau's own web site states the following:

> "Our international presence currently consists of more than 50 small Legal Attaché offices (Legats) in U.S. embassies and consulates around the world. Their goals? Simple:
>
> * To stop foreign crime as far from American shores as possible;
> * To help solve international crimes that do occur as quickly as possible.
>
> Their activities? Staffed with agents and a support staff, they:
>
> * Coordinate international investigations with their colleagues;
> * Cover international leads for domestic U.S. investigations;
> * Link U.S. and international resources in critical criminal and terrorist areas that better ensure the safety of the American public here and abroad. The rules for joint

---

maritime jurisdiction." Both courts found the U.S. had jurisdiction to prosecute the perpetrators under 18 U.S.C. § 7. The Roberts court noted that prior precedents found jurisdiction on the high seas under section 7(1) without regard to vessel ownership (citing Nixon v. United States, 352 F.2d 601, 602 (5th Cir. 1965); United States v. Tanner, 471 F.2d 128, 140 (7th Cir. 1972)) and rejected the perpetrator's argument that foreign vessels are subject to the exclusive jurisdiction of the country whose flag they fly. The Roberts court acknowledged the five traditional theories of jurisdiction under international law and found valid jurisdiction under both passive personality (based on the U.S. nationality of victim) and objective territorial jurisdiction (effects of the act in the U.S.). The Neil court upheld U.S jurisdiction over a sexual assault in Mexican waters under 18 U.S.C. § 7(8), noting the Constitution does not bar extraterritorial application of U.S. penal laws when Congress expresses such intent. The court examined whether the exercise of jurisdiction would violate international law and concluded: "international law clearly supports extraterritorial jurisdiction" under the territorial and passive personality principles.

activities and information sharing are generally spelled out in formal agreements between the United States and the Legat's host country; and

* Coordinate FBI training classes for police in their geographic areas--everything from counterterrorism and cybercrime matters to forensic techniques to human trafficking and human rights.

The FBI's Legal Attaché program is overseen by the Office of International Operations, headed by a Special Agent in Charge, at FBI Headquarters in Washington, DC. This Office keeps in close contact with other federal agencies, Interpol, foreign police and security officers in Washington, and national and international law enforcement associations."

As a result, U.S. passengers traveling on ships anywhere around the globe have the protection of their nation's most experienced and internationally recognized criminal investigative body. Even though statistics readily demonstrate that cruise ship passengers are less frequently victims of crimes than inhabitants of even small cities across the U.S., the protection afforded those on land is limited to that available in a local police station. Rarely are crimes arising on shore in a particular city or state eligible for referral to the FBI.

Cases investigated by the FBI, including those arising on cruise ships, are prosecuted by any number of U.S. attorneys throughout the nation, depending on a variety of factors including the residence of the victim and perpetrator, the place of the crime, the place with custody of the accused, and others. Cases prosecuted by the United States benefit from the full panoply of federal criminal jurisdiction, including superior subpoena power of the nationwide federal court system to compel testimony of witnesses and production of evidence, national and international extradition procedures and resources, and a worldwide investigative capability that it second to none.

III. LEGAL REPORTING REQUIREMENTS FOR CRIMES ON CRUISE SHIPS

The Ports and Waterways Safety Act, 33 U.S.C. § 1221, *et seq.*, authorized international agreements in cooperation with the International Maritime Organization ("IMO") for reporting casualties in certain geographic areas adjacent to the United States [33 U.S.C. § 1230] as well as regulations to implement the Act's provisions. The regulations on Security of Passenger Vessels, promulgated by the Coast Guard and Department of Homeland Security pursuant to 33 U.S.C. § 1231 ("SPV regulations") were adopted in 1998 and amended in 2001 and 2002. They require a passenger vessel operator or security officer to report to the FBI "each breach of security, unlawful act, or threat of an unlawful act against any of your passenger vessels to which this part applies, or against any person aboard it, ***that occurs in a place subject to the jurisdiction of the United States***." 33 C.F.R. § 120.220 (a) (emphasis added). Section 120.210(6) requires the security officer to report any "occurrences or suspected occurrences" of unlawful acts. An unlawful act is defined as a felony. 33 C.F.R. § 120.110.

As discussed in Section II above, numerous crimes are, by statute, among those included as felonies when committed in the "special maritime and territorial jurisdiction" of the U.S. or on

a vessel. Again, U.S. criminal jurisdiction extends to the high seas and even foreign territorial waters in certain circumstances. In many instances of felonies on ICCL ships, all waters of the world are potentially considered "a place ***subject*** to the jurisdiction of the United States" possibly triggering the reporting requirement of 33 C.F.R. § 120.220 (a). That is why, in addition to industry's own zero tolerance policy on crime, the ICCL cruise lines routinely report all crimes involving Americans to the FBI. The reports received by the Committee from each line readily demonstrate a near 100% reporting record.

Even though all the listed felonies are subject to U.S. jurisdiction in the circumstances enumerated, Title 33 C.F.R. § 120.100 states the ***reporting*** regulations ***only*** apply to voyages of more than 24 hours, any part of which is on the high seas ***and for which passengers are embarked or disembarked in the U.S. or its territories.*** Again, the enumerated crimes are subject to the jurisdiction of the United States when committed by or against (1) anyone in U.S. waters; (2) Americans on the high seas; or (3) Americans in foreign waters when the ship embarks or disembarks in the U.S. In all three of these situations the incident must be reported if the ship embarks or disembarks in the U.S. As the Committee will observe from the reports of the ICCL member lines, the lines report all felonies involving Americans to the FBI, ***regardless whether the ship embarks or disembarks in the U.S***. This is actually more than the law requires.

Additionally, on January 10, 2006, immediately after this Committee's last hearing, the ICCL arranged a meeting between the FBI, Coast Guard, Immigration and Customs Enforcement and Customs and Border Protection. The purpose of the meeting was to discuss a thorough review of the reporting procedures to ensure that there would be a consistent and uniform protocol, so that one report would be sent to the relevant agency interested in a particular class of matters. This is in addition to the current required reporting to the FBI. The meeting was extremely productive and the parties appear to be working together toward a formal Memorandum of Understanding/Agreement to ensure all agencies and industry have a clear understanding of the industry's responsibility.

IV. STATISTICAL ANALYSIS OF CRIME AND CRIME REPORTING IN THE CRUISE INDUSTRY

My understanding of the reports sent by the all the cruise lines within the ICCL in response to the Committee's request for information on sexual assaults, missing persons and robberies, is that over the last three years there were 206 ***total*** such incidents reported to the lines (excluding 5 persons initially reported missing who were found). Of this total number of incidents, it appears only eight were not reported by the lines to law enforcement authorities. Four of those were never reported by the claimants during the cruise. Three were reported directly to the authorities by the claimants. One claimant requested the incident not be reported. Therefore, of all the incidents reported on board a ship during a cruise, all were actually reported to the authorities except one. Although the Committee did not specifically request information from the cruise lines on whether the incidents were reported, this information was voluntarily provided to demonstrate the industry's commitment to deterring any criminal activity on board their ships.

Even one incident of criminal activity arising on a vacation cruise is one too many. Despite conjecture to the contrary, the cruise industry depends heavily for its survival on a positive image as a safe vacation alternative, and therefore nothing is more important than ensuring its ships are safe and crime is punished and deterred. To that end the objectives of this Committee and the cruise lines are the same. The information provided to this Committee clearly demonstrates that crime on board is, in fact, rare. According to information provided to the Committee, more than 30 million passengers were carried by the ICCL cruise lines during the three-year period from January 1, 2003 through December 31, 2005. Out of this total population, 178 alleged sexual assaults were reported, as well 24 missing persons (excluding the five who were rescued or found), and four robberies. This translates into approximately 0.59 total sexual assaults per 100,000 persons carried (or less than six per million), 0.08 missing persons per 100,000 persons carried (or just over one per million), and 0.013 robberies per 100,000 persons carried (or about 1 for every 8 million).

Despite these strikingly low numbers, not all these alleged crimes were determined to be crimes at all. Not all of them were situations in which a passenger was the victim or a crewmember was the accused. For example, of the total number of sexual assaults reported by the cruise lines, it appears that approximately 42% (i.e. almost half) were actually situations where a passenger was accused of committing the assault. Of the 24 missing persons, 12 were deemed suicides and unrelated to crimes committed against those individuals, one was deemed an accidental fall overboard, and the remaining 11 are missing for unknown reasons. This means that in the cruise industry, a total of 11 persons actually went "missing" in three years out of 30,000,000 people carried.

It is true that not all 30,000,000 passengers carried were on board year round, and thus a comparison to annual shore side statistics maintained by the FBI is difficult to make. I understand that in the prior hearing conducted by this Committee on cruise industry security, concern was expressed by some lawmakers that the statistical comparison should be based on the total passengers carried by the cruise industry at any single time, rather than the total number over the three year period in question. The Committee is reminded, however, that the average cruise is one week long, and new passengers board the ships each week, year round. Statistics gathered by the FBI for crimes on land are based on "inhabitants", which in most communities is a constant number that does not change. In the cruise industry, the "inhabitants" change each week, as do their behaviors, backgrounds and demographics.

V. U.S. CIVIL JURISDICTION OVER CRUISE SHIPS PROVIDES A LEVEL OF PROTECTION TO PASSENGERS AS HIGH OR HIGHER THAN PATRONS ON LAND

A. U.S. and Even Foreign Passengers Have Broad Access to U.S. Courts

The suggestion that cruise ship passengers enjoy fewer protections under U.S. maritime law than victims of similar torts occurring on land is also inaccurate. The broad reach of U.S. civil jurisdiction to claims arising on cruise ships enables any U.S. passenger who sails from or to a U.S. port to seek redress in U.S. courts. Even U.S. passengers who travel abroad to take a

cruise, for example in the Mediterranean, are able to file suit against the cruise line in the U.S. if the company's operations base is here. Most or all cruise lines routinely carrying U.S. passengers maintain a base of operations or principle office in the U.S. Even foreign passengers who take cruises on U.S.-based ships are able to sue in the U.S.

The liberal access to U.S. courts for cruise passengers is often broader than that available to U.S. citizens suing on similar claims ashore. Under long established federal and state laws, including the U.S. Constitution, cruise passengers can file suit in ***either*** federal or state courts seeking civil damages against cruise lines ranging from alleged breach of contract, to tort liability for injuries or wrongful deaths caused by the negligence of the cruise line or its agents or employees. Passengers, unlike citizens on land, have a ***choice*** of filing in either state or federal court in most cruise line cases because of the maritime nature of the claim. Any foreign flag under which the ship is registered has no bearing whatsoever on the passenger's ability to file suit in the U.S. if the cruise line is based in the U.S., or if the ship routinely sails to or from a U.S. port.

Suits against cruise lines trading in the U.S. for personal injuries caused by slips, trips and falls, as well as claims for lost or damaged baggage or property, inadequate service or mere disappointment, are routinely filed in New York, Florida, California, and Washington. Generally a foreign cruise line is subject to U.S. jurisdiction in any state where it regularly transacts business, has a principle office, or maintains even "minimum contacts" if the claim arises out of those contacts. This is another reason why every cruise line with a U.S. headquarters or operations base can be sued in the U.S. by passengers who have traveled anywhere in the world on that line's ships.

Most cruise line ticket contracts do contain a forum selection clause designating where in the U.S. suit must be filed against each line, and the U.S. Supreme Court has ruled these clauses reasonable and enforceable, unless procured by fraud or overreaching. Similar clauses are found in contracts governing hotels, theme parks, horseback riding, skiing, harbor excursions, and sightseeing busses, planes or aircraft. In fact, forum selection clauses have become rather standard throughout the U.S. consumer tourism industry. In the cruise industry, the clause invariably calls for suit to be filed in the state where the cruise line is headquartered, which is often the same state where the passenger boarded the ship. Thus, the vast majority of cases involving a U.S. passenger, a U.S. forum is made available for the resolution of their claim or dispute.

B. Stricter Legal Standards Are Often Applied to Cruise Lines than Comparable Businesses on Land

U.S. general maritime common law, coupled with a collection of federal statutes, both of which have evolved considerably over the last century, govern passenger suits against cruise lines. The standard of care is typically the same or more stringent than applied on land in similar contexts. The Supreme Court has held a ship owner owes to all who board the ship for reasons germane to the ship owner's business a duty of reasonable care under the circumstances. Kermarec v. Compagnie Generale Transatlantique, 358 U.S. 625 (1959).

If an injury is caused by a condition that is typical of similar conditions arising on land (such as tripping on a dance floor), the courts have applied the same traditional "negligence" standard applied in cases arising on land. Rainey v. Paquet Cruises, Inc. 709 F.2d 169 (2nd Cir. 1983). If, however, the injury is caused by a condition peculiar to maritime travel, such as the use of a tender boat or gangway, a higher duty of care is imposed on the cruise line and liability is easier for the passenger to prove. See id.; see also Montelone v. Bahama Cruise Line, Inc., 838 F.2d 63 (2nd Cir. 1988); Beard v. Norwegian Caribbean Lines, 900 F.2d 71 (6th Cir. 1990θ). Cruise lines are also held to a higher duty of care than ordinary negligence if the injured passenger was disabled. See Alpert v. Zim Lines, 370 F.2d 115 (2nd Cir 1966); American President Lines, Ltd. v. Lundstrom, 323 F.2d 817 (9th Cir. 1963).

These established principles hold the cruise lines liable whenever negligence of the line or its agents or employees causes, in whole or part, any injury to a passenger. The cruise ship's foreign flag, itinerary or corporate structure cannot operate to deprive any passenger of redress or access to American courts. In fact, by federal statute, if a cruise embarks, disembarks, at or even calls at any U.S. port during the voyage, any provision of a ticket contract which tends to weaken or lessen the right to a trial in a court, or limit damages for negligence, is legally void. See 46 U.S.C. App. § 183c.

1. Sexual Assault Cases

The maritime law governing alleged sexual assault against passengers by crewmembers is a specific example where passengers often receive much greater protection on ships than on land, even though the documented instances of assaults are far greater on land than at sea. Currently, the Courts in the federal Eleventh Circuit (encompassing much of the Southeastern United States, including Florida) and the Ninth Circuit (encompassing the Western United States, including California, Washington, Alaska and Hawaii) both impose ***strict, absolute liability on the cruise line*** whenever a crewmember assaults a passenger. This strict liability standard was recently extended to an alleged sexual assault by a waiter occurring ashore during a week long cruise. A minority of other jurisdictions, such as New York, require a showing of actual negligence by the cruise line (in the hiring, screening or retention of the employee) before the line can be held vicariously liable for an unforeseen criminal assault by a crew member against a passenger.

In those jurisdictions where most of the North American cruise business is centered, the law imposed on cruise lines is far more stringent than that applied to any other business on land or at sea. If a cruise passenger establishes an unwanted sexual advance by a crew member, the line must automatically pay all damages claimed and proved to a jury, even if the company took all reasonable steps to screen and hire the crew, arranged adequate security, and had no prior complaint or notice of the propensity to commit the crime.

This "strict liability" standard is the most stringent known to American tort law, and on land is only applied in cases involving defectively designed or manufactured consumer products, or ultra-hazardous activities. On land, operators of hotels, theme parks, restaurants, office buildings, hospitals and other facilities are generally ***not*** held strictly liable for sexual assaults on patrons. Thus, a guest in a hotel ashore could not hold the hotel owner liable for an alleged

assault by a hotel employee absent a showing of negligent hiring or retention. The same would be true for an assault by a waiter in a restaurant. Yet when the identical incident is claimed to have occurred on a cruise ship, in many instances the cruise line is automatically liable for all damages.

2. Cases Involving Intoxicated Guests

Another example of how cruise lines have been held to a more stringent liability standard than on land is with regard to service of alcohol. Almost every state in the nation has enacted a so-called "dram shop" act. Generally, all of these acts bestow some form of immunity on servers of alcohol from civil liability for injuries or deaths caused by an intoxicated patron. The public policy behind these laws is that the culpability for drinking to excess should be placed squarely on the person who consumes the alcohol, not on the person who serves it. Shifting civil liability away from the intoxicated patron tends to lessen one's incentive to drink responsibly. In several states, exceptions exist to this immunity of servers of alcohol only when such beverages are knowingly sold to minors or habitual drunkards.

There is no federal dram shop statute, and no rule of immunity for cruise lines from civil liability for injuries caused to or by intoxicated patrons. In Florida, for example, cruise lines have been held liable for injuries sustained by an intoxicated patron who fell and sued the cruise line for "allowing him" to become intoxicated. Hall v. Royal Caribbean Cruises, Ltd. 888 So. 2d 654 (Fla. 3d DCA 2004). The same approach has been adopted in Indiana, New York and Texas. See, e.g., Kludt v. Majestic Star Casino, 200 F. Supp. 2d 973 (N.D. Ind. 2001); Bay Casino, L.L.C. v. M/V Royal Empress, 1999 A.M.C. 502 (E.D.N.Y. 1999); Young v. Players Lake Charles, L.L.C., 1999 A.M.C. 2529 (S.D. Tex 1999); and Thier v. Lykes Bros., Inc., 900 F. Supp. 864 (S.D. Tex. 1995). Only one state to date has held that a state's dram shop immunity can be applied to a passenger's claim against a cruise line. Meyer v. Carnival Cruise Lines, 1995 A..M.C. 1815 (N.D. Cal. 1994). The net result is that cruise lines, unlike their shore side counterparts, have been sued, sometimes successfully, for injuries and damages arising from the negligent acts of intoxicated patrons. In other words, the liability standard applied against cruise operators is more stringent, even though cruise patrons do not generally operate motor vehicles after imbibing and are much less prone to serious injury than patrons on land.

C. Damages Recoverable by Cruise Passengers

Among the monetary recoveries permitted under U.S. maritime law in a personal injury case are: past, present and future medical bills, lost wages and/or benefits, loss of wage earning capacity, pain and suffering, and emotional distress. Maritime law permits recovery against any party found even partially responsible for the injury, offset only by the amount of damages proportionate to the claimant's own degree of fault. The same recoveries are permitted in wrongful death cases arising in territorial waters of the United States, and the Supreme Court has recently held that state wrongful death and survival statutes may complement remedies under the general maritime law for deaths of passengers in territorial waters. See Yamaha Motor Corp. USA v. Calhoun, 516 U.S. 199 (1996).

To further secure a passenger's claim against a cruise line, U.S. maritime law grants a lien to the passenger to secure his/her claim or that of a personal representative. This "*in rem*" lien attaches to the vessel automatically by operation of law and can be foreclosed upon by simply arresting and seizing the ship to secure the passenger's claim. The reality is that cruise ships are rarely, if ever, arrested because passenger claims are uniformly paid via insurance carried by every cruise line that is a member of the ICCL.

State consumer laws have also been relied upon to file claims for alleged unfair or deceptive advertising and these and other cases involving larger numbers of passengers who have similar complaints have often been certified as class actions. Many of these statutes enable the prevailing passenger representative to recover attorney's fees, interest and/or penalties. For all of the above reasons, by far the vast majority of passenger claims in the cruise industry are litigated in American courts.

In the relatively rare cases involving death on cruise ships outside U.S. waters, U.S. federal law bestows on passengers the right to sue in either federal or state court for wrongful death under the federal Death on the High Seas Act. First enacted in 1920, this national legislation ensures that all heirs of those whose deaths are caused by acts occurring outside U.S. waters still have recourse in U.S. courts. DOHSA permits recovery of all pecuniary loss suffered by the heirs, including loss of services, support, dependency, inheritance, as well as any medical, burial or other expenses incurred. DOHSA does not permit recovery of non-pecuniary loss, such as loss of consortium, grief and sorrow and other intangible items. DOHSA represents Congress' considered judgment on what remedies should be appropriate when access is so liberally granted to U.S. courts to litigate wrongful death claims occurring all over the world, and often brought in U.S. courts by non-U.S. citizens. In many instances the recovery under DOHSA is more liberal than that permitted in the foreign jurisdiction where the claimant resides or the act actually occurred. There is no cap on the amount of pecuniary damages recoverable under DOHSA, whereas many other nations do have damage caps applicable to such claims when asserted abroad.

VI. RESPONSES TO SPECIFIC QUESTIONS

A. <u>What United States and international laws govern passenger security on board cruise lines?</u>

In addition to the U.S. laws discussed above, there are also domestic and international laws specifically governing cruise ship security, including passenger safety. Most recently, following the 9/11 attacks, the IMO adopted the International Ship and Port Facility and Security ("ISPS") Code. The ISPS Code is a comprehensive set of measures to enhance the security of ships and port facilities, and which is implemented through the International Convention for the Safety of Life at Sea ("SOLAS").[4] The purpose of the Code is to provide a standardized

[4] SOLAS is generally regarded as the most important of all international treaties concerning the safety of merchant ships. It has 155 Contracting Governments, which together are responsible for more than 98 per cent of the world shipping fleet by tonnage.

consistent framework for evaluating risk, enabling Governments to offset changes in threat with changes in vulnerability for ships and port facilities through determination of appropriate security levels and corresponding security measures. The ISPS Code requires the cruise lines and other companies operating vessels to designate a company security officer and a ship security officer for each vessel. Following a security assessment, a ship security plan is written for each ship and submitted to the flag administration for approval.

In his December 13, 2005 testimony before the Subcommittee on National Security, Emerging Threats and International Relations and the Subcommittee on Criminal Justice, Drug Policy and Human Resources, ICCL's President Michael Crye, testified about the cruise industry's security practices and jurisdictional protocols. He pointed out that the international and national security requirements included creation of comprehensive ship and terminal security assessments, extensive ship and terminal security plans that are approved by relevant authorities, designation of qualified company, ship and terminal security officers, mandatory security drills and exercises, Ship Security Alert Systems, periodic audits with subsequent updating of security plans, and requirements for improved communication and coordination between ship and terminal operators.

While primarily concerned about security in terms of decreasing a terrorist attack, many of the increased security procedures under the ISPS Code, for example, have increased protection of individual passengers, as has the cruise lines' practices in developing security plans to comply with the Code. These practices include, for example, x-raying or examining every person, piece of luggage and all supplies loaded on board the vessels, not only decreasing the chance of a weapon being brought on board for terrorism purposes but also reducing the risk of crime as well.

In addition to the ISPS Code, the U.S. Congress also has already enacted the Maritime Transportation Security Act ("MTSA"). Section 102 of the MTSA creates a new subtitle VI of title 46, United States Code, to establish a comprehensive national system of transportation security enhancements, including, among other things, directing the Secretary of the department in which the Coast Guard is operating to require owners and operators of ships operating in U.S. waters to institute security programs and develop vessel security plans. Many of the requirements in the MTSA directly align and complement the ISPS Code, however, the MTSA has broader application. For example, it requires owners and operators of vessels and facilities, which may be involved in a transportation security incident, to develop vessel and facility security plans and submit them to the Coast Guard for approval.

Like the ISPS Code, additional regulation under the MTSA has not only increased security against terrorism threats but has also increased protection of passengers from a variety of potential crimes. Increased training of crew on procedures has enhanced security aboard ship overall. Additional equipment and increased security procedures likewise result in a safer ship environment.

B. Who is the official responsible for enforcing such laws on board a cruise ship?

As a legal matter, the ISPS Code confirms the role of the Master in exercising his professional judgment over decisions necessary to maintain the security of the ship. It says he shall not be constrained by the cruise line or any other person in ensuring security. Significantly, it is my understanding that every cruise line has training procedures in place to help ensure that each crewmember receives safety, crime awareness, reporting and prevention training, all of which has increased since the implementation of the ISPS and MTSA. All cruise ships have a designated security officer in charge of directly enforcing security laws and protocols.

C. What type of security measures, both trained personnel and equipment, are on board cruise lines to ensure passenger safety?

As my experience is in maritime legal matters, I would refer the Committee to the testimony of those in the operations departments of the cruise lines for specific details. My general understanding and observations lead me to conclude that cruise lines have greatly increased training and continue to develop and provide equipment that not only enhances security in addressing terrorism concerns, but also continues to improve safety awareness as it applies to shipboard crime generally. I believe all cruise ships within the ICCL fleet employ security personnel who are trained in maintaining security and order on board, under the direction of a security officer and, ultimately, the ship's Master. The number of such personnel varies according to size of ship, itinerary, passenger demographics and other factors. Closed circuit cameras, x ray screening, computerized door locks that automatically record all entrances into passenger cabins, computerized ship access identification systems for passenger and crew screening, strict segregation of passenger and crew areas, non-fraternization policies between crew and passengers, restricted shipboard access, "no-guest" policy, security rounds, and zero tolerance crime reporting protocols, are all commonplace on cruise ships today.

D. If a crime occurs on board a cruise ship, who investigates the crime and what are their training and qualifications?

Through a number of treaties and agreements between the United States and other countries, U.S. authorities, such as the FBI, investigate crimes against Americans or perpetrated by Americans no matter where the crimes occur. In recognition of this, the ICCL membership in 1999 adopted a zero tolerance policy for crimes on cruise ships and a reporting regime in excess of any legal requirements.

The U.S. Coast Guard also has jurisdiction over all ships when entering U.S. waters and has participated in investigating serious marine incidents, when they occur, involving American passengers and crew. Local authorities, on occasion, may also be called by the cruise line to assist in an investigation when the incident is believed to have occurred with the ship is in state waters or berthed at a port within the jurisdiction of local law enforcement.

In addition to U.S. authorities, a cruise line is legally required to extend full cooperation equally to law enforcement authorities in other nations. For example, the Commonwealth of the Bahamas is a flag state where many ICCL member ships are registered. The Bahamas has extensive ties with the United Kingdom including coordination of law enforcement.

Until the FBI or other appropriate authority begins an investigation, cruise lines, although not experts in criminal or forensic investigation, provide the same or better response to potential criminal situations as their shore-side counterparts. In the event of an incident, the Staff Captain, head security officer, and security personnel are usually the first responders. Most of these officers have extensive prior military or law enforcement experience and have also worked with the FBI and U.S. Coast Guard to learn crime reporting procedures and basic crime scene techniques and evidence gathering. When appropriate, lawyers and professional investigators also have been engaged to assist in attending a vessel and coordinating any necessary law enforcement response.

E. How are jurisdictional issues handled on board foreign flagged vessels?

As explained above, cruise lines routinely seek the assistance of the FBI or other governmental agencies in responding to a potential crime on board any ship. In the case of Americans, wherever in the world the incident arose, they notify the FBI, as well as the country under which the ship is flagged. If the incident arose at sea they also notify the country of the next port of call. If the incident occurs while the ship is in port, they will notify the local authorities in that port country. In cases of overlapping jurisdiction between different nations, law enforcement authorities work together cooperatively, in many instances according to longstanding treaties and bilateral or multilateral agreements, to bring perpetrators to justice.

The cruise lines cooperate fully in all such investigations. I am unaware of any instance in my career when a law enforcement official was denied access to any ship for purposes of conducting an investigation. In my experience the cruise lines welcome the involvement of law enforcement authorities in order to determine whether, in fact, a crime has been committed, and if so, to make sure the perpetrator is brought to justice. However, cruise lines, like airlines, hotels, restaurants, theme parks, resorts, theaters and other comparable facilities, neither have the capability, expertise nor legal authority to investigate or prosecute crimes. They therefore rely principally on the responsible authorities to do so.

VII. CONCLUSION

Criminal offenses on board cruise ships, regardless of their nation of registry, are expressly subject to U.S. jurisdiction when committed by or against an American. Federal statutes embodying longstanding principles of international law exercise that jurisdiction on the high seas and even in foreign waters for crimes such as assault and sexual assault, murder and manslaughter, kidnapping, terrorism, theft, robbery, burglary, arson and even malicious mischief. Though crime on cruise ships is rare, U.S. citizens who become victims have the resources of the FBI at their disposal, unlike most victims of comparable crime on land. In many cases the FBI's efforts may even be augmented by investigative efforts of local police and the ship's own

security team. Information provided to this Committee by the cruise industry demonstrates not only that instances of crime at sea are rare as compared to on land, but are routinely reported to the FBI.

Security initiatives, both internationally and within the U.S., have greatly enhanced overall cruise ship security, as has the standard practices of cruise lines in ensuring safety on board. It is simply no accident that crimes and casualties at sea are rare compared to those occurring on land. Tragedies that have occurred, even considering the huge number of passengers carried each year, have caused the ICCL member lines to redouble their efforts.

Ultimately, passengers traveling to or from U.S. ports on cruise ships, or elsewhere in the world on ships owned by companies based in the U.S., also have full recourse to the U.S. civil justice system to litigate whatever grievances they may have. In fact, unlike litigants on land, cruise passengers can choose between a federal or state forum in most cases. Generally, cruise lines are subject to the same duty of care applied to businesses and facilities on land, and state consumer laws have often been relied upon to augment federal maritime law. In certain types of cases, particularly those involving alleged assaults or intoxication, maritime law provides even greater protection to cruise passengers than plaintiffs suing on similar claims ashore.

I appreciate this opportunity to brief the Committee on the U.S. laws governing security, criminal and civil liability affecting cruise operators, and thank the Committee for its thorough consideration of the foregoing points.

Mr. SHAYS. Thank you, Mr. Kaye. I thank all three of you for your testimony.

We will start with Mr. Mica, and since there are only two of us, what we will do is we will do 10 minutes, but then you can have another 10 minutes, and another.

Mr. MICA. Thank you. I don't know if I will take that much time, Mr. Chairman, but I appreciate all three of the witnesses in this panel.

I made a full disclosure before. I am not an attorney, although I am a Gator like Mr. Rivkind. Although I never went to law school, I have tried to practice adopting and enacting some laws from a different side of the aisle. But, Mr. Kaye, you seem to indicate from your testimony and you seem to be fairly expert that there are laws in place and there are laws that protect U.S. citizens, and I think you also tied it into the aviation industry so that the American traveler who gets on a cruise ship cannot be under the impression after this hearing that they are left in some lawless state.

Are these laws adequate then and in place?

Mr. KAYE. Absolutely.

Mr. MICA. That is a beautiful answer. OK.

Mr. Gorsline, from some of the other things we have heard, it is like nobody is in charge on a cruise ship, but I think you outlined that, in fact, there is a real pecking order as far as law and enforcement. We have heard that there are laws that govern, that protect American citizens. On the cruise ship, then, the captain is the chief officer, and he has the authority in international waters and is required to obey international laws and the other pertaining laws. Is that correct?

Mr. GORSLINE. Yes, sir, that is correct.

Mr. MICA. Then you went down the chain of command, so there is a chain of command.

Mr. GORSLINE. Yes, sir, there is a chain of command.

Mr. GORSLINE. I am not that familiar with cruise ships. Mr. Chairman, I think that Mr. Rivkind—and we might want to correct the record because I heard his verbal testimony was different from his testimony that he submitted to the subcommittee. He said, "The foreign nature of the cruise ship industry has also resulted in a situation where the employment of crew is almost exclusively from countries outside the United States, including poor, undeveloped, Third World countries." That is his statement that he submitted for the record. Is that correct, the one I have up here? But his verbal testimony, if we go back and check the record, was a little bit different. He said that almost exclusively the crews were Third World—let's say. I tried to copy it. Third World countries, giving a different impression that the whole crew is basically a bunch of Third World folks that do not really know what is going on.

I am not that familiar, again, with the industry, only what I have seen. Aren't most of the cruise ship captains and the key staff that you outlined, Mr. Gorsline, aren't they from sort of developed countries like Italy and Greece predominantly? Would that be——

Mr. GORSLINE. Sir, in my experience on the ships that I have surveyed and done audits on, the operational staff, including chief

officers and everything else, yes, they are either Norwegian, German——

Mr. MICA. Are they from Third World countries—now, the registry may be different, like you may have Liberia, Bermuda. I don't know where they register. Again, I can only go by my observation, but for the record, aren't most of those people who are in charge and responsible, as Mr. Kaye has outlined, for actually executing the law, they are not from Third World countries, are they? Would that be—I mean——

Mr. GORSLINE. In my experience, sir, that would be correct. The senior officers on board——

Mr. MICA. Mr. Kaye, do you have any knowledge? I mean, the ones I have seen—and I have talked sometimes—sometimes I get invited to meet the captain. I have only met Greeks, Italians, British.

Mr. KAYE. Norwegian.

Mr. MICA. Not Third World countries. Norwegian, yes.

Mr. KAYE. French.

Mr. MICA. Scandinavian.

Mr. KAYE. Italian, French, United States.

Mr. MICA. Are you aware of any cruise ships that have their people in command from Third World countries, either of you? I would ask for the record.

Mr. GORSLINE. I have not witnessed any, no, sir.

Mr. KAYE. I don't think I can identify any.

Mr. MICA. Thank you.

You know, I think you said also, Mr. Rivkind, was it your testimony before Congress that statistics are not important? I wrote that down. You said statistics are not important?

Mr. RIVKIND. I would like to address that, of course, your question, but I would like to get back——

Mr. MICA. No. Did you say in your testimony before this subcommittee that statistics are not important?

Mr. RIVKIND. I don't think statistics should be focused on the way they are with this industry and——

Mr. MICA. OK. All right. I am——

Mr. RIVKIND. I would like to make a comment——

Mr. SHAYS. Just 1 second——

Mr. RIVKIND. I would like to make a comment——

Mr. SHAYS. Hold on.

Mr. RIVKIND. OK.

Mr. SHAYS. Because, Mr. Mica, you have no limit to time, I do want to make sure the witnesses respond, and I am eager to know what his answer was. I do not want to take you from your thought, but allow him to just finish.

Mr. MICA. He testified—in fact, I wrote it down before I went back and read something else. He said, "Statistics are not important," and I have a little quote, and I have R, which is Rivkind. The others are a G and a K. So what——

Mr. RIVKIND. I am ready to respond.

Mr. SHAYS. Yes, and I would like to know your answer to his question.

Mr. RIVKIND. Yes, I think in the context of what we are discussing, as was mentioned at the last hearing, when I heard an FBI

official, a Coast Guard official, and a U.S. Navy official here in these hearings say that the statistics provided are meaningless, and I heard that. I attended the last hearing, so I think that——

Mr. SHAYS. In the context of this, just to make sure, because I do not want to exaggerate, meaning in the context that they cannot be certain they are accurate.

Mr. RIVKIND. Exactly.

Mr. SHAYS. That was the basis. They cannot certify that they are accurate because they are being provided—no, let me just finish. Just because you were not at the hearing, and I just want to make sure the record is clear. Because based on the fact that they are voluntarily provided, that was the basis. And that is what we are trying to determine——

Mr. MICA. Well——

Mr. SHAYS. And let me just continue, because you will have your time. There was indication afterward that the FBI may have felt they overstated that statement, that there is some meaning to it, but they cannot guarantee their validity. That was their basic thrust.

Mr. MICA. OK. Well, see, again, I am not an attorney. I just pick these things up here. He said in testimony before that statistics are not important. But someone handed me this article after you said that and said it—and I get misquoted in the press all the time, and I think this is a better—I mean, it is a statement I want to enter in the record, which I think is important, that Mr. Rivkind has said. I think we need honest statistics, and we should—if we require it under the law—this is in a Miami Herald article dated Sunday, February 12, 2006.

Now, I raise that because, Mr. Kaye, you told me there was a reporting requirement. So is there or isn't there a reporting requirement? I don't know. Can you tell me, Mr. Kaye?

Mr. KAYE. There is absolutely a reporting requirement. They are found in Title 33 of the Code of Federal Regulations, beginning at Section 120.

Mr. MICA. OK. So that would provide us with some honest statistics? Is there any other way? You know, can we use chains, prods, electrical—is there some way to get more honest statistics? Is there something—the other thing, too, I was sort of wondering. And, again, also, one thing for the record, Mr. Chairman, and also Mr. Rivkind, just for the record, Mr. Rivkind made the comment and referred to me, a Member of Congress, and my comment and took it—and I want to clear it just for the record, just so that it is clear, that somehow I as a member did not understand the difference between security and law enforcement as it might apply to cruise ships.

Just for the record, I wanted it clarified that, you know, I am not the smartest guy in Congress, but I do know the difference, and I did express my deep concern for all of those who had some incident which, in fact, they related before this committee. All of them were tragic, and I expressed my concern about security. But for the record, Mr. Chairman, and for Mr. Rivkind's information, I expressed my concern, my personal concern. I thought I had disclosed that I was chairman of the Aviation Subcommittee, a senior member of the Transportation Committee. My concern is the failure of

the Federal Government to provide adequate port security, not just for cruise—and I should elaborate that for the record—also for cargo vessels and other maritime vessels, and the terrorist threat.

So I do have concern about people who have experienced a horrific incident, wherever it is. I just wanted to be allowed, Mr. Chairman, just to provide that commentary for the record.

Mr. Rivkind, just a question here. I understand you represent the International Cruise Victims Association. Is that it? Did you start it or you represent them?

Mr. RIVKIND. I am acting as legal counsel for them.

Mr. MICA. OK. Do they pay you a salary or you do it——

Mr. RIVKIND. No, sir.

Mr. MICA [continuing]. Pro bono? And how many people belong to this association, do you know?

Mr. RIVKIND. It is growing in number each day. Kendall Carver would have a better idea of the exact number. He is the president of the organization.

Mr. MICA. So you don't know how many victims are represented?

Mr. RIVKIND. Currently, I don't want to give you a number that is not exactly accurate. Kendall Carver would be better for that.

Mr. MICA. All right. Now, you have a law practice, and I was reading some of your history, a great history in legal aspects of, I guess, maritime litigation. Today, most of it, though, would be described as in suits against the cruise industry or people who might have some cruise industry interests. You represent people, passengers and other folks, who have been injured or have some problem with the cruise industry. Is that correct?

Mr. RIVKIND. That is correct. My first 4½ years I represented cruise ships only. I am proud to say that all I do is represent injured victims.

Mr. MICA. Over a 23-year period, the last 19——

Mr. RIVKIND. Yes, sir.

Mr. MICA. Well, again, I come from Florida, and I just see what I see on TV. Again, I don't know that much of what is going on. One of the problems we have in Florida, of course, is the proliferation of suits against everybody. I mean, you get up in the morning and, you know, if somebody looked at you cross-eyed, call this number and you can sue.

One of the things that concerns me is the proliferation of attorneys, particularly in Florida, around the cruise industry now suing the cruise industry. In fact, I don't know, maybe you have heard this. I saw people actually passing out little flyers and legal cards at some of the ports. Have you heard that is going on?

Mr. RIVKIND. I did not——

Mr. MICA. And these are—I have to qualify. That is, you know, like let's sue—has anything gone wrong with your trip or your cruise? Would you like to sue? Have you heard of that? Again, I have heard some. I have seen a little, just the trips I have seen.

Mr. RIVKIND. I would like to respond. First I would like to say I am in the middle of a trial, and a lot of these comments sound like many of my jurors about tort reform and the necessity of tort reform, and I can see where your position is on that. I also understand, as you have made clear, you are a great friend of the cruise

ship industry, and I do sue them, have for many years, and I am proud of it.

If people are at the ports handing out cards or flyers or anything like, I don't know——

Mr. MICA. But you don't do that and you don't advertise for those kinds of cases, do you, publicly?

Mr. RIVKIND. No, sir—in what sense? You are talking about——

Mr. MICA. Well, handing them out is one thing, but do you advertise that, you know, if you want to sue a cruise ship or just that kind of litigation, that is your bag?

Mr. RIVKIND. I do not actively advertise my services.

Mr. MICA. OK. And, again——

Mr. RIVKIND. I am word of mouth. I do not even have at the current time a major Web site advertising my services.

Mr. MICA. I don't want to embarrass you——

Mr. RIVKIND. I get my cases through word of mouth.

Mr. MICA [continuing]. But have you made a lot of money from suing the cruise industry? I mean, hundreds of thousands, millions a year?

Mr. RIVKIND. I am proud to say that based on my legal abilities and taking cases with a lot of credibility against the cruise line industry, and thank God, you know, there are a lot, a lot of cases with a lot of validity and credibility against the cruise line industry, and that is the problem.

Mr. MICA. I am sure that——

Mr. RIVKIND. Maybe if they cleaned up their act, you know, it is a disincentive for me to be here and I wouldn't be making so much money.

Mr. MICA. Well, from the description you gave, as the industry gets bigger, those ships get bigger, you will have plenty of opportunity, from what I have heard.

Gentlemen, just a couple of closing questions. Again, I come from Florida. I am familiar with some of the different tour industries, resort industries. I don't know of any industry that has the security measures both, say, entering a resort, exiting a resort, that the cruise industry has. I mean, I have seen it. They take your picture. They verify. They check it. Is there any industry—when we went to see—with the President, they did wand us, but we did not have to show our ID or anything. Are you aware of any tourism industry that does that? Aviation I know does not do it. The airlines do not do it. We do it with the people that check actually your picture and ID—this is kind of ironic. They are probably some of the lowest-paid people and they are not TSA or Federal——

Mr. KAYE. I am not, Congressman. My——

Mr. MICA. Are you aware of anyone——

Mr. KAYE. No, and I would add that in the cruise industry, cruise operators are required to give passenger manifests to the government so that they can do a pre-screening against criminal watchlists. And crew are screened in the same manner in order to get C–1 visas to work on cruise ships so that there is—you know, we know who you are before you get on.

Mr. MICA. Mr. Gorsline.

Mr. GORSLINE. I don't know of any other industry either, sir. It is pretty thorough.

Mr. MICA. Well, I am just trying to get an ID for pilots and crew of an aircraft. Have you ever seen a pilot ID? It looks like something that comes out of a Cracker Jack box. Now, we do have a new one coming online, but it does not have even the things that are required of a passenger getting on a cruise ship, and that is wrong. I do not want to justify that.

Well, Mr. Chairman, just a few questions. I appreciate your forbearance and I yield back.

Mr. SHAYS. Thank you——

Mr. MICA. Mr. Chairman, if I may, I have not been to my office. I got off the plane, the late plane, and I would like to ask a unanimous request that the record be kept open for a period of at least—is 2 weeks OK? Is that a problem?

Mr. SHAYS. That is——

Mr. MICA. A period of at least 2 weeks for additional questions to be submitted to some of the witnesses.

Mr. SHAYS. Right. Happy to do that. In fact, we will not be having another hearing—yes, sir?

Mr. RIVKIND. May I say something to Congressman Mica before you leave, since I understand you are leaving?

Mr. MICA. I don't think the——

Mr. RIVKIND. There are three areas——

Mr. SHAYS. No, Mr. Mica, seriously, if you are going to leave, let the gentleman have his say.

Mr. RIVKIND. It will take a couple minutes, sir.

Mr. SHAYS. Well, no, not a couple of minutes. Make it quicker.

Mr. RIVKIND. He made three statements that I consider——

Mr. MICA. Mr. Rivkind, excuse me. I do not have the time. I am a Member of Congress——

[Audience groans.]

Mr. RIVKIND. A fellow Gator, you made an attack in three areas——

Mr. MICA. No, Mister——

Mr. RIVKIND [continuing]. On what I believe is my credibility, and I would like——

Mr. SHAYS. Hold on a second, guys. Hold on.

Mr. MICA. Since when does a witness——

Mr. SHAYS. Hold on.

Mr. RIVKIND. I just want to respond to three areas——

Mr. MICA. I was going to ask——

Mr. SHAYS. Would both gentlemen please suspend?

Mr. MICA. Mr. Chairman.

Mr. SHAYS. Just suspend a second. We have allowed you 15 minutes to ask any question. You do not have to stay while a witness speaks, so you are free to leave.

Mr. MICA. Mr. Chairman, under the—may I?

Mr. SHAYS. Sure.

Mr. MICA. Under the rules of the subcommittee, under the rules of the House, you have been most generous in giving me 10, I think a total——

Mr. SHAYS. Fifteen.

Mr. MICA [continuing]. Of 15 minutes. Under the rules and procedures of regular order of this subcommittee, of which I have been a member for some—going on my 14th year, my time has expired.

I was merely going to ask you if you would grant enough time either from your comments—I have no further time, but I would ask your request to——

Mr. SHAYS. No, let me just be——

Mr. MICA [continuing]. Give the gentleman an opportunity before I left, before he interrupted me.

Mr. SHAYS. No, the bottom line is you have no time limit. You have got——

Mr. MICA. Well, again, I yielded back, but, again——

Mr. SHAYS. OK, sure. Thank you.

Mr. Rivkind, if you would like to say something, and then I have a lot of questions I want to ask.

Mr. RIVKIND. Yes, there are three things that were mentioned that I did not get to respond to and I think I was unfairly attacked about. One was the comment about hiring crew members from Third World countries. It is true that the officers tend to be not from what we would call "Third World countries," but most of the other crew members are. There is a major cruise line that does hire many of their security personnel from the Philippines, which last that I knew of constituted a Third World country. At depositions they admit that most, if not all, of their crew members below officers are hired from Third World countries.

Why is that important? Because we are talking about crimes on board ships. Most of the reported crimes, unfortunately, are crimes committed by crew members, most of the ones that are reported. Most of those from cabin stewards and the type of crew members that are accused of these crimes do come from the Third World countries, and that should be a concern of the Congress because, as I stated on my experience, it seems that those type of crew members can get a job on a cruise ship very easily. They buy the employment letters. There are very little background checks, and we have heard from another witness today——

Mr. SHAYS. What is your next point?

Mr. RIVKIND. The next one was statistics. When I say that the statistics aren't important to me, when I hear a comment that we cannot rely on the statistics, that they may have some meaning but they may not be accurate, and we know that statistics can be manipulated, in my opinion they aren't important. We have a problem here, an obvious problem, and that is what I meant in the context of saying statistics were not important.

Mr. SHAYS. As you are a lawyer, probably a better choice of words rather than "important" is they may be misleading. OK.

Mr. RIVKIND. Thank you, Congressman. And then the last one was I did not in any way, shape, or form try to say anything about your intelligence, Congressman Mica. I am sure you are a highly intelligent, schooled individual. You did mention earlier that you were concerned more with terrorism and port security than law enforcement on board the ships, and I was just trying to make a distinction because what we are talking about here is not all these treaties and these international laws that deal with protecting ships from terrorism, but actual onboard law enforcement, and that is what I meant by that comment, and I did not mean any disrespect with that comment.

So thank you.

Mr. SHAYS. Thank you, and let me just thank Mr. Mica for being here, because he has added to the work of this committee tremendously, and there is no one I frankly respect more. Thank you.

Mr. Kaye, first off, I appreciate your testimony. You are the only one that has told me it is simple, and it may very well be, so you got my attention up front. We wrote to the Coast Guard after our last hearing, my staff member, Dr. Palarino, and he wrote to the head of liaison for the Coast Guard, in an e-mail dated March 6th, and he said, "Michael, I have a lawyer telling us that passenger vessel operators or security officers of vessels embarking and disembarking passengers from U.S. ports are to report to the Coast Guard and the FBI any felonies committed on board a cruise ship. Is this correct? Because this is not what was reported to us at the last hearing."

The response from Commander Michael Lodge, "The industry has initiated a self-imposed requirement to report such incidents; however, there is no Federal law or regulation, nor is there any international treaty or customary law that requires such a report." Nick responded to that—Dr. Palarino—"Michael, you guys are the experts and I believe you, but what about the CFR cited? Am I not reading it correctly?"

Response from Commander Lodge: "33 CFR 120.220, 'that occurs in a place subject to the jurisdiction of the United States,' while some crimes are covered under the special maritime and territory jurisdiction of the United States, 18 U.S. Code Section 7, this limitation would not reach all vessels and all crimes."

So what are you saying and what is he saying, and how do we connect them?

Mr. KAYE. OK. Well, I guess what is most important is what the regulation says, and I have it in front of me. Section 120.220(a), which is entitled "What Must I Do to Report an Unlawful Act and Related Activity," and it states, "Either you or the vessel security officer"——

Mr. SHAYS. And who is "you"?

Mr. KAYE. The shipping line, the ship owner.

Mr. SHAYS. OK.

Mr. KAYE [continuing]. "Or the vessel security officer must report each breach of security, unlawful act, or threat of an unlawful act against any of your passenger vessels to which this part applies or against any person aboard it that occurs in a place subject to the jurisdiction of the United States." And then elsewhere it defines "unlawful act" as a felony.

Mr. SHAYS. What is the penalty?

Mr. KAYE. $6,700.

Mr. SHAYS. OK. To the cruise industry?

Mr. KAYE. Yes.

Mr. SHAYS. So why when we were meeting with the—when we had the FBI and the Coast Guard, they don't see it the way you see it?

Mr. KAYE. Well——

Mr. SHAYS. Let me just say and preface it by saying that says to me there is something more to the story.

Mr. KAYE. I will give you my most honest answer. I wasn't at the last hearing——

Mr. SHAYS. I want your least honest—no, no. [Laughter.]

Mr. KAYE. You will always get my most honest answer.

Mr. SHAYS. I will get your honest answer. There is not a most honest.

Mr. KAYE. I wasn't at the last hearing. I don't know the expertise of the witness who testified. I did review in detail the transcript or Mr. Swecker, and I did notice that when he was asked about extraterritorial jurisdiction on cruise ships, he initially stated, "This is not my area of expertise." And that is a quote from his transcript.

Mr. SHAYS. Fair enough.

Mr. KAYE. I can also tell you that the people at the seaports, like the gentleman quoted over here who is in charge—it is the blue board to the right, the middle one, the special agent in charge of the Florida seaports, he seems to be satisfied that the reporting is very thorough, and I can tell you, in California, where I reside, the FBI is fully aware of the obligation to report. And when someone other than the cruise line or its officer reports, they become very irritated because the report under this regulation is supposed to come directly from the cruise line.

Mr. SHAYS. So if the theft is under $10,000, it is reported?

Mr. KAYE. It is not necessarily reported unless it is a felony. Recall that these regulations define "unlawful act" as a felony. So that——

Mr. SHAYS. I thought theft—so an $8,000 theft is not a felony?

Mr. KAYE. It is not a felony, sir. A felony kicks in at $10,000. In addition, there is a January 2000 memo from the FBI to the cruise industry, which you may hear about from some of the cruise line representatives, that was disseminated that specifically directed the cruise lines to report thefts only in excess of $10,000.

Mr. SHAYS. When the cruise line industry makes a comparison to the public sector, if someone steals $5,000, that is reported and it is statistically part of a community's record, correct?

Mr. KAYE. On land?

Mr. SHAYS. Yes, on land.

Mr. KAYE. If a person reports the theft, I assume so, yes; just as if I assume that if a person——

Mr. SHAYS. But that wouldn't be reported on a ship?

Mr. KAYE. If the person chose not to report it?

Mr. SHAYS. No, no. I just am trying to understand statistics—you know, frankly, I want to say I have no dog in this fight. But what I do react to is when I feel like I am not being told the truth or that I am steered this way when, you know, if I was more knowledgeable, I would go in this direction. You heard the first panel, and I think I have faith that what they told me about how they were treated was accurate subject to not being convinced of that. Every one of those stories raises a question about the sincerity of the cruise line industry, frankly. So my antenna is up. I am suspicious.

So then we hear statistics that say, you know, there are only so many of a particular category, and then 10,000 passengers decide, and then they compare it to a town. Well, you know, a town just does not have people living there for a week. So when you divide the 52 weeks into the number of passengers, you get to a commu-

nity more like 200,000. Then I think, well, in a community of 200,000, you actually have policemen, and you actually have people who are trained in a variety of detective work. And so then I start to draw comparisons, and then all of a sudden the comparisons don't hold because the security people are not necessarily trained the way some would be trained in Darien, CT, or New Canaan, CT, with 20,000 people, 23,000, 30,000, or whatever, or my city.

So I am just trying to explain to you that I am trying to sort this out. We have now the Coast Guard saying there are certain requirements that they don't have to report, and we have you citing the regulations. I want to make sure, because you are under oath, that you are totally comfortable with giving me the impression that reports are required, because we will have another hearing and we will invite you back if the information pushes us in this way when, in fact, you did not tell me the rest of the story.

So one part of the story is that—and you said "felony." It has to be $10,000 or more. If you had $8,000 stolen from you, would you not be outraged that was not part of the record?

Mr. KAYE. Yes.

Mr. SHAYS. OK. So technically, the comment about a felony is significant, but then I have to know the rest of the story. That is $10,000 or more. And so what I am asking you is do you think most of the crimes would be under $10,000?

Mr. KAYE. Most——

Mr. SHAYS. Crimes. I didn't say "felony." Most of the thefts would be under $10,000.

Mr. KAYE. Yes, most of the alleged thefts, I think yes.

Mr. SHAYS. Well, not alleged thefts. Thefts, whatever they are. I mean, because there are thefts, not alleged thefts. There are thefts. You become alleged when you try to put a number to it, but you and I will both agree that there are thefts on board, and you and I would both agree that probably most of the thefts—not alleged thefts but most of the thefts are under $10,000. I am not playing a game with you. I am just——

Mr. KAYE. No, but I can't determine something is a theft until a law enforcement authority or a court determines it is a theft.

Mr. SHAYS. Don't be a lawyer here. I am just——

Mr. KAYE. No, I am just being honest.

Mr. SHAYS. No. Are there thefts under $10,000?

Mr. KAYE. Yes.

Mr. SHAYS. OK. They are not alleged thefts. They are thefts.

Mr. KAYE. Some of them are alleged thefts that——

Mr. SHAYS. Some are and some aren't.

Mr. KAYE [continuing]. Are proven not to be thefts.

Mr. SHAYS. Let's forget the alleged thefts and let's talk about thefts.

Mr. KAYE. OK.

Mr. SHAYS. OK. Now, all I am asking you is: Would it be your testimony that there are more thefts under $10,000 than more thefts over $10,000? That is an easy answer. The answer is yes.

Mr. KAYE. Yes.

Mr. SHAYS. OK. Now, then the question is: Shouldn't that information be provided? Wouldn't I want to know, if I was on a cruise ship, that I could have a $5,000 theft or a $2,000—I am going to

be pretty unhappy if someone—if I decide this trip is costing me $2,000 or $3,000, it is a great week, and then I have $3,000 stolen from me. In my own mind, that cost me $6,000. That is not a good deal.

So what I am just trying to say is: So the rest of the story is your testimony, anything over $10,000 has to be reported, alleged or not, or actual, any alleged has to be.

Mr. KAYE. Correct.

Mr. SHAYS. And my point to you is: Would it not be important for all statistics to be provided but that the FBI may not want to or choose to investigate something that is under $10,000? That is another issue. What I am trying to do is sort out where we go.

Mr. KAYE. Yes, and I guess the question I am left with is where would you draw the line. If it is a pair of sunglasses, I mean, these are the types of things that are allegedly stolen on cruise ships. Oftentimes they are lost. Sometimes they are stolen. And so where would you draw the line? I agree that at some place a line needs to be drawn, but people may differ as to where that line should be drawn.

Mr. SHAYS. OK.

Mr. KAYE. But I think the cruise industry would be happy to draw the line wherever they are asked to draw the line.

Mr. SHAYS. I think that is true. Now if someone breaks into my house, is that a felony?

Mr. KAYE. Yes. Burglary, yes.

Mr. SHAYS. So if someone breaks into my room, is that a felony?

Mr. KAYE. With force, yes, I believe it is.

Mr. SHAYS. I don't care if it is with force. How about a key?

Mr. KAYE. I am not an expert in criminal law, so I am searching my criminal law class 30 years ago.

Mr. SHAYS. But I think you know what——

Mr. KAYE. Potentially, yes.

Mr. SHAYS. I think you know where I am going.

Mr. KAYE. Yes.

Mr. SHAYS. I am just——

Mr. KAYE. I think there is an element of force involved, which is, you know, what I am trying to explain.

Mr. SHAYS. Well, if someone broke into my house in Bridgeport, CT, where I live—and everybody knows I live there—I am not going to care whether they broke a window to come in or they were able to pick the lock or whether they were able to find a key, because maybe one of the workers who worked at my house gave them the key because I gave them the key. I don't really care. I don't have a cleaning service, but if I had a cleaning service who had a key and somehow that got—I would still expect my police department to take this crime seriously and investigate.

Mr. KAYE. Sure.

Mr. SHAYS. What we are being told is if it is $10,000 or more, it gets investigated; if it is $8,000 or less than $10,000, it does not get investigated by the FBI. They have drawn the line.

Mr. KAYE. That is correct.

Mr. SHAYS. So who investigates?

Mr. KAYE. The cruise industry will investigate it, and they will make a record of it, in my experience, and the passenger, if they

wish to pursue it further, can take it up with the FBI. There is jurisdiction over theft under 18 U.S.C. 661 below $10,000. Absolutely, the FBI has jurisdiction over thefts below $10,000.

Mr. SHAYS. You were here when Mr. Leonard testified about his theft.

Mr. KAYE. Yes.

Mr. SHAYS. What was your reaction?

Mr. KAYE. I really didn't have a reaction.

Mr. SHAYS. Why not?

Mr. KAYE. My reaction was——

Mr. SHAYS. I had a reaction. I think probably everybody in this room had a reaction. But why wouldn't you have a reaction?

Mr. KAYE. My reaction was, to be honest, why wasn't it reported to the authorities by the Leonards.

Mr. SHAYS. As opposed to what they did?

Mr. KAYE. In addition to what they did. If they felt that the cruise line wasn't reporting it, why didn't they report it?

Mr. SHAYS. You know, my reaction was, My God, this guy went through 100 ways to try to get the attention of the cruise industry and the line, and they just basically gave him a stiff arm. That was my reaction. And I would have thought, as someone representing the cruise line, you would have said to me, "This is not a good reaction on the part of the people I represent. This guy deserves to be treated better." That is what I would have thought you would have felt.

How did you feel, Mr. Gorsline, when you heard that?

Mr. GORSLINE. My personal feeling, sir, is that the situation warranted some action. Not having been involved with it, I really can't comment on whether that action was appropriate or not. You know, just on face value from what I heard, I would have sought out additional avenues to get compensated, you know, figure out what had happened and get my report taken care of.

Mr. SHAYS. Mr. Rivkind, how did you react?

Mr. RIVKIND. I reacted the same way you did, Congressman. I thought that, you know, it was inappropriately handled by the cruise line, and it shows, even if there are procedures in effect, that they don't get followed.

Mr. SHAYS. So what we have had is three witnesses that lost family members; we had one witness who was raped, allegedly—and I am hesitant to put the word "allegedly" because I would want to give her the benefit of the doubt on that—and we had a young girl who was given lots of drinks and went overboard.

I would like each of you to walk down how you reacted to each of these testimonies. Let's start with you, Mr. Kaye. How did you react to Mr. Carver's testimony?

Mr. KAYE. I think what happened to Mr. Carver was absolutely horrible and inexcusable.

Mr. SHAYS. Was the firing of the supervisor—was he the one responsible ultimately, in your judgment?

Mr. KAYE. I think he was one of the people responsible.

Mr. SHAYS. Who else was responsible, in your judgment?

Mr. KAYE. I think the cruise line was responsible morally to make sure that notification went out and that there was a follow-

up. Unfortunately, the line apparently never became aware of the situation.

Mr. SHAYS. But when they did become aware of it, did you see them as part of the solution or still part of the problem?

Mr. KAYE. I honestly don't know enough about the case to answer that. I don't know——

Mr. SHAYS. Well, let me just talk hypothetically. Do you think they should provide him the information he is requesting?

Mr. KAYE. Depending on the information, yes. I don't know what information he requested, and I don't know what information was not given.

Mr. SHAYS. OK. Well, he testified about some of the information. Maybe you were not listening to that part.

Mr. KAYE. I was listening.

Mr. SHAYS. OK. Do you think he was entitled to the information that he requested?

Mr. KAYE. Again, I don't recall what information he requested that he was not given.

Mr. SHAYS. Mr. Gorsline, I am talking about Mr. Carver.

Mr. GORSLINE. Mr. Carver's case, I think it was a complete breakdown of human factors in the whole process with the supervisor. And that being said, that was the logjam involvement, the company being made aware of it and their response, again, I think that was—I wouldn't have settled for that personally myself.

Mr. SHAYS. I think you are very generous, Mr. Gorsline. I mean, the gentleman said, "My daughter was on board your ship. Your steward knew that she was missing. You knew that she never came to claim her belongings. You proceed to get rid of her belongings, and you never told any of the family." Hello?

Mr. GORSLINE. I agree, sir.

Mr. SHAYS. And then once he came forward, wouldn't you have thought that they would have said to Mr. Carver, "What can we do to make things right from this point on? How can we cooperate? What are all the things that you need to know? And what can we do to help?" Wouldn't that have seemed like the logical way?

Mr. GORSLINE. My personal opinion, sir, I would have set up a casualty assistance team, more commonly referred to as a GO team, and once the information became available of that occurrence, there would have been security on top of Mr. Carver giving him anything he wanted.

Mr. SHAYS. OK. Mr. Rivkind.

Mr. RIVKIND. Yes, Congressman, I think the way they handled that was outrageous. I think it is easy to blame a supervisor, but it goes to the top. You know, it goes to the training. It goes to the mentality of anytime anything happens on a cruise ship that the crew members, including supervisors, are there to protect the company. And I have cited in my written testimony the position the cruise line has taken in a lawsuit by Mr. Carver that I think is also outrageous. They have responded to his claim that they inflicted emotional distress upon him by not releasing all this information about his daughter, basic information. Their response, Congressman, was not to sit down and say, "We will give you the information. We want to give you some closure. We want to help you." Their response was, "We do not owe you any duty to investigate."

And I think that is very, very telling, and I have attached that memo to my written testimony.

Mr. SHAYS. That is, frankly, one of the motivations for our having this hearing. If the cruise line industry was eager not to have us proceed, they could have treated someone like Mr. Carver in a much different way.

I will start with you on Mr. Pham.

Mr. RIVKIND. I think the same thing. I think that they are quick to characterize an incident as a suicide. You have heard the testimony, Congressman, that it does not appear that there were factors to suggest that. And it again goes to the source of the problem. This is an industry that likes to characterize anything that happens on board their ship, including the Master, whom we have heard is responsible for enforcement of all the rules and regulations on the ship and the safety of the ship, that anything that happens on a cruise ship, it has been my experience that the mentality of the Master of the ship is nothing wrong happens on his ship. "It is a suicide." "It is consensual sex." And I know we are not talking about it now, but at any time you would like me to, it applies to the George Smith case, too.

Mr. SHAYS. We are talking about the witnesses that came and testified.

Mr. RIVKIND. Right.

Mr. SHAYS. You are representing the Smith family, correct?

Mr. RIVKIND. Yes, sir.

Mr. SHAYS. So that is another day.

Mr. Gorsline.

Mr. GORSLINE. Again, sir, I would have done the same thing. I would have set up a casualty assistance team and gave the Pham family everything they needed. Why things didn't happen that way, I don't know the case and I am not a lawyer, but as a security person, a security expert, and having dealt with many situations like that, the first thing you usually do is you address the issues and the needs of the family or the persons that are involved in the situation when it arises.

Mr. SHAYS. Mr. Kaye.

Mr. KAYE. Based on what I have heard, there appears to be a very serious problem. But as in most cases, there are usually two sides.

Mr. SHAYS. Mr. Kaye, what would you do if you saw someone fall overboard or jump? You are on board the ship. Where would you go?

Mr. KAYE. I would immediately go to any one of the thousands of employees on the ship and tell them. I would throw——

Mr. SHAYS. No, don't get carried away here. There are not thousands of employees. There are about 900 employees, right?

Mr. KAYE. Depending on the size of the ship, there may be close to 2,000 employees.

Mr. SHAYS. Mr. Kaye, with all due respect, I feel like I am playing a game here with you. I have been told by the cruise industry that most of the ships are 2,000 passengers with 900 employees. Should I go back to these folks and have them tell me differently? That is what I have been told. I know there is going to be a 5,000-

passenger ship, but I am told most are around 2,000. Are most of them 3,000 or 4,000? So tell me, I mean, you are the expert.

Mr. KAYE. Most of the ships have over 2,500 passengers and over 1,000 crew members.

Mr. SHAYS. OK.

Mr. KAYE. In my experience.

Mr. SHAYS. So thousands or—you are under oath and under testimony here. How many crew members are there in a 2,500-passenger ship?

Mr. KAYE. I believe over 1,000.

Mr. SHAYS. Over 1,000. How many?

Mr. KAYE. I believe, although I am not certain, 1,200 to 1,500.

Mr. SHAYS. OK. So you would go to any one of the employees on board the ship, and what would that employee do?

Mr. KAYE. Normally, I believe, if I first went to an employee, they would immediately contact the bridge, and they would begin a man-overboard procedure.

Mr. SHAYS. Mr. Gorsline, what would you do?

Mr. GORSLINE. I would flag down an employee, tell them to contact the bridge that they have a man overboard. And because of my background, I would look for the nearest life ring with——

Mr. SHAYS. The nearest what?

Mr. GORSLINE. Nearest life ring with a blinker on it and throw it over the side to try and mark the spot. But that is me personally because I have that background.

Mr. SHAYS. Do you think most employees know instantly what to do if someone is overboard?

Mr. GORSLINE. I know there is a man-overboard procedure on board the ship. The abilities to effectively execute it is totally dependent upon their training and how often and how familiar they are with that.

Mr. SHAYS. Mr. Rivkind.

Mr. RIVKIND. My knee-jerk reaction would be, of course, obviously to flag down the first person I could, hope they speak English, and hope that the crew member is somebody who has some training and knows what to do. I would have doubt whether all the crew members would.

Mr. SHAYS. OK. Let me just say that if Mr. Kaye had said the last point, I would question him, so I want to question you. The implication is that most people don't speak English. Do you think that is fair?

Mr. RIVKIND. Not all—not the most.

Mr. SHAYS. Do you think that is accurate? Is the implication of what you just said that most people don't speak English?

Mr. RIVKIND. I think a majority of crew members may not based on my experience. There are increasing requirements now occurring to place more English-speaking crew members on board the ships, and they currently are doing that. My experience over the years has been there has been a great number of the crew members, you know, even some of the officers, you know—and if they speak English, it is not thorough, complete English.

Mr. SHAYS. Mr. Gorsline, how many security people are on board a ship of, say, 1,000 employees or crew members? How many—and by "security," I mean people that would function like police officers.

Mr. GORSLINE. Sir, based upon 49 CFR 1520, I cannot go into those numbers because they are classified security sensitive information.

Mr. SHAYS. You know, can I say something? I have just been waiting for someone to do that. Why is it OK for me to know how many police officers are in Darien, CT, and it is not all right for me as a passenger to know how many police officers are on a ship?

Mr. GORSLINE. Sir, with the current security posture of the country and the industry and what we have to deal with on a regular daily basis, it is not prudent to make that information available.

Mr. SHAYS. Is it not prudent because we do not have enough?

Mr. GORSLINE. Oh, no, sir. We have enough. I will tell you this, sir. Let me give you this for——

Mr. SHAYS. Your testimony is that you have enough. That is what——

Mr. GORSLINE. Yes, sir, we do. I will say from my personal experience on the ships that I have audited, there is plenty of security people on board, and the programs in place in tiered level to go ahead and back them up to the nth degree. A case in point, I will give you a perfect mathematical example——

Mr. SHAYS. Do they carry weapons?

Mr. GORSLINE. I cannot give you that information, sir. They are trained in crowd control and maintaining control of a ship.

Mr. SHAYS. Are they trained in institutions or are they trained on board the ship?

Mr. GORSLINE. It depends on the company, sir. Most personnel that are hired in those positions are of a security background, whether it be former military or former law enforcement.

Mr. SHAYS. So your testimony before this subcommittee is that most have military training?

Mr. GORSLINE. Yes, sir. The ships that I have done, yes, although the foreign flag ships will have persons that are not U.S. military, but they are former military background.

Mr. SHAYS. See, what I would think would be that you would want me to know they are armed, that you would want me to know they are extraordinarily capable, and the fact that this is not information that somehow people would share makes me think that we are almost reluctant to have people know because it is not satisfactory. That is my implication from——

Mr. GORSLINE. Can I clarify, sir?

Mr. SHAYS. Sure.

Mr. GORSLINE. Here is the situation and the numbers. I am going to go point by point here. If you were to take a city, as New York City—and I use New York because that is where I am from. You have 8 million inhabitants and you have 43,000 law enforcement officers on the books. You divide that into three shift. That approximately comes out to 13,333 people per shift, if they all show up. Normally it is between 7,000 to 10,000 people. That puts one police officer per thousand people, roughly, in that city—OK—on a shift, on an 8-hour shift. OK.

The cruise industry has security personnel that covers that many times over. Now, as to the question of weaponry and protection, I will say this: Cruises have their own personality. Every cruise is addressed with a different security level based upon the require-

ment of what the cruise is going to be going underneath. They have their basic levels. The regulations are set up for those basic level. But if you have a spring break cruise, you may add some additional things. You may put a law enforcement officer or two or four on board to assist the security staff to deal with rowdy individuals in like-type situations. If you have a charter party where you have dignitaries or that kind of thing, they bring their own security on board if it is that kind of situation, and that enhances the cruise security on board the ship.

But the basic level of security is there. Additionally to the security force, the crew will have responsibilities based upon the increase of the mar-sec level based on the terrorist threat. And those crew members that have been designated by the Emergency Response Plan will augment the security department. So the numbers increase exponentially.

Mr. KAYE. Mr. Chairman, may I throw in a comment here?

Mr. SHAYS. Sure.

Mr. KAYE. I understand where you are coming from, and I think it is a very legitimate question. The difference between a cruise ship and a city is that a cruise ship is a self-contained environment. A city has, you know, limitless resources.

Mr. SHAYS. Right.

Mr. KAYE. And so, you know, when you start talking about what the exact capabilities are, you are by definition telling people what the limitations are. I may be going out on a limb here, but it may be completely appropriate for this information to be divulged to you in private.

Mr. SHAYS. No, but see, what my view is, if you had sufficient security, it would almost be a disincentive to do something on board a ship. And so you view it as a way to give someone an opportunity to know how they could overcome the ship or to commit a crime. I view it the opposite. I view it as saying, my gosh, they got so many folks, I wouldn't want to fool around.

So it is interesting, our two different perspectives.

Mr. GORSLINE. Sir, can I just comment on that part also? In my career, I worked a lot of surveillance detection for the State Department. We did a lot of work on identifying those individuals that would cause harm to U.S. facilities, and that was part of the deal, we would go on out and basically bird-dog certain places where certain people would hang out and identify their posture, their profiles and everything else, and we would put them in categories.

Now, put that in reverse mode. That is exactly what happens when somebody comes on a cruise ship that wants to identify its weaknesses. They call it a vulnerability assessment. If you identify a vessel's vulnerability and you determine how to defeat it, you put everybody on board that vessel, crew and passengers, at risk. This is part of that.

Mr. SHAYS. Let me ask you this: Do you think it is a disincentive to crime or an incentive to crime to know we have a marshal on board a plane?

Mr. GORSLINE. On a plane? On an aircraft?

Mr. SHAYS. Yes.

Mr. GORSLINE. I think personally that any motivated individual or entity that is going to carry out an act and has identified an entity to do it on is going to do it. If the marshal is there and he gets the job, which is about 3 seconds to respond, because at the last level, Level 7 of an attack when it occurs, is recognition of an attack. If that marshal can recognize——

Mr. SHAYS. You are talking a different language to me. I just asked a simple question. Do you think it is an incentive or disincentive?

Mr. GORSLINE. It is a disincentive. If you can make a target harder, they will move on. But if you put a marshal on there, you are going to take something—you know, you have to account for how many marshals are you going to put on. What jurisdiction are they going to be?

Mr. SHAYS. Let me ask the question again. Do you think it is an incentive or a disincentive to let people know that we have a marshal on board an airplane? All you have to do is tell me you think it is an incentive or not an incentive or you don't know. What is your answer?

Mr. GORSLINE. For the passengers?

Mr. SHAYS. For someone to commit a crime on board. Tell me your answer.

Mr. GORSLINE. I think it is a disincentive. If you make a target harder, they are going to move on to the next target.

Mr. SHAYS. OK. And the fact that they know it is a disincentive.

Mr. GORSLINE. But part of the marshal program, sir, if I just say, is that you don't know who the marshal is. You just know they are out there.

Mr. SHAYS. Fine. So let me ask the next question: Do we have marshals on board ships?

Mr. GORSLINE. To my knowledge, in the cruise industry, no, sir.

Mr. SHAYS. OK.

Mr. GORSLINE. Now, if the cruise line wants to go ahead and put one in for a specific cruise, i.e., hire a local sheriff's department or a police officer to come on board——

Mr. SHAYS. See, but I like those, if the crimes are investigated by the Federal Government, why not have a Federal official on board the ship?

Mr. GORSLINE. Because a Federal officer would not be in his jurisdiction because the flag of the ship is not flagged United States.

Mr. SHAYS. So help me out, Mr. Kaye. You are trying to make me feel comfortable that the Federal officials are going to quickly get involved, and we have testimony from Mr. Gorsline that they shouldn't be on board the ship because Federal officials are out of jurisdiction there.

Mr. KAYE. I don't think legally that answer flies. I think that if there is a crime on board involving an American, a Federal official on board would have jurisdiction. Absolutely.

Mr. SHAYS. OK. So——

Mr. KAYE. But he might not have jurisdiction over nationals of a foreign country who are victims of crimes if the incident is on the high seas.

Mr. SHAYS. Fair enough. It is just that I am just thinking, you know, a crime is committed and then how does the FBI agent get

on board to investigate when the ship is out to sea. I am just wondering, if these ships are so expensive and we have so many people and so many employees, and we are willing to put a marshal on board an airplane, is not one of the suggestions made by the group before us that we do that, someone with Federal jurisdiction, is there not some logic to it? Mr. Rivkind.

Mr. RIVKIND. Well, Congressman Shays, my experience—and I think we have heard it also from the FBI, my direct discussions with the FBI—is I think Mr. Gorsline is correct, when you fly a foreign flag, you are the country of that flag. And the FBI has stated—there may be criminal jurisdictional statutes where they can enforce in court a crime that is committed on the ship, but as far as getting on board that ship, there are a lot of complex issues there. They have to get permission of the cruise line or the Master because that is a foreign-flagged ship, and if the ship is in a foreign country, there may be some relationship with that particular foreign country, too, that has to be worked out for them to get on board the ship. And we have a case involving where the FBI wasn't allowed to board the ship for some period of time. It is up to the Master. He controls that ship. It is the country of the flag.

Mr. SHAYS. Let me ask you, Mr. Kaye, not here but later—and Mr. Gorsline, and you, Mr. Rivkind, to review the suggestions that were made by the International Cruise Victims Association. I think that in my time in Congress this is a very, I think, fine example of people trying to make a contribution who have felt they have been victims. It may be that some are just simply not going to do what they want or are not feasible or are simply not affordable. But I do think in here it would be helpful to know your reactions.

And let me tell you what—I don't usually do this, but what I think I have learned from this session. Mr. Kaye, your comment that the records that crime statistics of a felony have to be reported is going to stand with me. I at the last hearing believed it wasn't. We have spoken to the Coast Guard. They say no. You have cited regulation. That is going to stand until I hear differently.

The fact that it is $10,000 or more for a felony says to me that it is not really as helpful as it should be. I think crimes below $10,000, if they are not going to be investigated, should at least be reported.

I have mixed feelings about, Mr. Kaye, your response to some of the folks that testified, because I felt like with every one of them, admittedly some alleged, but all of them heartfelt, that at the very least the cruise industry should have been, once they knew what had happened, once they felt the agony of the family, should have been moving in a different direction than they moved.

And I will say, because I know that Jennifer Hagel-Smith is here, and I had read from her letter previous, the one-page document that I read, condensed from evidently six pages, I think overstated her circumstance in terms of not necessarily—her claim was that no one was there for her. In the context of what she meant, I do have empathy for what she meant. She had believed that there would be security people and so on.

I was a little surprised, I will say, with the response of the cruise industry. I felt—excuse me, the cruise line. I felt that their re-

sponse to her comments was maybe accurate to a point, but a little insensitive given what she has gone through.

And so we are going to have the next panel. I think what we will try to do is convene at least their statements. And is there anything you would like to put on the record before we get to the next panel, any closing comments?

Mr. RIVKIND. I would just state, Congressman, that the president of Royal Caribbean Cruise Line has gone on national television saying, "We are the only industry that is not required to report a crime." So I think that maybe in the next panel——

Mr. SHAYS. We will sort it out.

Mr. RIVKIND [continuing]. That should be addressed, yes.

Mr. SHAYS. Yes, this is not the last hearing.

Mr. RIVKIND. OK.

Mr. SHAYS. Mr. Gorsline, any comments you would like to make?

Mr. GORSLINE. No, sir. I think I have said all I need to say.

Mr. SHAYS. Mr. Kaye.

Mr. KAYE. No, Mr. Chairman. Thank you very much.

Mr. SHAYS. Thank you, and I want to say to all three of you your testimony has been very helpful, and, Mr. Kaye, you are the first person who has ever claimed it is simple, and it may, in fact, be more simple than we think, but it may not be right. So, with that, let me thank you all very much.

Mr. KAYE. Thank you, Congressman.

Mr. SHAYS. I do not usually convene a panel at 5:30. Are they still here? Excuse me, 6:30. Mr. Charley Mandigo, Director of Fleet Security, Holland America Lines; Captain William S. Wright, senior vice president, Marine Operations, Royal Caribbean, accompanied by Dr. James Fox.

We have two people giving testimony. Mr. Mandigo, Captain Wright, and Dr. Fox, if you would raise your right hands?

[Witnesses sworn.]

Mr. SHAYS. Gentlemen, I am sorry that you have had to wait so long. We started at 2. Probably this one we should have had only two panels. But I would like you both to be able to make a statement before we break, and if you would be so kind as to allow us to vote and then finish with our questions, that would be appreciated.

Mr. MANDIGO. Thank you, Mr. Chairman.

Mr. SHAYS. It is Mr. Mandigo?

Mr. MANDIGO. That is correct, sir.

Mr. SHAYS. Mr. Mandigo, you have the floor.

STATEMENTS OF CHARLEY MANDIGO, DIRECTOR, FLEET SECURITY, HOLLAND AMERICA LINE; AND CAPTAIN WILLIAM S. WRIGHT, SENIOR VICE PRESIDENT, MARINE OPERATIONS, ROYAL CARIBBEAN INTERNATIONAL, ACCOMPANIED BY JAMES FOX, NORTHEASTERN UNIVERSITY, THE LIPMAN FAMILY PROFESSOR OF CRIMINAL JUSTICE

STATEMENT OF CHARLEY MANDIGO

Mr. MANDIGO. Thank you, Mr. Chairman.

Mr. Chairman, thank you for inviting me here before your subcommittee a second time. I believe that I was here in December.

My name is Charlie Mandigo. I am the director of Fleet Security for Holland America Line. Holland America Line is a subsidiary company of Carnival Corp., which encompasses Carnival Cruise Lines, Princess, Costa, Holland America Line, Windstar, and a couple other companies. My position also is a company security officer for Holland America Line.

I have been employed by Holland America for 3 years in the position, and prior to that, I was employed by the FBI for 27 years and had retired as a special agent in charge of the Seattle office of the FBI. In that position, I was responsible for all crimes underneath the FBI's jurisdiction to include terrorism, crimes on the high seas, and other matters.

In that 27-year career, as all of us see in the media, it rapidly became clear to me that crime can occur in every segment of society, regardless of where we were. In that capacity, and switching careers from one to another, and prior to my employment with Holland America Line I had never been on a cruise ship, but looking at the numbers that my expectation would be that I would look at the possibility of spending a significant amount of my time handling crime on cruise ships.

Much to my satisfaction in this when I came to the cruise line and supervising these matters throughout Holland America that has 12 cruise ships, I found a very low incidence of crime compared to what my expectation was. And what I did find was a significant amount of our time was spent looking at proactive measures on board cruise ships to try to avoid crime. And we have many measures in place on cruise ships to deter crime, to minimize crime, and we do an extraordinarily good job on that.

Unfortunately, when we are dealing with a large number of people, as any large number of people in any segment of our population, there are always going to be incidents that occur that are tragic and are unfortunate. And I know in my experience of law enforcement where I handled child abductions, kidnappings, and other matters, some of them did not turn out well. Always the most difficult part of the job was dealing with victims, in that they are very tearing, they are very tragic, and very difficult to deal with. And all victims on this, we would extend our condolences to. But it is our objective to provide a safe and secure place for all of our guests on board our cruise ships.

Thank you, Mr. Chairman.

Mr. SHAYS. Thank you, Mr. Mandigo.

Captain Wright. You need to hit the button there. There you go.

Captain WRIGHT. Technology.

Mr. SHAYS. Great. Thank you, sir.

[The information referred to follows:]

CARNIVAL CORPORATION
March 3, 2006
Response to Subcommittee Request
Page 1 of 4

Carnival Corporation's various operating companies, which are members of the International Council of Cruise Lines, have supplied information responsive to the Committee's request for information and topics of discussion for the Hearing. Those operating companies are Carnival Cruise Lines, Princess Cruises, Holland America Line, Seabourn Cruise Line, Windstar Cruises, Cunard Line and Costa Cruises (collectively, the "Operating Companies" or "Brands"). The Operating Companies responses are as follows:

1. *What United States and international laws govern passenger security on board cruise lines?*

   International, foreign flag and port state, and United States laws simultaneously regulate and govern the security of passengers and vessels, while at sea and at ports of call. At the international level, The International Convention for Safety of Life at Sea, 1974 ("SOLAS") recently incorporated SOLAS chapter, X1-2 entitled Special Measures to Enhance Maritime Security. This chapter includes a requirement for ships and companies to comply with the International Ship and Port Facility Security Code ("ISPS Code"). The ISPS Code was adopted by the International Maritime Organization, a specialized agency of the United Nations devoted exclusively to maritime matters, and ratified by the requisite number of member states to bring the ISPS Code into effect on July 1, 2004. Ratifying states (including foreign flag and port states) were then required to implement national laws to put the ISPS Code into effect. In the United States, the ISPS Code served as the blue print for the adoption and enactment of the United States Maritime Transportation Security Act ("MTSA"), which also became effective on July 1, 2004. Both the ISPS Code and MTSA provide the framework for the implementation of the security plans and practices in effect today on every passenger cruise vessel calling on the United States.

   The functional security requirements embodied in these two legislative schemes take a risk management approach in securing the safety of passengers and the vessels that carry them. These laws create a standardized consistent framework for identifying, evaluating and developing a plan to minimize security risks. The first step is to undertake a risk assessment of a vessel in order to determine what security measures would be appropriate in the operation of that vessel. Because each vessel (or class of vessels) presents different risks associated with its operation, the method and manner in which a vessel meets the specific security requirements of these laws is unique to that vessel. The security plan must be approved by the Flag State or a Recognized Security Organization designated by the flag state of the vessel and by the particular port states where that vessel calls. In sum, these governing laws require, among other things, the following security provisions:

1. Thorough vessel and terminal risk management and security assessments;

2. The development and approval of a comprehensive vessel and terminal security plan;

3. The flag state or designation of a recognized security organization to approve vessel security plans, perform security audits of vessels and issue international ship security certificates;

4. The performance of mandatory security drills;

5. The improvement of ship to shore communications for emergency situations.

2. *Who is the official responsible for enforcing such laws on board a cruise ship?*

The Captain, as Master of the Ship is ultimately responsible for all areas of ship operations, including safety and security. The Staff Captain, who reports to the Captain, is directly responsible for security. The Security Officer, who reports to the Staff Captain, has specific responsibility for the Security Department.

3. *What type of security measures, both trained personnel and equipment, are on board cruise lines to ensure passenger safety?*

Corporate Security Departments work closely with Federal, state, and local law enforcement and Security Agencies and communicate information regularly to Ships. All ships have Security officers and crew with primary responsibility for security onboard. Security Department personnel are trained in accordance with the International Ship and Port Facility Security Code (ISPS), and the United States Maritime Security Act (MTSA)

All crew are provided basic training to report security incidents to the Security Department, which extends the effectiveness of coverage of the Security Department throughout all areas of the ships.

Ships are equipped with X-Ray, Metal Detectors and Hand Wands, similar to those found in airports or Federal Government offices and Court Houses. Ships are also equipped with closed-circuit cameras. Further information on specific equipment can be provided to the Subcommittee on a confidential basis, to avoid compromising security.

4. *If a crime occurs on board a cruise ship, who investigates the crime and what are their training and qualifications?*

The Master of the vessel has ultimate authority for all matters that take place on board his ship, including enforcement of matters involving security of the ship, its passenger and crew. The Chief of Security and his security team are tasked with responsibility to investigate any onboard incident. This security force acts as the first responder to any alleged crimes. As noted above, each member is trained in investigative techniques.

The vessel's Master is responsible for ensuring prompt reporting of the incident to shoreside management and to the appropriate authorities. In the case of a crime, the vessel's investigative activities, response and conclusions are monitored by shoreside management to provide an additional level of oversight and ensure proper reporting.

If law enforcement authorities elect to pursue the ship's report, both the onboard security team and shoreside management provide such authorities with the results of the onboard efforts and fully cooperate with the investigation.

5. *How are jurisdictional issues handled on board foreign flagged vessels?*

The Operating Companies report crimes to those law enforcement authorities that we reasonably believe have the authority to investigate a crime, based on the nationality of the parties involved, the location of the ship and the type of crime, as well as the flag of the vessel. At a minimum, we may contact the following entities: flag state, the country in whose territorial waters the ship is in when the crime occurred, the country of the first port call and U.S. authorities if a U.S. citizen is involved. Some of the U.S. law enforcement agencies that have received reports of crime from our vessels are the Federal Bureau of Investigation, Immigration and Customs Enforcement, Customs and Border Protection, United States Coast Guard and local police authorities.

By way of example, crimes with a U.S. nexus (such as vessel location, itinerary or nationality of the victim(s) or suspect(s)) involving narcotics are reported to Customs and Border Patrol or Immigration and Customs Enforcement, and those involving weapons (or other breaches of security) are reported to the United States Coast Guard. Any sexual assaults involving a United States citizen, irrespective of vessel location, are reported to the Federal Bureau of Investigations. If we are unsure which U.S. agency should be contacted, we contact the Federal Bureau of Investigation.

The Operating Companies also are proactive in cooperating with law enforcement agencies in their investigations. The Brands have and continue to provide significant assistance to law enforcement agencies in furnishing surveillance, providing intelligence reports and securing confidential informants onboard. This assistance has led to significant drug seizures involving passengers and crew, the apprehension of felons, and material support to investigations both on and off the vessels.

In summary all of the brands work closely, on a regular basis, with law enforcement agencies all over the world to cooperate and assist them with investigations involving crimes that are alleged to occur on our vessels or involving our passengers.

STATEMENT OF WILLIAM S. WRIGHT

Captain WRIGHT. Chairman Shays and members of the subcommittee, my name is Bill Wright. I am the senior vice president of Marine Operations for Royal Caribbean International, a global cruise vacation company operating 19 ships. Our sister brand is Celebrity Cruises, which operates nine ships worldwide. I am pleased to be here today to provide testimony on behalf of our two cruise lines and our parent corporation, Royal Caribbean Cruises, Limited.

I have more than 30 years of seafaring experience. I have worked for Royal Caribbean International for nearly 14 years, including serving as Master on a number of the ships in our fleet. In my current role, I am responsible for the maritime operations of the Royal Caribbean International fleet. I was born and raised in south Florida.

All of us at Royal Caribbean appreciate the time and serious consideration that you are applying to these hearings.

Mr. SHAYS. Thank you.

Captain WRIGHT. We hope that they will improve the public's understanding of our industry, and we particularly appreciate you giving us this opportunity to appear before you to answer the subcommittees questions.

There are clearly a lot of emotions surrounding the issues being raised here today, and our hearts go out to everyone here who has suffered a loss. But it is important that the facts and only the facts drive decisionmaking by interested parties and that the media not be used to distort the facts or to get in the way of law enforcement investigations in their search for the truth. It is important to the public, the cruise industry, and to Royal Caribbean that we discuss the facts completely, accurately, and in context.

My written testimony addresses in detail issues related to the hiring and training of our staff, guest behavior policies, and crime reporting policies. Due to my limited time today, I will touch briefly on those issues and respond to those raised by others who have been asked to testify today.

Providing a safe environment begins with hiring and training of our crew members, including crime reporting procedures, our safety policies regarding guests, and crew member behavior. Our U.S. and foreign national crew member applicants are screened carefully, and it is our policy not to hire anyone with a criminal past. Each ship has officers with specific security responsibilities on board. All crew members, regardless of their responsibilities, are trained to report any suspicious condition or activities on board to their superiors, who are then required to report them up the chain of command.

Our policies and training require diligent reporting of alleged crimes to the FBI and other law enforcement authorities. The FBI has identified for the cruise line industry those allegations of potential crimes it wants reported. We not only report what the FBI requests, but we often report additional allegations that fall below FBI thresholds or what otherwise would not be reported in a land-based environment.

Perhaps this is why FBI Agent John DiPaolo, who oversees criminal investigations for south Florida seaports, said the follow-

ing about the cruise industry's crime reporting track record in the Miami Herald story on February 12, 2006, and I believe the quote is to our right and to your left: "'We have very open lines of communication,' DiPaolo said. 'We've never had an instance where I went to them and said, Hey, you should have reported that to us.'"

In many cases, we give the FBI more than it requests. As a result, the FBI often declines to investigate allegations of crimes below certain thresholds. In other words, we report incidents to the FBI even though they fall below the thresholds the FBI has established for industry reporting. We have also in place strong and effective policies that establish appropriate behavior for crew members and guests, including crew member interaction with guests. We enforce these policies up to and including expulsion from the ship or termination of employment.

Today, you have heard testimony from others regarding individual experiences on our cruise ships. We at Royal Caribbean and Celebrity Cruises extend our deepest sympathies to the Carver family for their loss, and we regret that one of our guests, the Leonards, reported that something was stolen while sailing with us.

While we deeply regret that our guests had experiences they shared with the subcommittee, we should not lose sight of the facts surrounding these incidents, which represent less than one-tenth of 1 percent of our guests' experiences.

The case of Ms. Carver is particularly tragic. We regret that the Carver family has experienced this inconsolable loss. We know now that one of our supervisors was notified by a room steward that Ms. Carver was missing from her cabin. Unfortunately, and tragically, that supervisor did not recognize the significance of her absence and never reported it to his superior, as he should have done. This was wrong and inexcusable. He exercised poor judgment and we fired him as a result.

I also regret that, due to the supervisor's failure to notify his superiors, we didn't realize that Ms. Carver was missing and, therefore, no one from our company had the chance to personally inform the Carver family about her disappearance.

Could we have done anything different to save Ms. Carver from apparently committing suicide? We have searched our minds and hearts to second-guess ourselves on that. Sadly, the facts appear that Ms. Carver went on this cruise with the intent to commit suicide. Ms. Carver purchased her passage only 2 days before the ship's departure from Seattle and boarded with only the clothes she was wearing, two purses, and an envelope containing a computer disk. These are not items that would prepare her or anyone else for a 7-night Alaska cruise.

Mr. Leonard alleged that some of his wife's belonging were stolen from his cabin. We are genuinely sorry for their loss. It is noteworthy, however, that the Leonards declined to use a safe deposit box available on board because, as Mrs. Leonard has stated, she did not want to be inconvenienced. The Leonards have also declined travel insurance. And just if this jewelry had been lost at a hotel while on land, Mrs. Leonard could have filed suit against the company for her loss. But they have never exercised that right.

Had the Leonards taken advantage of our security precautions, Mrs. Leonard's jewelry would have been secure.

And, finally, I would like to add that our hearts continue to go out to Jennifer Hagel-Smith and the Smith family over the disappearance of George Smith. I was personally very happy that I for the first time have had the opportunity to meet Mr. and Mrs. Smith and Bree Smith and extend my condolences for their tremendous loss.

I think it is important for the purpose of this subcommittee just to state that in this instance, as in other instances, our reporting of the disappearance of George Smith was expeditious and complete, and an investigation has been conducted, a thorough one, and we continue to cooperate entirely with the FBI.

I thank you for this opportunity, and I am happy to take any questions.

[The prepared statement of Captain Wright follows:]

Testimony of

Captain Bill Wright
Senior Vice President of Fleet Operations
Royal Caribbean International

Before the House Subcommittee on
National Security, Emerging Threats, and International Relations

March 7, 2005

I. Introduction

Chairman Shays and Members of the Subcommittee, I am pleased to submit this written testimony on behalf of Royal Caribbean Cruises Ltd.

My name is Bill Wright, and I serve as the Senior Vice President of Marine Operations for Royal Caribbean International, a global cruise vacation company operating 19 ships. Our sister brand is Celebrity Cruises, which operates nine ships worldwide.

I have more than 30 years of seafaring experience, which includes the cruise ship industry. I have worked for Royal Caribbean International for nearly 14 years and became Senior Vice President of Marine Operations in 2005. In my current role, I am responsible for all maritime operations of Royal Caribbean International's fleet. Prior to this post, I served as Master of numerous Royal Caribbean International cruise ships from 1996 to 2001, and was subsequently promoted to Senior Vice President of Safety, Security & Environment for the fleets of both Royal Caribbean International and Celebrity Cruises. I earned an Unlimited Master Mariner license in Norway in 1991 and a Master's degree in Marine Engineering from Vestfold Maritime College in Norway in 1992. I am a native of Florida, born and raised in South Florida.

All of us at Royal Caribbean appreciate the time and serious consideration you are applying to these important matters. We hope that your hearings improve the public's understanding of our industry, and we particularly appreciate you giving us this opportunity to appear before you and answer the Subcommittee's questions.

Nothing is more important to Royal Caribbean and Celebrity Cruises than the safety of our guests and crewmembers. Both our actions and our record evidence that.

To fully address the questions you asked in your February 23, 2006 letter, it is important to provide the context of the specific efforts we undertake to protect the safety of our guests and crewmembers. First, I will briefly summarize our specific policies and practices on guest and crewmember safety and reporting of alleged crimes. Next, I will address allegations made by others who have been asked to testify before the Subcommittee. Finally, I will answer each of the questions you submitted to us in your letter of February 23, 2006. I look forward to answering any further questions that you have.

II. Security and Safety

The Subcommittee has requested specific information to help it assess the safety and security of cruise ships, and we provide it in detail in a later section. Equally important to that task, however, is putting that and other information in the context of our overall security record, policies, and practices. To this end, immediately below we provide an explanation of our policies with respect to hiring crewmembers, security training for crewmembers, and guest behavior.

A. Policies

1. Hiring Crewmembers

Providing a safe environment begins with our hiring process and policies for crewmember and guest behavior. It continues with training our crewmembers on our safety policies and enforcing them.

In particular, our policies and training require diligent reporting of allegations to the FBI and other law enforcement authorities, and they establish appropriate behavior for crewmember interaction with guests. We also enforce our crewmember and guest behavior policies, up to and including expulsion from the ship and termination of employment.

Hiring the right people is the goal of any successful company, but it is especially important in the hospitality business. With 40,000 employees representing more than 100 nationalities, Royal Caribbean and Celebrity Cruises take a number of steps to try to ensure that the crewmembers we hire are of the highest quality. U.S. and foreign-national crewmembers undergo a screening through our application and interview process. Also, foreign nationals seeking employment with us must undergo a second layer of U.S. State Department screening in order to obtain the "C1D" visa required for entry into the United States, transit to a ship, and reentry to U.S. ports after an initial departure. There is yet a third layer of screening for our foreign national crew members entering the United States – typically at international airports, as the federal Customs and Boarder Protection agency screens them upon entering the U.S. Our policy is not to hire any foreign national if the vetting process uncovers a criminal past.

According to 22 CFR 41.105, a "C1D" visa application background check entails the following steps, which are initiated by a U.S. consulate official in the home country of the foreign-national applicant:

- Photographs[1] of the applicant;
- The U.S. consular official may (and, in some cases, is required to) take fingerprints of the applicant for investigative purposes;[2] and

[1] Id. at 41.105(a)(3)

- The State Department checks the name of the applicant in certain criminal history record and other databases to which the FBI provides access in order to determine whether an applicant has a criminal history or other record.[3]

Only after clearing the "C1D" visa application process (and the corresponding screening is approved) does Royal Caribbean or Celebrity Cruises extend an official offer of employment to a foreign-national crewmember candidate.

2. Safety and Security Programs and Training for Crewmembers

As in our hiring, we take special care to try to ensure that our guests enjoy, and crewmembers work, in a safe environment. Consequently, we have a specific security program that includes but is not limited to advanced access control systems, which involve positive identification of all persons onboard with photographs, screening of all items coming onto our ships, closed-circuit camera systems and security staffs led by security officers who typically have military or professional security backgrounds (in addition to officers with specific guest-relations and ship-oversight responsibilities) who are trained to handle all manner of situations onboard. In addition, all crewmembers – regardless of their responsibilities - are trained to report any suspicious conditions or suspicious activities onboard to their superiors, who are then required to report them to headquarters. More detail on these measures can be found below in our responses to your specific questions.

We also have in place strong and effective crewmember- and guest-conduct policies and procedures.

Every new crewmember of Royal Caribbean and Celebrity Cruises undergoes training concerning safety, incident-reporting, and appropriate guest interaction. For example, we prohibit any intimate contact with guests, even if guests initiate such contact. If crewmembers violate any of our policies, we discipline them, up to and including termination.

3. Incident Reporting Policies and Responding to Crimes

In addition to training, we impose strict guidelines for reporting allegations of crimes committed on our ships to appropriate law-enforcement authorities. The FBI has identified for the cruise-line industry those allegations of potential felonies it wants reported. Not only, however, do we report what the FBI requests, but we often report additional allegations that fall below the FBI thresholds or that would not otherwise be reported in a land-based environment.

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[2] Id. at 41.105(b)(1).
[3] Id.

Perhaps for this reason, the *Miami Herald* recently reported as follows:

> " The cruise lines say they notify the appropriate authorities about all crimes and already lean toward overreporting...
>
> John DiPaolo, an FBI agent who oversees criminal investigations at South Florida's seaports, agrees. He said the cruise lines contact his office about criminal incidents even when the FBI might not have jurisdiction.
>
> 'We have very open lines of communication," DiPaolo said. 'We've never had an instance where I went to them and said, 'Hey, you should have reported that to us.' "
>
> (*Miami Herald*, February 12, 2006)

Specifically, when a guest or crewmember reports an allegation involving a potential crime within the FBI guidelines, our reporting process is as follows:

- We report allegations of crime within US territorial waters to local authorities and the FBI, regardless of the nationality of the alleged victim or perpetrator.
- We report allegations of crimes committed on the high seas against or by a U.S. citizen to the FBI. When the ship is not returning to the U.S. during its voyage, we also report such an allegation to the local U.S. Consulate (where available) at the next port of call.
- We report allegations of crimes, which are committed on the high seas against a non-U.S. citizen to the appropriate authorities at the vessel's next port of call and to the ship's flag-state authorities.
- We report allegations of crimes that are committed while the vessel is in another sovereign state's territorial waters to the appropriate authorities if the vessel is making a port visit in that country. If the allegation is of a crime by or against a U.S. citizen, we also report to the local U.S. Consulate (where available) and the FBI in the United States.

Royal Caribbean and Celebrity personnel in Miami oversee the notification process to the authorities. We ensure that our Miami-based employees are on-call 24 hours a day to receive reports of such situations and to handle them.

In the event that a law enforcement authority decides to investigate an incident, we facilitate the cooperation of crewmembers who investigators might wish to interview.

As noted, in many cases, we give the FBI more than it requests. As a result, the FBI often declines to investigate allegations of crimes below certain thresholds. In other words, we report incidents to the FBI even though they fall below the threshold that the FBI has established for industry reporting.

Significantly, if the FBI declines to pursue an allegation, we follow up with local authorities to give them the opportunity to do so. We do this whether our ships are docked within or outside the United States and whether the situation involves a U.S. or non-U.S. citizen.

As you can see, we take seriously our reporting responsibilities to law enforcement. To underscore a point that others have made recently, we are not a law-enforcement or investigative agency – nor do we believe law-enforcement authorities wish us to act as such.

Beyond the requirement that crewmembers and officers notify their supervisors after learning of a potential crime, we also provide training in how to respond to such allegations.

4. Guest Behavior Policies

Our guests are all seeking an enjoyable vacation, and almost all of them respect the desire of the rest to do so, too. To ensure that the rights and wishes of all our guests are respected, each guest who travels aboard one of our cruises agrees to abide by certain rules of behavior and discipline. These policies address different categories of behavior, including (among others) smoking, drinking alcohol, impermissible physical contact, and possessing prohibited items, such as illegal substances.

These policies also outline the consequences of such behavior. Minor infractions will initially result in a warning to the individual, a second warning if the behavior persists, and, if necessary, an action to finally resolve the problem, including expulsion. More serious violations (which would include posing potential physical harm to themselves or others) require a meeting with the particular guest or guests, outlining an action plan to resolve the issue, and, if appropriate, expulsion from the ship.

III. Responses to Other Testimony

We understand that you have asked for testimony from others regarding both the cruise industry in general as well as individual experiences on cruise ships. We at Royal Caribbean and Celebrity Cruises extend our deepest sympathies to the Carver family for their loss. And, we regret that one of our guests reported something stolen from her while with us.

We greatly regret that any of our guests suffer even one unfortunate incident, whether it be a crime, accident or suicide. We do our best to eliminate any such incidents; unfortunately, it is not possible in today's world to eliminate every single one. However, we have been very successful in reducing the incidence of such events to such a small number that cruising is safer than almost any other activity you might fairly compare it to.

Even the few cases that the committee has heard have important facts that should not be buried under a cloud of vague allegations and innuendo. These facts are relevant, and we explain them briefly below. Equally important, however, is that we not lose sight of the context of the incidents. While we deeply regret that our guests had the experiences they shared with the Subcommittee, these incidents represent an incredibly small fraction of our guests and absolutely do not represent, in any way, the experiences of well more than 99.9 percent of our guests.

Mrs. Leonard alleged that some of her belongings were stolen from her cabin. We are genuinely sorry for her loss. It is noteworthy, however, that Mrs. Leonard declined to accept Royal Caribbean's advice and secure her items in a safe deposit box because – as she says -- she did not want to be inconvenienced. In addition – just as if this jewelry had been lost at a hotel on land – Mrs. Leonard could have filed a lawsuit against the company for her loss. However, she never exercised that right. She never went to court. Through her lawyer, she only threatened an all-out media campaign against Royal Caribbean if the company did not pay her.

To be clear, we do our best to provide secure facilities for our guests' precious items, and we let them know about the options in advance of their cruise. In this instance, Mrs. Leonard chose not to take advantage of our security precautions. Had she done so, her jewelry would have been secure, and there would have been no question whether or not her jewelry was stolen.

The case of Ms. Carver is particularly tragic. We regret that the Carver family has experienced this inconsolable loss. We now know that one of our supervisors was notified by a room steward that Ms. Carver was missing from her cabin. Unfortunately, that supervisor did not recognize the significance of her absence and never reported it to a superior, as he should have done. That was wrong and inexcusable. He exercised poor judgment, and we fired him as a result. I also regret that, due to the supervisor's failure to notify us, we didn't realize that Ms. Carver was missing and, therefore, no one from the company had the opportunity to personally notify the Carver family about her disappearance.

Could we have done anything differently to save Ms. Carver from apparently committing suicide? We have searched our minds and hearts to second-guess ourselves on that. Sadly, the facts appear that Ms. Carver went on this cruise with the intent to commit suicide. Ms. Carver purchased her passage only two days before the ship's departure from Seattle, and boarded with the clothes she was wearing, two purses and an envelope containing a computer disk. These are not the items that would prepare her for a seven-night cruise to Alaska.

Finally, I would like to add that our hearts continue to go out to Jennifer Hagel Smith and the Smith family over the disappearance of George Smith.

Royal Caribbean has worked continuously with the FBI to help determine what happened to him. Unfortunately, the media campaign that the PR representatives and lawyers for Mrs. Hagel Smith and the Smith family have waged over the last several months – replete with false and misleading allegations that change by the day – has obscured both the truth and what should be the main focus: the search for answers about Mr. Smith's disappearance. While the Smiths are mourning a terrible loss, one with which we greatly sympathize, that loss does not give them or their representatives the right to make false statements and allegations. If the family decides to file a lawsuit against Royal Caribbean, at least we will be able to directly challenge their false statements in a court of law.

We remain concerned, too, that this PR campaign has had the effect of hampering the FBI investigation. In particular, we regret that information given to the Smith family, Mrs. Hagel Smith and their lawyers in confidence – which the FBI asked us to keep confidential – was somehow released to the public. As we have emphasized, we are not forensic investigators. We believe that the FBI is better qualified than we are to investigate such incidents. We also believe that an investigation by the FBI is more effective than an investigation by PR campaign. We have provided information voluntarily to the putative plaintiffs even though we are not required to do so. However, we believe that this voluntary effort on our part has been abused to assist the PR campaign even where such disclosure obviously hampers the FBI's efforts. An unfortunate consequence of such actions by plaintiffs and plaintiff attorneys is to discourage companies such as ours from volunteering information that could similarly be used to fuel their PR campaign. We have a well-established rule of law that provides for such information to be provided under legal safeguards that limit people's ability to misuse or distort factual data.

To ensure that the public could learn the facts about this case, we posted on our website at www.royalcaribbean.com an eight-page factual chronology of what happened before and after George Smith's disappearance, and a list of the Top 10 Myths about this case with facts debunking them. We recommend them to the Subcommittee.

IV. Responses to Specific Questions

You asked a number of questions in your invitation letter of February 23, 2006. We address each in turn.

1. What United States and international laws govern passenger security onboard cruise lines?

Recently, a number of statements have been made in the media leaving the impression that there are no domestic laws governing passenger security onboard cruise ships and implying that international laws provide inadequate protection. Nothing could be further from the truth. Well-established laws – in the US as well as elsewhere – address generally two categories of passenger security issues: (a) crime onboard ships; and (b) terrorism and safety of ports and vessels.

(a) First and foremost, U.S. law protects American guests onboard cruise ships around the world. Pursuant to U.S. laws and through a number of maritime agreements between the United States and other countries, U.S. authorities may investigate and prosecute crimes against Americans or perpetrated by Americans no matter where the crimes occur. In addition, the U.S. Coast Guard has jurisdiction over all ships entering U.S. ports, regardless of where the ship is flagged. And, the FBI has jurisdiction to investigate allegations of crimes even when the incidents occur in foreign waters. The FBI routinely exercises this authority.

(b) Meanwhile, an interlocking set of international treaties and laws, bolstered by more specific national laws, address anti-terrorism and ship safety issues on the seas and at ports of call.

The primary set of international laws is the International Ship and Port Facility Security (ISPS) Code, which was enacted by the International Maritime Organization (IMO) and signed by member countries. The IMO is a sub-body of the United Nations, and its members are known as "flag states," or nations that register ships and have authority over them. The more specific U.S. law implementing the ISPS Code is known as the U.S. Maritime Transportation Security Act (MTSA). Both the ISPS and MTSA became effective on July 1, 2004, and both serve as the blueprint for cruise ship security plans and practices we have in effect today. Prior to the creation of these recent maritime laws, Royal Caribbean and others were subject to international guidelines specific to the cruise industry that required security plans. These maritime laws also required extensive ship security plans and security assessments, which were examined and approved by the U.S. Coast Guard.

Among other things, the more recent ISPS Code requires each cruise line to create a comprehensive security plan for each ship and terminal. Some of the aspects of the security plans are the following:

- A cruise line conducts a physical survey of each ship and terminal, identifying potential security vulnerabilities. The company then adds security measures to its existing plan to protect these areas.

- Registered security organizations conduct independent evaluations of each ship and its security plan, and verify that proper security measures are in place and reported.

- Company, ship and terminal security officers who are qualified to serve in these roles are designated and identified in the security plan.

- Mandatory periodic security drills and exercises must be held. Royal Caribbean also conducts regular voluntary drills and exercises.

- Ships must have security alert systems that send external signals when a ship is under threat.

- Cruise lines will receive certificates for each security plan from one of the recognized security organizations, such as Det Norske Veritas or Lloyd's Register, which is valid for five years. These organizations will conduct interim inspections for each ship every two and one-half years. In addition, Royal Caribbean conducts annual audits of its own security plans. Finally, the U.S. Coast Guard inspects Royal Caribbean's ship operations on a quarterly basis to examine environmental requirements and to ensure that security measures are in place and are in accordance with the law.

- Communication and coordination requirements between ship and terminal officers in the form of a declaration of ship and port security, which details all ship and port interaction each time a ship enters a port. The ship's designated Security Officer will meet with the terminal Security Officer to determine the level of security for the terminal and ship, and to designate which will run procedures such as guest screening, baggage transport, and monitoring or security duties.

Another entity with legal authority over our ships is the Bahamian government, which, as a commonwealth of the United Kingdom, derives much of its law from there. Bahamian requirements also flow from the IMO laws regarding specific operations of our ships. For example, these regulations outline procedures for handling maritime accidents, set the qualifications for those who operate and navigate ships, and require specific reporting for casualties and other incidents. In essence, the security standards under Bahamian law are similar to those for U.S.-registered ships.

Finally, a number of U.S. federal agencies exercise oversight over the cruise industry with respect to safety and security, including:

- U.S. Department of Homeland Security
  - Customs and Border Protection
  - Immigration and Customs Enforcement
- U.S. Department of Justice
  - Federal Bureau of Investigation
  - Drug Enforcement Administration
- U.S. Department of State
  - Office of Security and Counterterrorism
- U.S. Department of Agriculture
  - Animal Plant Health Inspection Service
- U.S. Department of Commerce
  - National Oceanic and Atmospheric Administration
- U.S. Department of Defense
  - U.S. Army Corps of Engineers
- U.S. Department of Transportation
- U.S. Department of Health and Human Services
  - Centers for Disease Control and Prevention
- Environmental Protection Agency
- Federal Communications Commission
- Federal Maritime Commission
- National Transportation Safety Board

2. *Who is the official responsible for enforcing such laws onboard a cruise ship?*

Overall, there are three levels of management responsible for security onboard our cruise ships. The Captain of the ship is the chief enforcer. Next, the Staff Captain serves as the ship's second-in-command, and is the officially designated Ship Security Officer, as required by international maritime law. Beneath the Staff Captain is the top security officer, who heads a team of security personnel, depending on the size of the ship.

The majority of our security staff fleetwide have extensive military and law enforcement backgrounds, and the rest have comprehensive career experience in maritime security. Our officers are trained to handle all manner of crises and allegations of crime. They are also trained in defensive tactics and the operation of our state-of-the-art narcotics and explosives detection technologies. Our security training includes leading security experts and includes basic crime scene preservation training.

Ensuring that our guests have safe and secure cruises, however, is not the responsibility of our security staff alone. On average, we have 910 crewmembers onboard our ships, and every crewmember receives safety, crime awareness, reporting, and prevention training. Indeed, crewmembers can be our most valuable eyes and ears onboard our ships and frequently act as our first responders.

From our cabin stewards, who greet our guests when they first come onboard and care for their rooms throughout their cruise, to dining staff to guest relations personnel to entertainers to our Captains, we task our crewmembers and officers with serving and taking care of our guests. All of them try to ensure our guests have a safe and enjoyable vacation. This is the service that makes our business succeed, and it is the right thing to do.

3. *What type of security measures, both trained personnel and equipment, are onboard cruise lines to ensure passenger safety?*

We have a full complement of preventive, surveillance and enforcement procedures and devices. We X-ray or examine every person, piece of luggage and the supplies that come onboard our cruise ships. We screen guests in advance of their boarding and have a thorough check-in process, including identification validation of guests. In addition, because guests typically book their cruises weeks or months in advance of departure, we know more about our customers (including credit card information, food preferences, and other personal information) in advance of their boarding than any other vacation business.

Royal Caribbean and Celebrity Cruises also provide pre-arrival and pre-departure manifest information to federal law enforcement authorities in the United States and elsewhere in the form of a ship manifest. This electronic database includes the names, dates of birth, citizenship, passport and other data for each and every person onboard. We submit this information electronically to the U.S. Coast Guard and the U.S. Customs and Border Protection in advance of arrival at and departure from U.S. ports. This allows the U.S. government to compare our lists with databases managed by federal law enforcement agencies.

Some of our crime prevention and enforcement measures go beyond what the law requires. For example, all our ships are equipped with a strict access control system that we call SeaPass, which is not mandated by any authority. The SeaPass technology helps our security staff and crewmembers know which guests and crewmembers are registered onboard and which are not, at any given time. Akin to an identification card, an individual's SeaPass card must be swiped upon entering or leaving the ship during the cruise. This card calls up each guest's photograph and personal identification information on a screen visible by the security guards at each ship entrance. The SeaPass card also serves as a stateroom key for guests.

Although not required, the majority of our ships have brigs where we can safely isolate those who pose a risk to the ship or passenger safety. On ships without brigs, we isolate individuals in a cabin, guarded by a security officer, until the person is turned over to the appropriate law enforcement agency. Our security officers patrol 24 hours a day, and they specifically make rounds to detect and prevent improper activity and accidents on our ships. Our security operations also include trained divers who can search ship hulls and ports at which we call, and work in coordination with various law enforcement agencies.

4. If a crime occurs onboard a cruise ship, who investigates the crime and what are their training and qualifications?

If an incident occurs, the Staff Captain, chief security officer, and security personnel manage the response. As stated above, the majority of our security officers and personnel have extensive military or law enforcement experience, and the remaining are veteran career security officers on our ships. Beyond special security training, they undergo sessions with leading security experts to learn a variety of advanced security techniques. After discovery of an incident, the officers conduct interviews with those making an allegation, the accused, and any witnesses. They also assist in providing preliminary reports to the FBI and any other relevant authorities. As stated previously, however, our security officers are not forensic investigators, and we appropriately limit our investigative efforts to avoid potential interference with law enforcement and prosecutors. Instead, one role of our security force is to detect and prevent, as well as to help handle, incidents that arise and assist in the reporting process in the aftermath.

5. How are jurisdictional issues handled onboard foreign flagged vessels?

This is not a matter of corporate policy but rather of international law and diplomatic deference exercised by international law enforcement. The primary factors in determining jurisdiction are the nationality of the persons involved in an incident, the ship's flag country, and the territory in which an incident occurs.

Jurisdiction begins with reporting any alleged incident to the appropriate authorities based on international law, and then allowing the authorities (based on the law and diplomatic deference) to work out who would take the lead on any investigation and prosecution or whether there would be parallel investigations and prosecutions. As we explained above:

- We report allegations of crimes committed on the high seas against or by a U.S. citizen to the FBI. When the ship is not returning to the U.S. during its voyage, we also report such an allegation to the local U.S. Consulate at the next port of call.
- We report allegations of crimes committed on the high seas against a non-U.S. citizen to the appropriate authorities at the vessel's next port of call.
- We report allegations of crimes committed while the vessel is in another sovereign state's territorial waters to the appropriate authorities if the vessel is making a port visit in that country. If the allegation is of a crime by or against a U.S. citizen, we also report to the local U.S. Consulate and the FBI in the United States.

V. Conclusion

Thank you again for the opportunity to submit this testimony and appear at the Subcommittee's hearing. We would be pleased to answer any additional questions the Subcommittee might have on these topics.

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Mr. SHAYS. Thank you very much. I am going to let my colleague jump in, but I just want to ask you, Captain Wright, are you comfortable with—I believe sincerely that with the case of Mr. Carver and his daughter Merrian, that you all deeply regret what happened. But I don't hear any regret for the problems he still encountered in trying to get information. That is where I am having my big disconnect with your company. It would seem to me that the way you would best express your sorrow is to do—almost have a situation team, it has been suggested, to say how can we help you in any way, get the information you need to get—etc.

So, maybe you could respond to that.

Captain WRIGHT. Certainly. It is my understanding that we did our best once we were aware of the disappearance of Mrs. Carver, and it was tragic that the chain of command broke down. It was a clear error chain. Things went wrong, Mr. Chairman.

Mr. SHAYS. No, but in terms of talking to employees and stuff like that, they weren't given the access to do that. I am just curious why.

Captain WRIGHT. Oh. Well, my understanding, Mr. Chairman, is that they were. We actually designated a vice president of the corporation, Mrs. Lynn White, who is responsible for overseeing these types of issues, to personally take that case. We provided the Carvers with information that was voluntary. We also replied to subpoenas that Mr. Carver mentioned in his testimony. So I am not sitting here with the opinion that we have been as incooperative as Mr. Carver indicated.

Mr. SHAYS. So let me put it in a positive and then give it to Mr. Kucinich. Are you saying that you provided all the information that the Carver family has asked for, or some of the information?

Captain WRIGHT. Yes, I believe we have attempted to be cooperative and I believe that we—my understanding is that we have provided information voluntarily above what was requested in——

Mr. SHAYS. Are you aware of any information that you have not provided that they have requested?

Captain WRIGHT. No, I am not.

Mr. SHAYS. OK. Mr. Kucinich.

Mr. KUCINICH. Thank you very much, Mr. Chairman.

I would like to ask both Mr. Mandigo and Captain Wright, since it has already been established that you don't keep records for the purpose of police reporting, you just turn things over to the FBI, at least with respect to any crimes that are committed within the United States, I have a question generally. Do you keep records for insurance purposes? Mr. Mandigo.

Mr. MANDIGO. I don't know what in reference you are making that to, Mr. Kucinich.

Mr. KUCINICH. Well, you know, if you have incidents on your ships, do you keep records for insurance purposes of those incidents?

Mr. MANDIGO. As a matter of routine, we would keep those records. Now, if at a future date it becomes relevant to insurance, then that record may be there. And we do not—we don't keep records specifically in anticipation of insurance. We keep records as a matter of routine and operational procedures.

Mr. KUCINICH. See, I just wonder, you know, if throughout this hearing this is one area that would be fruitful to explore, Mr. Chairman. Because people have testified earlier there has been a concern about certain things not being reported. And the implication is that there is a lack of incident recordkeeping and reporting by the cruise line industries. We have heard from the FBI and the Coast Guard they don't keep track of the number of incidents on cruise ships. I would think that just for insurance purposes companies would need to keep records of criminal acts.

And so I want to ask you again. Do you have records of the criminal acts that have taken place on your ships?

Mr. MANDIGO. We have records—anything that is reported to us, you know, through our front desk on our cruise ships is reported as a matter of record.

Mr. KUCINICH. And this is a matter between you and the insurance companies first?

Mr. MANDIGO. No, it is not for insurance companies, it is for our own operational procedures.

Mr. KUCINICH. Do you keep records and you file reports with your insurers as to the incidents that take place on your ships?

Mr. MANDIGO. You are asking about a matter that I do not have expertise in as far as, you know, what is filed for insurance claim or not an insurance claim.

Mr. KUCINICH. Can you see that this subcommittee receives all reports of incidents, criminal incidents, that have occurred on your ships that have been filed with insurance companies?

Captain WRIGHT. I am sure that those records are there. They are—it is not my area of work. That inquiry would have to be directed elsewhere.

Mr. KUCINICH. Captain Wright.

Captain WRIGHT. Congressman, I would agree with the statement that was just made, that we keep a wide variety of records. I think your scrutiny of the——

Mr. KUCINICH. Are your ships insured?

Captain WRIGHT. Of course our ships are insured.

Mr. KUCINICH. Do you have liability insurance for acts that take place?

Captain WRIGHT. Yes, we do.

Mr. KUCINICH. Do you have out-of-court settlements that are directed, for instance——

Captain WRIGHT. I have no knowledge of that. I would assume we do, yes. That is an area that is handled by our risk management people. I would not be aware of the details. But certainly our ships are insured.

Mr. KUCINICH. Mr. Chairman, I think that there is just another way at which you can get information, that the subcommittee can gain information about what is going on on these ships. And that is to go after the records and the communications between the company and their insurers.

If you are telling the insurance companies what is going on, there has to be records. Now, if things are going on and you are not telling the insurance companies, I am sure the insurance companies are going to be very interested in that, because that would affect what you are paying for your insurance. And it also could,

you know, raise some interesting other questions that are legal in nature.

So I think—and the work of the committee, which I know is ongoing, Mr. Chairman, I thought I would point out to you that it would be helpful for the committee's work to get the records of communications between the cruise lines and the insurance companies.

Finally, Mr. Chairman—I know we are getting close to a vote here—I have from the Web site of the Royal Caribbean Lines a page here that talks about their environmental safety and security committee charter. I would like to submit it for the record. It says, under "Safety and Security," this committee that they have set up shall review safety and security programs and policies on board the corporation's cruise ships; the committee shall review with management significant safety and security incidents on board the corporation's cruise ships and obtain reports from members of management as the committee deems necessary or desirable in connection with the corporation's safety and security matters.

I would like to submit this for the record, and I would suggest to the subcommittee that we also gain copies of those reports. They might be really instructive as to what is actually going on on that line and any similar reports that might be available on any other line.

Thank you, Mr. Chairman.

Mr. SHAYS. Thank you.

[The information referred to follows:]

ROYAL CARIBBEAN CRUISES LTD.
ENVIRONMENTAL, SAFETY AND SECURITY COMMITTEE
CHARTER

Purpose

The Environmental, Safety and Security Committee is appointed by the Board of Directors to assist the Board in its oversight of the Corporation's management concerning the implementation and monitoring of the Corporation's environmental, safety and security programs and policies.

Committee Membership

The Committee shall consist of at least three members. The members of the Committee shall be appointed by the Board of Directors and may be replaced by the Board.

Committee Authority and Responsibilities

Environmental

1. The Committee shall monitor the Corporation's overall environmental compliance performance.

2. The Committee shall obtain reports from the Executive Vice President, Maritime regarding the Corporation's environmental compliance program and environmental compliance on board each of the Corporation's cruise ships and at each port.

3. The Committee shall obtain reports from other members of management as the Committee deems necessary or desirable in connection with the Corporation's environmental activities.

Safety and Security

4. The Committee shall review safety and security programs and policies on board the Corporation's cruise ships.

5. The Committee shall review with Management significant safety and security incidents on board the Corporation's cruise ships.

6. The Committee shall obtain reports from members of management as the Committee deems necessary or desirable in connection with the Corporation's safety and security matters.

General

7. The Committee shall meet periodically, but no less than twice a year and report to the Board at least semi-annually with respect to its activities.

8. The Committee shall have the authority to hire consultants, to request management to perform studies and furnish other information, to obtain advice from external legal, accounting or other advisors, and to make such recommendations to the Board based thereon as the Committee deems appropriate.

9. The Committee shall annually review its own performance.

Mr. SHAYS. Gentlemen, I am going to make a request that, if you don't mind staying until after the vote, if you would look over—and my staff will give it to you—the recommendations that were presented to this subcommittee by the International Cruise Victims Association. What I would like is for you to tell me what you think is being done right now, what you think would be totally impractical or impractical, what you think would be very expensive—and let us judge that—and what you think might have merit, whether we require it or whether you all did it.

This is the first hearing I have ever conducted where I have asked people to stay after a night vote hearing, and I apologize. I hope it will be the last.

Dr. FOX. Will you want me to testify afterwards?

Mr. SHAYS. Right. You know, Dr. Fox, I am sorry, I thought you were accompanying, and "accompanying" means you don't testify. So I apologize. That is the understanding. But I am happy to have you answer and respond to any questions that we have, OK?

So we will have a temporary adjournment.

[Recess.]

Mr. SHAYS. The subcommittee will come to order.

Let me just revise what I said before I just ran out. Dr. Fox, we had you down as accompanying Captain Wright, but we are happy to take testimony, particularly given that it is a little after 7 at night and you have been here all day. So your testimony is welcomed, valued, and we will look forward to hearing from you.

Dr. FOX. Thank you. And I believe there was also some written testimony which has already been submitted. Very short, so perhaps lost in the shuffle of the large documents.

Mr. SHAYS. It doesn't have to be short. You give your testimony as you want.

Dr. FOX. Oh, my verbal testimony will be short as well—not just given the hour, but it is short. And I thank you for listening to me and apologize for the confusion about the agenda.

Mr. Chairman, my name is James Allen Fox. I don't mind the fact that there was this oversight, not at all. The only thing I minded tonight was when someone made reference to the fox guarding the henhouse. I took a personal affront to that.

I am the Lipman Family Professor of Criminal Justice at Northeastern University in Boston. I think I heard that you were from Boston originally, Mr. Chairman.

Mr. SHAYS. I wasn't from Boston and I wasn't from Hartford; I was closer to New York City, which makes me a suspect Yankee.

Dr. FOX. OK. I thought I heard Boston earlier, so I thought we would speak the same language here.

Mr. SHAYS. No, what I was explaining is Mr. Lynch had no trouble hearing our witness from Ireland; I needed a little translation.

Dr. FOX. OK.

My specialty is crime statistics and crime measurement. I have several graduate degrees—doctorate, a couple of masters. One of the masters degrees is in mathematical statistics, besides the masters and doctorate in criminology. Among my books, I also have written seven statistics texts. I was the founding editor of the Journal of Quantitative Criminology, which is the most prestigious quantitative journal in our discipline. I am also a fellow at the De-

partment of Justice Bureau of Statistics, maintaining much of the data on homicide. I point that out in terms of my role here, which is essentially to discuss and comment, and perhaps validate, on some of the measurements that have been made about the risk.

I have also testified on 12 other occasions here in the Congress, so it is nice to be back. This time I am back at the request of the International Council on Cruise Lines and specifically to examine and comment on some of the numbers that have floated around—no pun intended—about crimes on board ships.

Before I make my comments, I did listen and I was somewhat interested in the exchange earlier about Mr. Rivkind's testimony and whether Mr. Mica had heard it correctly or not heard it correctly. Actually, I heard it a little bit differently. I thought he had said that it is not about the statistics. Which to me meant that he wasn't saying statistics aren't important but that it is really an issue of human suffering and tragedy. And I do understand that and I feel quite strongly, as others do here, that we shouldn't lose sight of the tragedy and loss and suffering amidst all the numbers.

Yet it is also interesting, in Mr. Rivkind's oral and written testimony he does say, "There has been increasing numbers of criminal activity aboard ships." And being a numbers person and a quantoid, I sort of looked for some tables that—there are none. And I do wonder how he does make the statement about there being an increasing number of crimes. I suppose he just feels that since there is more ridership, more passengership, there would be more crimes, but that is an open question.

I did look at some of the data. And while of course there is virtually no place——

Mr. SHAYS. Could I just ask? I have asked all the other witnesses who testified in the last panel if they represented any interest. Are you being in any way paid by the cruise line industry? Are you representing them because—I think the feeling was that not that what you say isn't valid, but I just want to know. You are not an indifferent source here. You are paid by the industry or not?

Dr. FOX. I am being paid as a consultant by the industry, yes.

Mr. SHAYS. Right. But I respect that you are here with your expertise and your knowledge and the requirements that go with it, and I thank you.

Dr. FOX. Yes. And indeed, the request from the industry was for me to look at some statistics and do some analyses of those numbers and see what they find.

Now, if the findings—like I don't know if I would be here, but I am here and I shall see. I stand behind these calculations whether I am paid or not paid.

Mr. SHAYS. Fair enough. Thank you.

Dr. FOX. Now of course there is virtually no place on land or on sea that is totally risk-free. Still, Americans traveling aboard the major cruise lines that service this country can be assured of their personal safety.

Now, as you know, Mr. Chairman, it is a very difficult task to try to derive a statistical matchmate or a standard for assessing the relative risk of crime on board a cruise ship versus some other location like a local community. A cruise ship is an atypical location. It is an atypical composition of people. It is not representative

of any city in terms of age, race, and gender and level of affluence. And indeed, the climate on board a ship is sometimes quite spirited and not at all like the day-to-day work environment that people have in their homes and their home neighborhoods.

Regardless of the methodological complexities that make it difficult to strike these comparisons, what I did find is that the number of reported serious crimes aboard cruise ships is extremely low no matter what benchmark or standard you use. Now, compared against a home community, passengers have an appreciably lower risk of sexual assault and robbery while enjoying a vacation cruise.

Now, I recognize, as you pointed out, Mr. Chairman, that it is very difficult to take some of these raw numbers about how many millions of passengers there are and translate that into a comparison with a community. But I think you have done it correctly when you say about 200,000 would be the appropriate number. And indeed, in the table that is attached to my written testimony, I do essentially that. I take the 31-plus million passengers over a 3-year period of time and turn that into a—number of about 10 million and convert that by essentially multiplying by 6.9——

Mr. SHAYS. I don't have your testimony.

Dr. FOX. OK. You don't?

Mr. SHAYS. No.

Dr. FOX. It is over there.

Mr. SHAYS. OK, the press has it but the subcommittee doesn't. So we are going to see if someone will get that for us.

Dr. FOX. So essentially I take that number, 10 million, multiply by the average length of a cruise, which is 6.9 days, divide that by 52, to essentially convert the ridership, the passengership on board to an annualized number comparable to the fact that you live in your home community virtually year-round. And there are indeed not quite 200,000, but 195,000–196,000 passengers, once you make that adjustment to give you a full-time annual equivalent.

Adding in the size of the crew, because they can of course be victims of crime as well as perpetrators, you come up with a total population figure.

That, then, I take the number of sexual assaults—and I remove the cases of what is called sexual contact, which is not truly a rape—I try to get at the numbers of rapes as well as the number of robberies for the cruise lines and that population that I have calculated—which turns out to be 281,000 on an annual basis including crew and passengers, converted to full-time equivalent—and convert that into a crime rate and compare it to what the crime rate is in the United States for forcible rape and robbery.

And for forcible rape, what you essentially see is that the rate of rape on board ships on cruises is about half that of the national average.

Now, in terms of robbery—and I want to point out there is a little bit of distinction and clarity about this that is needed. In the last panel, there was discussion about thefts of 10,000 or more and thefts that are lower than 10,000. And once in a while the word "robbery" was used by a witness. And these are robberies. In fact, I believe the request had to do with robberies, which is a confrontation between a victim and the robber. There is a personal confrontation, there is intimidation, threat——

Mr. SHAYS. As opposed to theft?

Dr. FOX. As opposed to theft, when the victim is somewhere else and their property is taken. This is robbery, not theft. Theft involves your property being taken unlawfully by someone when there is no intimidation, no personal confrontation between you and the perpetrator. Robbery is when someone confronts you, demands money——

Mr. SHAYS. Yes, we get it. We get it.

Dr. FOX. OK. And comparing the incidence of sexual assault—rape—and robbery on board cruise ships per 100,000 population, comparing that to the United States where you do find that, as I said, for sexual assault the rate is half that of the United States. And for robbery, it is a tiny, tiny fraction. Robberies essentially don't happen very often on board cruise ships. And that makes sense because of the very confined area, where it is very difficult for an offender to get away, and the relatively secure environment that you find on board ship compared to your local community.

So to conclude here, I think that the comparison with lightning that was struck—again, pardon the pun—before, I think, is quite telling. There are four sexual assaults per million passengers. So when someone buys a ticket on a cruise line, there's four——

Mr. SHAYS. Wait a second. Why do you then go to a million passengers? Why wouldn't you say so many sexual assaults—this is over a 3-year period or—I mean, wouldn't it be over 200,000, not a million?

Dr. FOX. This is when—what is the chance that when you buy and ticket and you are going to spend a week on a cruise——

Mr. SHAYS. Oh, I see. OK.

Dr. FOX. When you buy a ticket and spend a week on the cruise, what is the chance that you will be sexually assaulted in that week? An individual.

Mr. SHAYS. OK, fair enough. So we are not comparing to towns right now, we are—that is not—OK.

Dr. FOX. Right. I am just comparing to the weather. When you buy a ticket for a cruise, you have a 4 in 1 million chance of being sexually assaulted. That is identical to the chance of being struck by lightning.

Now, of course, we don't go out in a rainstorm when we take that——

Mr. SHAYS. Wait a second. Wait a second. Isn't lightning over a stretch of a year?

Dr. FOX. Yes.

Mr. SHAYS. This is not a stretch over a year. This is 1 week.

Dr. FOX. It is the time period for which you are on that cruise. Now, if you spend every day on the cruise and you take a year-long cruise, obviously your chances increase, but most Americans don't spend a year on a boat, on a ship, they spend a week.

Mr. SHAYS. I know, but I just wondered if you are being fair with your comparison right now. Maybe I am just not getting it, but it seems to me you have to multiply times 52.

Dr. FOX. Except it also doesn't rain every day either. So there are a lot of days in the year when you have no chance of being struck.

The reason I bring this up is just people have a sense that, yes, there is a certain risk of lightning striking you. But it is a risk that

we sort of deal with, we take reasonable precautions in a rainstorm and a thunder-and-lightning storm. And all I am saying here is that, yes, there is a risk of sexual assault—4 in a million; there is a risk of robbery, which is a very tiny risk, much, much smaller than that. We can't—there is probably no place where there is zero risk, but these are rather low numbers.

Mr. SHAYS. See—yes, OK. Keep going.

Dr. FOX. Well, that is really what I have to say, is that when you adjust for exposure time, the chance of being assaulted on a cruise ship is extremely slim.

Mr. SHAYS. Yes. I am not comfortable with the statistics. So your going through the statistics with me is partially valid, but there is another part that hasn't bought into the fact that they are legit. But we will satisfy ourselves. I don't know how long it will take, but we will satisfy ourselves either they are legitimate or they are not.

I used to be in the Peace Corps in the Fiji Islands. There were cruise ships that would come and go. And it was a duty-free goods port. I was made aware that people would buy cameras at the very end and think they were getting an F-stop that was lower than what they were getting, and they would get on board the ship and the ship is about to go. It is just a different—you know, and they couldn't run back and quickly exchange and they overpaid and all that stuff.

I just have the feeling that a lot of people don't report it because, the next day they are off or that afternoon they leave. Then they may report it later, but it doesn't get reported by the cruise industry. I just think there are a lot of other factors that come into play. It is a suspicion.

But I would concede that if the statistics are accurate, the numbers are pretty low. I think that a witness like Ms. Kelly would not show up on the radar screen. And I think that when we talk about George Smith, if he was killed he would be called "missing" and not "killed." So I just have problems.

Dr. FOX. Well, also, in Greenwich, CT, which I think—is that your area? If rapes occur, they are not always reported either. There are many reasons why victims of crime don't report it. That could happen on land and on sea.

[The information referred to follows:]

Statement on Crime aboard Cruise Ships
James Alan Fox, Ph.D.
Northeastern University
March 7, 2006

While virtually no place—on land or sea—is totally free of risk, Americans traveling aboard the major cruise lines that serve this country can rest assured of their personal safety. Clearly, it is difficult to derive a statistical matchmate for assessing the relative risk of crime aboard cruise ships given the atypical composition of passenger demographics (that is, the age, race gender and income profile of the population of passengers) and the sometimes spirited climate of cruise-ship activity. Regardless of the methodological complexities, the number of reported incidents of serious crime from cruise lines is extremely low, no matter what benchmark or standard is used.

Compared against their home communities, passengers have an appreciably lower risk of sexual assault and robbery while enjoying a vacation cruise (see table below). Based on passenger and crew counts adjusted for exposure time, the rate of sexual assault on cruise lines is—at worst—half the U.S. rate of forcible rape. For robbery, the cruise-related rate is a tiny fraction of the U.S. rate. The low levels of rape and robbery victimization, makes reasonable sense in view of the confined and highly secured environments offered on major cruise ships.

	Sexual Assault	Robbery
Offenses reported on cruise ships, 2993-2005	149	4
Annual average	49.67	1.33
Passenger count, 2003-2005	31,068,000	31,068,000
Annual average	10,356,000	10,356,000
Average passenger cruise length (days)	6.9	6.9
Annualized passenger exposure		
Annual ave passenger count X (6.9/365)	195,771	195,771
Daily crew size on cruise ships	86,035	86,035
Total anualizes person exposure	281,806	281,806
Rate of crime per 100,000	17.6	0.5
U.S. Rate per 100,000	32.2	136.7

Mr. SHAYS. I just wonder, though, if the nature of just being on board a week means that sometimes things just don't get reported that would if they were on board for a month, would have gotten reported. It is like, what's the point, I am leaving tomorrow, who the heck do I speak with, and, and, and.

So at any rate, I am just telling you what I think and I am just a little suspicious of the statistics. Now we have Mr. Kaye who said, you know, they are required by law to report it. Yet we have the Government telling us they are not required by law to report it. That raises questions.

So at any rate, thank you for your points about the statistics. At this time I am going to have Dr. Palarino just ask you a few questions for the record and then I am going to go through this document that I asked you to look at.

Dr. PALARINO. Thank you, Mr. Chairman. I just have quick questions for Mr. Mandigo and Captain Wright.

I have heard talk about a risk management office. Could you both explain what a risk management office is and what it does?

Mr. MANDIGO. Well, I have very little to do with the risk management office, but it is basically the people that would handle, as I understand it, the people that are making claims against the company. Not litigation, but people that, you know, feel that they have some grievance with the company. There may be damage to equipment that, where we have insurance, where it would be repaired. That is my understanding of what those people do.

Dr. PALARINO. Captain Wright.

Captain WRIGHT. Very much the same thing. We have a risk management department. It is a very large department that has a multitude of responsibilities. They are responsible for our insurance. They are responsible for the operation, the running of our medical facilities. They maintain a 24–7 watch system in terms of the ship's need to contact shoreside either for notification purposes, for—quite often and most regularly—for the coordination of a medical evacuation, which occurs with some degree of regularity. That is the number that we can call from the ship and be guaranteed that somebody is there who knows the procedures, has the telephone numbers, has the contacts, and can respond.

Dr. PALARINO. So the victims and the victims' families that testified on panel one, each one of those would have had some type of risk management associated with their incident. Is that a correct statement?

Captain WRIGHT. It depends on how it comes through the system, that it may have come in. If they filed a civil suit, lawsuit, then it is not going to go to risk management, it is going to go through a legal counsel, outside counsel, however it is handled. But they come in and make a claim against the company, yes, it would go to the risk management people.

Dr. PALARINO. So it wouldn't have gone to the risk management people initially. Is that a correct statement?

Captain WRIGHT. Well, quite possibly it could have.

Dr. PALARINO. It could have gone——

Captain WRIGHT. Yes, we would have—depending on the incident that we are referring to, we would provide the information, the con-

tact information to the guest saying that when you get ashore, here is the contact number to followup this incident further.

Dr. PALARINO. Thank you.

Mr. Gorsline mentioned a casualty assistance team. Are you familiar with that team or concept?

Mr. MANDIGO. I am familiar with what that concept is.

Dr. PALARINO. What would a casualty assistance team be?

Mr. MANDIGO. Basically a casualty assistance team would be a component of a crisis management plan, and that is when you have something happen, that you have designated people that would respond to that particular situation.

Dr. PALARINO. Is that same for Royal Caribbean?

Captain WRIGHT. That is correct. But I think we need to characterize it in the framework of being something of a larger event, where we need a lot of people at a scene to be able to deal with it. A ship was delayed, for example, coming in, if there were something other, not an individual incident occurring on board.

Dr. PALARINO. Would Mr. Mulvaney have been assigned a casualty assistance team?

Mr. MANDIGO. I mean, that is a——

Dr. PALARINO. He told me he was.

Mr. MANDIGO. Yes, and I say it is a mixed question. I mean, it just depends on a variety of circumstances.

Dr. PALARINO. Were the other victims or victims' families assigned a casualty assistance team?

Mr. MANDIGO. Not all victims would be assigned a, as you call it, a victim casualty team or whatever. They may be assigned a person in the company as an individual that would look after them, but not necessarily a formal-type process.

Dr. PALARINO. OK. That is all I have, Mr. Chairman. Thank you.

Mr. SHAYS. Thank you.

This document that you all have looked at, the International Cruise Victims Association suggestions, they have 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 categories from background checks, the international police, security, crime scenes, structural enhancement, video surveillance, access security bracelets, missing or overboard passengers, rape kits, rape reporting, excursions sold and promoted, cruise lines' accountability, and U.S. Congress intervention.

Tell me the area that you already do or come closest to doing. Which category would you say is already being covered in some degree?

Mr. MANDIGO. We already do parts of backgrounds. Security crime scenes, we essentially do all of the security crime scenes——

Mr. SHAYS. I could say you do almost all of these to some degree already.

Mr. MANDIGO. That is correct. On security crime scenes, we effectively do all of these. For instance, we were talking there may be, you know, this particular check-off list, we may or may not be doing, but we are essentially doing everything on that list.

Mr. SHAYS. Do you take pictures of the crime scene?

Mr. MANDIGO. Yes.

Mr. SHAYS. You have an official photographer who does that?

Mr. MANDIGO. We have photographers aboard the ship, and that is part of the procedure, is to photograph the crime scene.

Mr. SHAYS. Any other areas that you would say you are already doing?

Mr. MANDIGO. The video cameras, I mean, we do in part, not all. The rape kits, we do all of what the rape kits currently does have reported there.

Mr. SHAYS. Let's go through that, then, if you say you do all. And it is not a long list. It says doctors who have a license to practice medicine must be available 24 hours, 7. That is true.

No request should be refused or taken lightly. That would be a matter of judgment.

Written documentation to be provided, signed and issued to the point. That probably you do?

Mr. MANDIGO. Yes.

Mr. SHAYS. Any other area that you think you cover pretty well on this list?

Mr. MANDIGO. Other areas that we may have small parts of, but not necessarily in a majority or in total.

Mr. SHAYS. What is the area that would be the most difficult to do in terms of being practical. Forget dollars right now. And I am Captain Wright as well to join in.

Captain WRIGHT. Sure. All right, well, I will start off. I would say the access security bracelets. The microchips, positive identification.

Mr. SHAYS. I am sorry, where are we at now?

Captain WRIGHT. Page 2, Access Security Bracelets.

Mr. SHAYS. Yes, OK.

Captain WRIGHT. I think it is pretty clear that while one could conceive that would perhaps provide some benefit, there are a lot of civil liberties issues and would be certainly something that is almost unprecedented in any other application.

Mr. SHAYS. Let me just ask. Some folks, what goes in Las Vegas, stays in Las Vegas. The sense is you want to give people a sense of privacy. If someone goes from one cabin to another or something, you don't need someone tracking, hey, this guy went to that cabin and this person went to this cabin, or two couples swapped or whatever.

Captain WRIGHT. Sure. I think that is a reasonable position, yes,

Mr. SHAYS. I am giving that as an example, but there could be a lot of examples.

Captain WRIGHT. Right. The technology is there. Clearly today it is doable. It is used in all kinds of industrial applications.

Mr. SHAYS. It is mostly a privacy issue?

Captain WRIGHT. Yes, I would say so.

Mr. SHAYS. OK. What would be another area?

Captain WRIGHT. I think there probably are some—and I am not the expert, but I think from a jurisdictional perspective, we discussed this with marshals. I mean, certainly if you had marshals on board, they would perhaps have some jurisdiction on a certain segment of the ship's population, but due to our international makeup on a typical cruise, both of our guests and of our crew members, they would most likely not have authority for enforcement of anything with a certain percentage of the crew members or passengers.

Mr. SHAYS. Are most of the folks who are on a cruise ship Americans? I mean, are they the predominant number?

Mr. MANDIGO. Yes. I mean, we have a subsidiary line out of Europe where, when they sail in Europe, a majority of the passengers would not be American. But for the most part, they are U.S. citizens.

Mr. SHAYS. What do you think is—I realize you can't speak for your company in—well, maybe you can somewhat. But what are the areas that you found the most intriguing? I mean, would you agree that this is a fairly good list?

Captain WRIGHT. Yes, it is an excellent document, as you earlier said. I think it is——

Mr. SHAYS. Just give me a taste of something that you might feel was a logical—whether it is required by the Government or whether you decide to do it, if you were to take this list to your folks and say, you know, there is some merit here, I would kind of like—you know, am intrigued by this idea, what would be those areas that you might see that?

Mr. MANDIGO. One intriguing area, and of course this is, again, that authority that cruise lines don't have is this proposal on marshals. I mean, that is clearly well outside the scope of the cruise lines.

Captain WRIGHT. Mr. Chairman, I would agree. I would say that the upgrading—and we are in the process of doing that on an ongoing basis—of both the technologies that we are using and the number of CCTV cameras that are positioned around the ship is an area that I am sure we could improve on. Although we have hundreds and hundreds of cameras presently on board the ships, I think an audit and a review of the areas—again, going back to certain privacy issues—that we could perhaps increase some of the coverage on the vessels.

Mr. SHAYS. I mean, bottom line is you are not going to have a camera on someone's individual balcony.

Captain WRIGHT. No, clearly not.

Mr. MANDIGO. No.

Mr. SHAYS. But I would think in the places where other people would have access in public, then there would be a logic to the fact that you could have, and probably do have, a number of cameras.

Mr. MANDIGO. Correct.

Captain WRIGHT. Correct.

Mr. SHAYS. I would appreciate it if both your companies would—I am requesting a more formal response in writing to this document because we would be looking at this document as a discussion vehicle.

Captain WRIGHT. Sure.

Mr. SHAYS. If you could provide a response in the next 3 to 4 weeks, that would be helpful.

Captain WRIGHT. Absolutely.

Mr. SHAYS. Dr. Fox, did you want to say something?

Dr. FOX. I was going to add something, because I heard earlier a discussion of changing some of the statistical criteria for what is to be reported and what is not to be reported. May I make a comment about that?

Mr. SHAYS. Absolutely.

Dr. FOX. OK. As Mr. Kaye had said previously, it is somewhat arbitrary as to whether you use $10,000 or $6,000 or $5,000, but I do urge that if a change is considered, that there be some reasonable threshold. I mean, for example, Captain Wright here inadvertently has taken my pen. Now, it is not really a theft because he had no intent to deprive me of this. And I am sure on board ship there are sunglasses and cameras and lots of things get lost and may get reported as something—someone stole my camera. That maintaining a certain level of threshold, make sure that what is reported is substantial. One of the problems that the FBI has had and now has is that a lion's share of the Part 1 crimes, the serious crimes, aren't serious. They are larcenies of $25 or $50. You don't want to be the victim of that, but it is not a homicide.

Mr. SHAYS. Dr. Fox, I totally agree with you. But I am struck by the fact that a more significant statistic are not robberies. I saw you give him back the pen, sir.

Dr. FOX. I am just letting him borrow it.

Mr. SHAYS. After you basically dissed him. [Laughter.]

I just wanted to make a point. You need counseling. He is the one who is paying your bill here.

Dr. FOX. Yes.

Mr. SHAYS. But what seems more logical to me is that a theft is more significant and more likely on board a ship than a robbery, and yet thefts are not reported unless they reach to a level—I mean, they don't appear to be reported.

Dr. FOX. But there should be some level. We should not do like the FBI did, which is to remove the minimum threshold. There should be a minimum threshold or else you just are getting swamped with lots of very small numbers. I mean, lots of crimes that are very low-level severity. So whether it be $10,000 or $5,000 or $3,000, some decision can be made, but I would urge that it be some reasonable threshold.

Mr. SHAYS. Now, dealing with statistics, we are told that the industry will go, Dr. Fox, from 10.5 million to 20 million in about 5 years, which is a huge increase. And Captain Wright, is that statistic pretty accurate?

Captain WRIGHT. I am not familiar with it myself, but we are certainly going through some remarkable growth.

Mr. SHAYS. Let me just say that the statistic that has been thrown around to us—and maybe "throw" is the right word, because it is an estimate—that it will grow significantly in the next 5 years, almost double. And if that is true, Dr. Fox, what is your sense of what happens to the statistics? Do they go up proportionally, or is it likely that we would see a shift one way or the other?

Dr. FOX. Well, if nothing different is done in terms of prevention, then one would expect that as the passenger count, as the number of—actually, as the number of ships increases in the—that the crimes on ships would increase. That is the raw number, the incidents. The rate shouldn't change. Hopefully, you know, as some of these do make sense and there are other ideas that the industry implements on their own, that the rate will decline even as the number of passengers increases.

Mr. SHAYS. I believe a previous year we were told a statistic of 13 missing and it has jumped to 24. What happened to move that number up?

Mr. MANDIGO. You increased the number of years, sir, Mr. Chairman.

Mr. SHAYS. I thought it was 3 to 3. Is it——

Mr. MANDIGO. Originally it was 2 years.

Mr. SHAYS. Oh, 2 to 3?

Mr. MANDIGO. That is correct.

Mr. SHAYS. OK, thank you.

Oh, just the last point of questioning. I leave with a sense that we have gone from saying statistics aren't reported, that were reported voluntarily, to where there is a law that requires it. But the industry also led me to believe that it was voluntary. Is this a change in tactic or a new discovery or what, in terms of its presentation to this committee, Captain Wright?

Captain WRIGHT. It appears to me—I was not present during the first hearing—however, it seems to me it was just a miscommunication, if you will, that we do have voluntary standards, we are reporting above and beyond what the law and the FBI specifically requests, whereas there is a component of our reporting that is also mandatory, as Mr. Kaye expressed today.

Mr. SHAYS. So what we need to sort out as the subcommittee is what is the legal requirement and what are those statistics—and Dr. Fox, we may get back to you on that—versus what they do above and beyond. So what would be helpful is for both of your companies to tell us what is required by law and then what you do above and beyond. That would be helpful. And, you know, within 3 to 4 weeks would be helpful—sooner, obviously, but—and let me just conclude by saying, so, I have listened to a lot in this hearing that would tend to add to your side of the argument, except for the fact that we had six witnesses who basically felt in very real terms, and I tend to buy into their view, that they were and still are not treated with the respect you would want yourselves to be treated if you were going through the same experience. And so what I would request is we are going to monitor what kind of problems they continue to have. Part of our feeling of a sense that you all are hearing what we are saying is how they are treated. I am not talking in any way about financial compensation, nothing in that direction. I am just talking about information that enables them to understand what happened or didn't happen.

So that would be my request.

Is there any closing comment that anyone wants to make? Dr. Fox.

Dr. FOX. What I would suggest—now, I am going to add an item which isn't on this list. And maybe it is done by some cruise lines, maybe it is not, but I will throw it out. It is based on my understanding of what we did in the criminal justice system. Of course, historically it had been problem of do victims feel like they are being listened to and do they feel that the criminal justice system cares about their rights? One of the best things was the development of victim/witness advocates, essentially individuals who were trained at communicating, listening to victims. It may not be a bad idea, when you have a crew size of over 1,000 or 900 or whatever

the number is, that at least one of those individuals be trained as a victim/witness advocate who specifically understands how to communicate with victims and be their advocate.

Mr. SHAYS. You know, I would like to add it to the list that was presented, because frankly, whether that person is on board ship would be helpful, an ombudsman—maybe you have them—but in your company. If the New York Times and other papers have someone who analyzes how well they are doing to report the news fairly, it might be, given that you represent, both of you together, your companies represent a huge part of the market. You are almost a monopoly in one sense. And I tend to believe when you get this big, you tend to become a little insensitive. And this may be a way to deal with some very real problems and do it on your own without the Government injecting itself. But someone who would be actually empowered to present a strong position on the part of the victim to your company.

Captain WRIGHT. Sure.

Mr. SHAYS. If you would consider that, I think it would be an interesting idea.

Captain WRIGHT. Mr. Chairman, I think that is an excellent recommendation. The irony of this entire discussion is that our whole business, our whole product is treating people fabulously and making sure they have a great vacation. And the victims who spoke today and the experiences that they have had, the tragedies that they have incurred, it is inexcusable from our side. And each one of them, I believe, had its own element of wrongdoing on our part, where we did not follow our procedures, we did not perform as we should have performed. But these incidences do not represent the bulk of our operations.

We are very proud on the statistics that are out there. And we are always looking for ways to improve. There is a big part of our maritime philosophy, if you will, of having a habit of continuous improvement and looking at lessons learned. And I can assure you that every one of these events, at least from our company's perspective, will be analyzed as to where did we mess up and how can we avoid doing that in the future. Because it is certainly the last thing that we want to see happen, but unfortunately there are examples where it has occurred.

Typically, when you go and do an investigation—I know the NTSB, NASA, the military is very familiar with this—you discover almost always there is an error chain. Very rarely is it one single mistake that one single person or crew member made that resulted in something happening. If you go back and do the detail work, you are going to find it is a series of things where the system failed, there was a systemic failure. And you need to understand that. That is something that we do on a regular basis, and I think the chairman's subcommittee is helping to that end.

Mr. SHAYS. Thank you. Any other comments before we adjourn?

Mr. MANDIGO. No, Mr. Chairman.

Mr. SHAYS. Let me again thank you for staying so late and being so patient. We do appreciate it. And if there are still any families here who have had some experiences that they would like for me to know about and my staff, we will just stay around and talk to you privately about anything that you may want to tell us.

So with that, this hearing is adjourned.

[Whereupon, at 7:47 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

UNITED STATES COAST GUARD

REPORT OF INVESTIGATION INTO THE CIRCUMSTANCES SURROUNDING THE INCIDENT INVOLVING NORWEGIAN WIND PASSENGER INJURY

ON 09/09/2004

MISLE ACTIVITY NUMBER: 2213243
ORIGINATING UNIT: SECTOR HONOLULU
MISLE ACTIVITY OWNER: COMMANDANT (G-MRI)
MISLE ACTIVITY CONTROLLER: COMMANDANT (G-MRI)
MISLE CASE NUMBER: 203986

2 of 5

Report of Investigation

I. INCIDENT BRIEF

On September 9, 2004 while boarding the Norwegian Wind's tender, a passenger fell between the tender and the launching platform and was crushed. She was retrieved and brought on board for medical attention and was later brought to shore side for further medical treatment.

April 28, 2006

Mr. Briggs,

Thank you for any efforts you might expend on these types of matters. My mother can no longer walk unaided. I know she is in a fair amount of pain but she doesn't complain much. She was a "southerner" and southern women are pretty tough! Can't swim a lick though.

Thank you.

Marshall P. Wood

847-392-9820 3 of 5

ADM Thomas H. Collins,
Commandant, US Coast Guard
2100 Second Street, SW
Washington, DC – 20593

September 15, 2004

Dear Admiral Collins,

In this time where national security is a priority for our Coast Guard, this may seem to be a trivial matter – and if this is the case, we apologize for taking your time. Quite frankly, we do not know of any regulatory agencies that would be able to look into this matter, but at least we have done all we could to bring to light the event that we are about to tell. It is our hope that in its telling, regulations to prevent similar events may be established. Or if such regulations already exist, the person or persons responsible for the horrific accident that we witnessed will be held accountable.

We were enjoying a lovely cruise aboard the *Norwegian Wind*, which sailed out of Honolulu, Hawaii, on September 1st. On Thursday, September 9th, at 8:15am, our group was called to board the tender for the day's onshore excursions on Maui. The stairway to the ship's tender would be available from Deck 4. The boarding platform for the tender was approximately one deck level below the Deck 4 entrance, and passengers climbed the exterior stairway down to the platform from which they were to enter the tender. We were tendering from the seaside of the ship. While the stairway felt shakier than usual, we didn't realize how rough the water really was until we reached the platform itself. Two crew members were on the platform, and one crew member was inside, to assist passengers. Once we stood on the platform, we observed the tender being lifted two feet above the platform, crash violently into the platform, and then drop two feet below. Boarding was a matter of careful timing and agility. *Everyone* was thrown off balance after first stepping into the tender because of this constant, violent motion. We stumbled to our seats, located in the first row in front of the doorway to the tender. We were observing other passengers stumbling to their seats when we heard a woman scream. We turned in time to see that a woman had fallen between the tender and the platform. Her lower body was in the water and she was holding onto the doorstep of the tender by her forearms. She was crying for help as she and the tender were being lifted by the sea for the next crash into the platform. It was obvious that there was no way that those closest to her, crew or passengers, would be able to save her from being crushed by the powerful force of the sea against the tender. We could not bear to look, and heard her cries as she was twice crushed between the tender and the platform, despite efforts of the crew to manually hold the tender stable. We thought for certain that she would be killed.

When she was finally pulled aboard the tender, the ship's doctor came and ministered to her. She was conscious and appeared to be in considerable pain. She was placed on a body board and the tender was driven around to the shore side of the ship. Once there, we were amazed at the immediate difference in the calmness of the water. Apparently, the

ship's hull was acting as a breakwater on this side. At the direction of the doctor, the woman was carried aboard ship by the crew on the body board.

We do not know for certain, beyond rumors among the passengers, how this woman fared. But we cannot fathom why passengers were tendered in such violent circumstances. We feel that someone should be held accountable for making the determination that tendering conditions were safe for all passengers. We would like for someone to explain to us why we were not tendered from the calmer, shore side of the ship. Although she was older, this woman appeared to be able-bodied compared to other passengers with walking canes and wheelchairs. A pregnant woman and people carrying babies and small children also struggled to board.

We are not first-time cruisers. This was a horrific accident that should not have happened and is one that we will never forget. We believe that Captain [redacted] and/or the person in charge of tendering operations exercised poor judgment and demonstrated a gross lack of concern for passenger safety. It is our hope that tendering procedures can be reviewed, and perhaps changed, so that this should never happen again. We did write a letter to Norwegian's Captain [redacted], the same day the accident occurred, so that he would be aware of everything we witnessed. I have enclosed a copy of the same. It was understandably emotional. We did not receive an acknowledgement.

Thank you for your time, sincerely,

[redacted]

[redacted] and [redacted]

Attachment: Letter to Captain [redacted]

CC: RADM Charles D. Wurster, Commander Fourteenth Coast Guard District
RADM Thomas H. Gilmour, Assistant Commandant for Marine Safety, US Coast Guard
RADM Robert D Sirois, Assistant Commandant for Operations Policy, US Coast Guard
Investigations, US Coast Guard
[redacted], President and CEO, Norwegian Cruise Lines

U.S. Department of Homeland Security
United States Coast Guard

Commandant
United States Coast Guard

2100 Second Street, S.W.
Washington, DC 20593-0001
Staff Symbol: G-ICA
Phone: (202) 366-4280
Fax: (202) 366-7124

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APR 1 8 2006

The Honorable Christopher Shays
Chairman, Subcommittee on National Security,
Emerging Threats and International Relations
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your March 23, 2006 letter inquiring into the U.S. Coast Guard's position on the extraterritorial application of U.S. law, requirements for cruise ships to report crimes committed on board, and the Congressional Research Service ("C.R.S.") report entitled, "Criminal Reporting Requirements for Cruise Ships." These are significant questions encompassing issues of constitutional law, international law, and domestic criminal law. I appreciate the opportunity to express the Coast Guard's position on these questions, as well as discuss other efforts intended to improve the safety and security of U.S. citizen and non-citizens aboard cruise ships.

You first asked, "The Subcommittee would like to know what specific United States statute or regulation grants a U.S. government law enforcement official jurisdiction on the territory of another country." I believe this question is best answered by the Attorney General, the chief law enforcement officer of the United States, and as such, I recommend the question be redirected towards him; my response here must be understood to be limited. Whether a Federal law enforcement officer has jurisdiction or authority in foreign territory or aboard a foreign flag vessel depends on a number of factors, including the express language of the Congressional grant of statutory authority to the official, the extraterritorial applicability of the underlying substantive law or regulation being enforced (as evinced expressly or by the intent of Congress), legal precedent, and international law. For example, Congress, by virtue of 14 U.S.C. § 89, has authorized the Coast Guard to enforce Federal law "on the high seas and waters over which the United States has jurisdiction," which establishes extraterritorial jurisdiction for U.S. Coast Guard personnel aboard foreign flag vessels under certain circumstances and in a manner consistent with international law. The Coast Guard often uses this authority to enforce U.S. Federal law with extraterritorial applicability like the Maritime Drug Law Enforcement Act, 46 U.S.C. Appendix § 1903, under certain conditions aboard foreign flagged vessels on the high seas. This model is reflected in a number of statutes involving terrorism, piracy (both air and maritime), and matters involving weapons of mass destruction. This is by no means intended to be an exhaustive list of statutes with extraterritorial application. An exhaustive discussion of these issues is beyond the scope of this letter as well as the Coast Guard's position within the U.S. Government. As stated above, I recommend addressing this question to the Attorney General for a more complete answer.

You next asked for a description of the specific activities that must be reported under the requirements of 33 Code of Federal Regulations ("C.F.R.") § 120.220. The regulations apply to passenger vessels over 100 gross tons carrying more than 12 passengers on voyages any part of which are on the high seas over 12 hours long and which embark or disembark passengers in the U.S. These vessels must report unlawful acts either threatened or actually committed while the vessel is in a place subject to the jurisdiction of the United States. (U.S. flag vessels must report unlawful acts regardless of their location.) The Coast Guard has consistently interpreted this to

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Subj: RESPONSE TO CHAIRMAN SHAYS' INQUIRY OF MARCH 23, 2006 CONCERNING THE NATIONAL SECURITY, EMERGING THREATS, AND INTERNATIONAL RELATIONS HEARING

mean that a foreign flag passenger vessel must report unlawful acts so long as they were committed within 12 nautical miles of the U.S. when the act occurs. It does not apply specifically if the unlawful act was committed while the foreign flag vessel was beyond 12 nautical miles. "Unlawful acts" are defined by regulation as "an act that is a felony under U.S. law, under the laws of the States where the vessel is located, or under the laws of the country in which the vessel is registered."[1] Consequently, vessels covered by the regulation must report Federal felonies and, aboard a foreign vessel, acts that would be a felony in the flag state's territory, if any of these acts occur within the 12 nautical mile U.S. territorial sea. They must also report any State felony if committed within the waters of a particular state.

You also requested the Coast Guard's opinion on the March 17, 2006 C.R.S. report entitled, "Criminal Reporting Requirements for Cruise Ships." In general, we agree with the conclusions of this report, As I stated previously, the Coast Guard has consistently interpreted the language "place subject to the jurisdiction of the United States" to mean the internal waters of the United States and our territorial seas out to 12 nautical miles of the U.S.

Lastly, and in response to your request for information about voluntary industry reporting beyond that required by regulations, I wish to mention efforts currently underway between the International Council of Cruise Lines (ICCL), the Coast Guard, Customs & Border Protection, Immigration & Customs Enforcement, and the FBI to improve the reporting of crimes committed on cruise ships. ICCL has suggested, and my staff has concurred, that it would be useful to memorialize an arrangement regarding the voluntary reporting of crimes on cruise ships. To that end, the Coast Guard is working with our Federal agency partners and the ICCL to develop a regime to ensure serious crimes committed on cruise ships against and by U.S. citizens are voluntarily reported to the USG regardless of the location of the cruise ship.

Thank you for the opportunity to discuss these important matters. My House Liaison Office at 202-225-4775 would be pleased to respond to any further questions you or your staff may have.

Sincerely,

T H Collins

THOMAS H. COLLINS
Admiral, U.S. Coast Guard
Commandant

[1] 33 C.F.R. § 120.110.

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

April 13, 2006

Honorable Christopher Shays
Chairman
Committee on Government Reform
Subcommittee on National Security, Emerging Threats,
and International Relations
House of Representatives
Washington, D.C. 20515-6143

Dear Mr. Chairman:

Thank you for your March 23, 2006, letter to FBI Director Robert S. Mueller. I appreciate the opportunity to address the issues you raised in your letter about international maritime security.

I. What specific United States statute or regulation grants a U.S. government law enforcement official jurisdiction on the territory of another country?

Extraterritorial enforcement of United States law is broad and premised on a number of statutory provisions. With respect to crimes occurring on cruise ships, under 18 U.S.C. § 7, the United States has Special Maritime and Territorial Jurisdiction (SMTJ) over designated crimes if:

(1) the crime occurs on the high seas;
(2) the crime occurs within the admiralty and maritime jurisdiction of the United States;
(3) the vessel upon which the crime occurs belongs in whole or in part to the United States, any United States citizen, or to any U.S. corporation when such a vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State;
(4) the victim or perpetrator of the crime is a national of the United States, and the crime occurs any place outside the jurisdiction of any nation; or
(5) the vessel has a scheduled departure from, or arrival in, the United States, regardless of the nationality of the vessel, when the crime is committed against or by a national of the United States.
SMTJ under 18 U.S.C. § 7 includes other provisions not relevant to the subject-matter of this response. See List A for statutes where SMTJ is conferred.

In many other statutes where SMTJ has not been conferred, Congress has either specifically extended substantive criminal jurisdiction extraterritorially, (for example 18 U.S.C. § 175 - Prohibitions with respect to biological weapons) or implied such extraterritorial application by construction (18 U.S.C. § 1119 - Foreign murder of United States nationals). See List B. When such violations occur on the territory of another country, however, the exercise of the grant of extraterritorial jurisdiction will usually be concurrent with that of the country where the violation occurred.

Honorable Christopher Shays

II. Please describe with specificity activities that must be reported under this regulation, Title 33 C.F.R. § 120, and those activities voluntarily reported pursuant to industry guidelines.

According to the plain language of the regulation, Title 33 C.F.R. § 120.220 requires the reporting of "each breach of security, unlawful act, or threat of an unlawful act" that occurs on a vessel covered by the regulation, or that occurs against any person aboard such a vessel, if the incident occurs in a place subject to the jurisdiction of the United States. Title 33 C.F.R. § 120.110 defines an "unlawful act" as "an act that is a felony under U.S. federal law, under the laws of the States where the vessel is located, or under the laws of the country in which the vessel is registered." Therefore, the FBI interprets the regulations to require the reporting of all felonies on all ships occurring in U.S. waters on voyages to or from the U.S., regardless of the ship's flag or nationality of the perpetrator or victim, as well as certain crimes that occur on the high seas.

I have enclosed a list of federal offenses committed within the SMTJ as defined in Title 18 U.S.C. § 7 (List A), which does not reflect every federal felony, nor does it reflect felonies defined by state laws or the laws of other countries. However, the FBI understands "unlawful act" to include, among others, crimes such as murder, rape, and assault. Additionally, if the vessel is a U.S.-flagged vessel, a report must be made even when the vessel is outside the jurisdiction of the United States.

III. In what circumstances does the FBI believe a cruise ship master does not have to report a crime?

The reporting requirement of 33 C.F.R. § 120.220 does not apply if the incident occurs in a "place" not subject to United States jurisdiction, or when the vessel does not meet the criteria defined in 33 C.F.R. § 120.100. Notwithstanding the reporting requirement of Title 33 C.F.R. § 120.220, the FBI believes that in all cases of suspected criminal activity against a U.S. citizen or involving terrorism, the FBI should be contacted by the ship's personnel or passengers, regardless of potential jurisdictional issues.

Misdemeanor crimes and unlawful acts by a foreign national against another foreign national outside of U.S. waters are examples of circumstances that a cruise ship master does not have to report to the FBI.

IV. Assessment of Congressional Research Service (CRS) Memorandum on Criminal Reporting Requirements for Cruise Ships.

The FBI 's interpretation of the term "place subject to the jurisdiction of the United States," as that term is used in Title 33 C.F.R. § 120.220, differs materially from the CRS Memorandum. It is the FBI's interpretation that "place subject to the jurisdiction of the United States" should mean any place within the reach of the United States' jurisdiction to enforce federal criminal law. Such an interpretation is consistent with the general provisions of the International Maritime Organization's "Measures to Prevent Unlawful Acts Against Passengers and Crews On Board Ships," which by its plain language and stated intent applies to any act that occurs "onboard" a ship, without regard to location, and comports with the definition in the Special Maritime and Territorial Jurisdiction (SMTJ) of the United States.[1] To interpret otherwise would also imply

[1](i.e. "place" could include the high seas under the SMTJ)

Honorable Christopher Shays

some type of lesser interest in a crime victimizing a U.S. national that is committed within the territorial sea, than one committed against that same person 13 nautical miles from a U.S. territorial baseline -- particularly when extraterritorial jurisdiction is expressly provided for such violations. If "place subject to the jurisdiction of the United States" includes a cruise ship within the territorial sea of the United States, it should also include a cruise ship on the high seas, where U.S. jurisdiction has been properly extended or asserted.

It is the FBI's opinion that "place" should be interpreted to mean any location where the United States may properly exercise both territorial or extraterritorial jurisdiction. Under this broad definition of "place," jurisdiction exists, and a reportable incident occurs, when the vessel is on the high seas and even foreign waters, as well as in U.S. waters. For example, under Title 18 U.S.C. § 2332(f), the United States would have jurisdiction over a detonation of an explosive device on a non-U.S.-flagged cruise ship on the high seas which injures a national of the United States and causes a substantial effect on foreign commerce. However, reporting on such an incident would arguably fall outside of the more narrow CRS interpretation -- with the consequence of delaying investigation or apprehension of the perpetrators.

The FBI also does not see an inconsistency in the broader reporting requirement for U.S.- flagged vessels. The SMTJ is not the only basis upon which extraterritorial jurisdiction is premised. As noted above, some crimes predicate extraterritorial jurisdiction on their commission within the SMTJ a great number do not. Thus, while the SMTJ defines a type of extraterritorial jurisdiction, as outlined above, it is by no means the only way for the United States to exercise extraterritorial jurisdiction. Rather, the FBI interprets the additional reporting requirement for U.S.-flagged vessels to extend to where the United States does not have exclusive jurisdiction, such as incidents that occur at a foreign port, as well as those crimes that may not have an explicit extraterritorial reach.

We appreciate the opportunity to bring this information to your attention and hope it is helpful to you in assessing the FBI's efforts in the maritime area. If the FBI can be of further assistance to you with this or any other matter, please do not hesitate to contact this office.

Sincerely yours,

James H. Burrus, Jr.
Acting Assistant Director
Criminal Investigative Division

Enclosure

1 - Honorable Tom Davis
1 - Honorable Henry Waxman
1 - Honorable Dennis Kucinich

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April 14, 2006

VIA EMAIL AND U.S. MAIL

Christopher Shays, Chairman
SUBCOMMITTEE ON NATIONAL SECURITY,
EMERGING THREATS, AND INTERNATIONAL RELATIONS
2157 Rayburn House Office Building
Room B-372 Rayburn Building
Washington, D.C. 20515-6143

Dear Chairman Shays,

I received your letter dated March 22, 2006 requesting information concerning U.S. extraterritorial jurisdiction for law enforcement officials, as well as the scope of crime reporting for cruise ships. I also reviewed the March 17, 2006 Memorandum from the Congressional Research Service ("CRS memo"), for which I thank you.

The Subcommittee has asked "what specific United States statute or regulation grants a US government law enforcement official jurisdiction on the territory of another country." Respectfully, I have not said this and the subject of extraterritorial jurisdiction at sea is an issue upon which volumes have been written. I have summarized my opinion on pages 2 through 4 of my written testimony, which was expounded upon in my oral testimony. The CRS memo appears to agree with my conclusions in this regard. In fact, footnote 22 the CRS memo cites a lengthy study performed by the CRS in 2002, entitled *Extraterritorial Application of American Criminal Law*. That study states at pages 12 and 18:

> Congress has expressly provided for the extraterritorial application of federal criminal law most often in the context of the special maritime and territorial jurisdiction of the United States [citing 18 U.S.C. § 7].
> . . .
> . . . [A] surprising number of federal statutes may boast of either explicit or implicit extraterritorial reach. . . . The federal laws most often involve shipboard crimes . . ."

The simple fact is that the United States has investigated and prosecuted numerous people for crimes onboard ships on the high seas and in foreign waters. This power has repeatedly been invoked by law enforcement officials, prosecutors and courts. The extraterritorial authority of the US is demonstrated by the fact that the FBI investigated the disappearance of George Smith from the *Brilliance of the Seas*, a Bahamian ship, while the vessel was sailing from Greece to Turkey. It also explains why the U.S. Attorney's office has reportedly convened a grand jury in the same case in the State of Connecticut. Unless all these people are wrong, the United States can and does enforce its laws relating to foreign flag vessels outside US waters.

Turning to the Subcommittee's questions about the legal reporting requirements for crimes on cruise ships, you have asked which activities must be reported under the existing regulations, and those voluntarily reported. You have also asked why my testimony differs from the CRS memo on this point. In fact, despite Mr. Rivkind's sworn testimony that there are no reporting requirements whatsoever, the CRS memo agrees the regulations at least require the reporting of all felonies on all ships occurring in US waters on voyages to or from the US, regardless of the ship's flag or nationality of the perpetrator or victim.

The CRS memo only takes issue with the application of the requirements when cruise ships sailing to or from the US are outside US waters. I believe the CRS memo is incorrect on this specific point and I stand by my oral and written testimony. I cannot agree that on international voyages to or from the US, the broad language requiring reports of "each unlawful act" occurring in any place "subject to the jurisdiction of the US" was merely meant to apply when the ships are actually in US waters. As repeatedly acknowledged by the CRS, the high seas and even foreign waters are also "subject to" US jurisdiction for various activities involving Americans.

Lawyers often disagree on interpretations of law, but the Subcommittee need not rely on my opinion or that of other lawyers (who may or may not be familiar with maritime law). The reports received by the Subcommittee from all major cruise lines demonstrate crimes are being reported regardless of where they arise, even beyond any legal requirement. Despite all of the ensuing publicity and diligent efforts by yourself and others, no one has challenged that fact. If the cruise lines were not reporting such crimes as some have alleged, then one would expect an avalanche of allegations to be separately reported to the FBI; the total absence of which speak volumes about the industry's outstanding record in this area.

The Subcommittee has asked what crimes fall outside the referenced regulation and are not *required* to be reported by the ship's master. These include crimes that do not

constitute felonies under either US law, the laws of the States the ships visit, *or* the laws of the ship's flag state (as stated in the regulations). They also include crimes against Americans arising during the minority of cruises that do not touch the US. I understand these matters are nonetheless routinely reported to law enforcement authorities as part of the industry's voluntary reporting policy, in accordance with or in excess of existing FBI guidelines. Again, this practice has been demonstrated by the individual cruise company reports already received by the Subcommittee.

I appreciate this opportunity to answer the Subcommittee's questions and thank you for your further consideration.

Very truly yours,

Lawrence W. Kaye

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