

Testimony of Ross A. Klein, PhD
Before the
Senate Committee on Commerce, Science, and Transportation

Hearings on “Cruise Industry Oversight: Recent Incidents Show Need for
Stronger Focus on Consumer Protection”

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Ross A. Klein, PhD, is an international authority on the cruise ship industry. He has published four books, six monographs/reports for nongovernmental organizations, and more than 30 articles and book chapters. He is a professor at Memorial University of Newfoundland in St. John's, Newfoundland, Canada and is online at www.cruisejunkie.com. His CV can be found at www.cruisejunkie.com/vita.pdf He can be contacted at ross@cruisejunkie.com or rklein@mun.ca

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ORAL TESTIMONY

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

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

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

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

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

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

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

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

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

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

WRITTEN TESTIMONY

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

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

I. SAFETY AND SECURITY OF CRUISE SHIPS

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

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

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

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

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

A. The Nature of the Problem

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

- June 2009 – *Royal Princess* had an engine room fire while leaving Port Said, Egypt. The ship returned to the port the next day and after evaluation of damage the cruise was terminated.
- November 2010 – *Carnival Splendor* has engine room fire setting it adrift; the ship was finally towed to San Diego (150 miles north) even though it was 55 miles west of Punta San Jacinto, Mexico. It was a five day ordeal for passengers. Initially there was no electricity and toilets did not work, but toilets were restored by the end of the first day although there was no air conditioning and no hot food service. The ship's engine that failed had had five alarms between July 21, 2010 and November 5, 2010, most recently repaired on November 5, 2010; the fire occurred on November 8, 2010.⁴
- September 2011 – Hurtigruten's *Nordyls* suffered an engine room fire, killing two crew members and injuring 16. The ship was evacuated by lifeboat and the cruise was terminated. The *Washington Post* reported salvage teams pumped water from the cruise liner in danger of capsizing, reducing the tilt 21.7 degrees in the morning to 16 degrees in the evening.
- October 2011 – Cunard Line's *Queen Mary 2* suffered an engine fire causing a loss of power while in a major storm (two other ships chose to turn back from the storm, but the *Queen Mary* decided to battle through). Staff members were given a 90 minute warning in order to prepare to deploy the lifeboats. Guests had their children dropped off and their animals picked up from the kennels. Power was restored, but people were understandably shaken up. Three weeks later the ship twice went dead in the water on a transAtlantic cruise. And again in February 2012 the ship had a total power failure and was dead in the water.

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

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

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

- March 2012 – *Azamara Quest* had an engine room fire, injuring five crew members (one critically), setting the ship adrift between Manila and Borneo. The ship was able to restore power and some propulsion after 24 hours and limped to Sandakan, Malaysia, arriving three days after the fire. The cruise was terminated and passengers flown home.
- April 2012 – *Adventure of the Seas* had an engine room fire causing section 6 of the ship to be temporarily evacuated. The ship was adrift for 1-2 hours and then continued on one engine.
- November 2012 – *Adventure of the Seas* had an engine room fire while crossing the Atlantic causing a brief loss of power and electricity.
- February 2013 – *Carnival Triumph* suffers an engine room fire, setting it adrift for five days without power, air conditioning, or toilets. Initial plans were to tow the ship to the closest port, Progreso, Mexico, however a decision was subsequently made to tow the ship to Mobile. NOTE: The ship was reported to have technical problems with its propulsion system affecting its cruising speed and causing a six hour delay in its return to port two weeks before;
- June 2013 – Pullmantur’s *Zenith* had a disabling engine fire and had to be towed to port (Venice, Italy)

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

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

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

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

- October 2012 – Celebrity Cruises’ *Summit* had a tender run aground with 93 passengers and 2 crew members. The tender suffered major damage and passengers were rescued by a fishing boat and whale-watching boat.
- November 2012 – *Saga Ruby* had engine problems that required the current cruise to be canceled.
- March 2013 – A malfunction of the backup emergency power diesel generator caused power outages and plumbing issues on *Carnival Dream* and led to a cruise being terminated in Saint Maarten and passengers flown home.
- March 2013 – Steering problems required *Carnival Elation* to have a tugboat escort to port.
- March 2013 – *Carnival Legend* was disabled and stuck in Costa Maya for a day. It finally got underway at reduced speed and dropped a port call to arrive on time at its port of disembarkation. The itinerary of the subsequent cruise was changed because of propulsion problems.
- March 2013 – *Seven Seas Voyager* suffered propulsion problems causing ports to be skipped.
- April 2013 – *Crown Princess* began a cruise with 410 cabins having toilets that would not flush. Until they were fixed, passengers needed to go to public bathrooms (even during the middle of the night).

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

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

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

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

B. Lessons to be Learned from These Events

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

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

1. The Relative Absence of Reliable Data

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

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

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

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

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

Making data available is more important than simply making passengers aware. It allows a sort of social epidemiology of cruise ship incidents from which patterns can be discerned and potential solutions formulated. Rather than seeing each major incident as unique and unrelated to anything before it, a comprehensive data set permits early identification of trends or common problems. Unlike the airline industry, which is governed by the FAA, there is no similar authority when it comes to the cruise industry.

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

2. Frequency and Types of Events

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

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

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

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

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

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

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

3. Discernable Insights from Data

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

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

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

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

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

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

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

A second insight from the data is a preliminary conclusion also based in part on anecdotal information. It appears there is a pattern of incidents involving ships built on the Destiny platform (Destiny-class and Dream-class ships): my understanding is that *Carnival Destiny*, *Carnival Triumph*, *Carnival Splendor*, *Carnival Glory*, *Carnival Breeze*, *Carnival Dream*, *Carnival Liberty*, and *Carnival Magic* have all reported electrical and/or propulsion issues,

power losses, and some electrical fires over the last three years or so (not all of these have been reported in the media and are thus not included in my dataset); *Costa Concordia*, *Costa Magica*, *Costa Serena* and *Costa Pacifica* have also reported similar problems during this timespan – all of these ships are Destiny platform design ships.

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

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

The report also observes design flaws that cut across Dream class (and presumably Destiny platform vessels). These include air cooler drainage problems, noted as far back as October 2009 and documented problems with the CO2 system. That these problems were identified as early as 2009, and may have been factors in the catastrophic nature of both the *Carnival Splendor* and *Carnival Triumph* fires lends convincing support for increased independent oversight of the cruise industry.

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

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

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

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

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

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

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

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

4. Learning from Success, Not Just Accidents

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

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

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

Cruises. Seadream Yacht Club has a lower incidence rate than any of the ships in the ultra-luxury category.

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

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

5. Regulation and Oversight of the Cruise Industry

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

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

In extreme cases, a matter identified in the Annual Control Verification Exam was referred to the vessel's Classification Society (e.g., Lloyd's Register, Bureau Veritas, Registro Italiano Navale, Det Norske Veritas), which certifies the ship's safety and seaworthiness. While these societies appear to be independent, they earn their income from cruise lines and may be conflicted when taking action that can cost the cruise line money or cause a ship to be taken out of service. For example, there is a fair number of cases where ships have been judged to have insufficient lifeboat space for the number of passengers. In some, the Classification Society has instructed the cruise line to book fewer passengers on the ship until the lifeboat(s) has/have been repaired.

In others, the Classification Society has permitted the cruise ship to accommodate passengers on inflatable rafts rather than lifeboats. It is unclear whether this is a reasonable solution if there were need for emergency evacuation, especially if like the *Costa Concordia* half of the lifeboats cannot be deployed.

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

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

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

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

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

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

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

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

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

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

II. SAFETY AND SECURITY OF CRUISE PASSENGERS

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

A. Scope of the Problem

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

Two areas are worth further mention here because the data is not reported elsewhere. First, is persons overboard. Since 1995, there have been 201 reports of persons gone overboard from passenger ships.¹³ As shown in Appendix 3, 73.8% were male, 26.2% female. On average, males are a shade younger than females (38.85% vs 42.11%). The majority go overboard from cruise ships: 91.4% from a cruise ship, 8.6% from a ferry. While data is limited, we know that the person overboard was rescued alive in 16.7% of cases, 11% cases were a confirmed suicide, and all indications are that 3.3% of cases involve murder. Alcohol was a factor in at least 6.2% of cases, a fight with a significant other in 7.1% of cases, 2.4% followed a significant loss in the casino, and 9.5% were witnessed and confirmed to be a fall. These numbers will be discussed further later.

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

¹³ See www.cruisejunkie.com/Overboard.html

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

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

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

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

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

The second factor that pushed for a new round of hearings was that Representative Doris Matsui from California had a constituent, Laurie Dishman, appeal for help following non-prosecution of a rape by a security officer on a Royal Caribbean International's *Vision of the Seas*. Matsui was not only concerned about the way Laurie had been treated and her case handled, but also with discrepancies in crime statistics.

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

With no solution from collaboration between ICV and CLIA, hearings were reconvened in September 2007. The day before the Congressional subcommittee reconvened September 19, 2007, Representatives Matsui and Shays with twenty-three co-sponsors introduced a House Resolution to call attention to the growing level of crime on cruise ships and the lack of federal regulations overseeing the cruise industry. The purpose of the reconvened hearings was to

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

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

receive an update on the status of discussions between ICV and CLIA and to examine whether the security practices and procedures aboard cruise ships are adequate to ensure the safety of all passengers. As before, it received testimony from the FBI and Coast Guard, which discussed the implementation of the reporting framework announced at the previous hearings; from ICV and several of its members (parents of a 21-year-old who fell overboard while throwing up over a railing, two sexual assault victims, a surviving family member whose father died in a cruise ship fire); and from the cruise industry. Not surprisingly the cruise industry painted a picture that said everything was under control, that it is working diligently to improve situations raised as sources of concern by its critics, and that cruises continue to be safe.¹⁶ The claim of safety was based in large part on the FBI receiving from cruise ships only forty-one reports of sexual assault and twenty-eight cases of sexual contact between April 1 and August 23, 2007. Together, these numbers give an annualized rate for sexual abuse on CLIA member cruise lines of 172 incidents; a rate of 56.9 per 100,000 passengers – several fold higher than the rate claimed in the 2006 hearings. The industry also used the hearings to announce formation of its survivors’ working group, a group that ostensibly attempted to supplant ICV.

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

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

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

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

1. From Hearings to Legislation

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

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

2. Persons Overboard

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

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

The revised legislation states, “The vessel shall integrate technology that can be used for capturing images of passengers or detecting passengers who have fallen overboard, to the extent that such technology is available.” While close-circuit television (CCTV) technology (used to capture images of persons going overboard) may be effective if it were monitored in real-time, it is of little use when tapes are reviewed only after it is known a person has disappeared. In addition, there are issues with whether CCTV cameras cover all relevant areas where a person may go overboard, and whether images are readily made available when requested. In a recent case in which I was retained as an expert witness we found that the CCTV images were recorded using old technology (not in a format easily viewed) and when converted the images were of

limited probative value. Again, it would appear that the original legislation proposed in 2007 was more effective in identifying when a person goes overboard and in causing a response that is more likely to lead to a live rescue. Many of the 16.7% of cases where a person is rescued alive is when their disappearance is observed and reported to officers who immediately execute rescue procedures.

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

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

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

3. Sexual Assaults

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

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

There is much to be learned from incident reports of sexual assault. We know that the most frequent perpetrator among crewmembers (between 50% and 77% of sexual assaults on passengers are perpetrated by a crew member) is a room steward (34.8%) followed by dining

room waiter (25%) and bar worker (13.2%). We also know that the most frequent location for the assault is a passenger cabin (36.4%) and that alcohol is a factor in 36% of incidents involving minors. Having detailed data permits identification of risk and of potential solutions or means for ameliorating the problem. However, changes to the CVSSA between the first versions to the version passed make this data much more difficult to access and thus more difficult for proper prevention and intervention. The following discussion will be organized around prevention, intervention, investigation, and prosecution.

Prevention

The best way to deal with sexual assault is to have methods of primary prevention. One of the most effective methods is for passengers to know the risk. That is why the initial version of the CVSSA not only required all sexual assaults to be reported to the FBI but that “The Secretary shall maintain, on an Internet site of the department in which the Coast Guard is operating, a numerical accounting of the missing persons and alleged crimes...” (§3507(c)(4)(A)). But the section was changed in the final version to read, “The Secretary shall maintain a statistical compilation of all incidents described in paragraph (3)(A)(i) on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed under paragraph (3)(A)(i) that are no longer under investigation by the Federal Bureau of Investigation” (§3507(e)(4)(A)0.

The result is that the FBI only publicly discloses those cases where they have opened a case and they have subsequently closed the case. Those incidents judged to be he said-she said, or where sufficient evidence is not available, do not have an investigation so appear to be not reported. Unlike crimes on land that are included in Uniform Crime Statistics and that reflect all complaints of a crime, crimes on cruise ships are only publicly recorded when the FBI has decided first that an investigation is warranted and second when the investigation is closed. The result is that the number of publicly reported sexual assaults on cruise ships is grossly under-reported. The one-year data for 2007-08 reported 154 sex-related incidents. In stark contrast, the FBI dataset on the U.S. Coast Guard website (which is difficult to find) reports 11 incidents in 2012 (data for 2010 and 2011 was not accessible). More illuminating is a recent case I was involved with. The FBI indicated that the cruise line (NCL) had one case of sexual assault in 15 months, but records disclosed in discovery indicated the cruise line had received (and we assume reported to the FBI in compliance with the CVSSA) 23 complaints. The change in the language of the Act effectively makes invisible the true scale of the problem of sexual assault and undermines passenger awareness of the need to protect themselves and their children.

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

A provision that was not changed, but that may need to be revisited relates to crew access to passenger cabins. §3507(f)(1) states that a cruise ship shall “establish and implement procedures and restrictions concerning – (A) which crewmembers have access to passenger staterooms; and (B) the periods during which they have access; and (2) ensure that the procedures and restrictions

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

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

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

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

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

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

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

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

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

Intervention

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

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

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

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

Emergency Physicians relating to the treatment and care of victims of sexual assault.

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

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

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

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

- With the cooperative efforts of local governments, law enforcement agencies, hospitals, courts, and other relevant organizations, each county, state or other geographic area should establish a community plan to deal with the sexually assaulted patient. The plan should ensure that capable, trained personnel and appropriate equipment are available for treating sexual assault patients.
- Each community plan should address the medical, psychological, safety, and legal needs of the sexually assaulted patient. The plan should provide for counseling, and should specifically address pregnancy and testing for and treatment of sexually transmissible diseases, including HIV.
- Each hospital should provide for access to appropriate medical, technical, and psychological support for the patient. A community may elect to establish, under the supervision of a physician, an alternative medical site, which specializes in the care of the sexually assaulted patient and provides

medical and psychological support capabilities when no other injuries are evident.

- A victim of sexual assault should be offered prophylaxis for pregnancy and for sexually transmitted diseases, subject to informed consent and consistent with current treatment guidelines. Physicians and allied health practitioners who find this practice morally objectionable or who practice at hospitals that prohibit prophylaxis or contraception should offer to refer victims of sexual assault to another provider who can provide these services in a timely fashion.
- Specially trained, nonphysician medical personnel should be allowed to perform evidentiary examinations in jurisdictions in which evidence collected in such a manner is admissible in criminal cases.
- Physicians and trained medical staff who collect evidence, perform in good faith, and follow protocols should be immune from civil or criminal penalties related to evidence collection, documentation of findings, and recording of the patient's subjective complaints.
- For the special diagnostic and therapeutic needs of the pediatric patient, a community plan should provide for primary referral centers with expertise and ancillary social services that support a multidisciplinary approach.
- As part of its ongoing quality management activities, the hospital should establish patient care criteria for the management of the sexually assaulted patient and monitor staff performance.
- ED staff should have ongoing training and education in the management of the sexually assaulted patient.
- ACEP supports appropriate measures to prevent sexual assault in the community.

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

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

One guideline that is of particular note is that the ACEP expects the physician to support appropriate measures to prevent sexual assault in the community. As has already been discussed, there is much more a cruise ship can do to prevent sexual assault and to, in turn, comply with this guideline. One has to wonder whether an under-contract physician who is considered an independent contractor is in a position to effectively advocate on such a matter.

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

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

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

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

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

Investigation

Proper investigation of cruise ship crimes and preservation of evidence is critical, especially in a case of sexual assault. In addition, there needs to be proper procedures for ensuring chain of

evidence requirements. Though beyond my expertise, I have to wonder whether evidence collected and secured by a shipboard safety officer will stand up in a shore side court of law. I suspect a critical issue will also be whether the safety officer is available to testify in a criminal prosecution or a civil case, especially if the case is against his/her employer.

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

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

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

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

Prosecution

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

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

4. Other Crimes

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

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

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

[The Act does not] ... require the reporting of thefts which are between \$1,000 and \$9,999 in value. These problems may be resolved as follows. First, requiring owners to report thefts less than \$10,000 would allow local law enforcement to investigate and deter future crimes. Second, mandating owners to include the recorded thefts of property valued between \$1,000 and \$9,999 on the USCG website would allow prospective cruise passengers to better appreciate the risks associated with cruises. An even more effective method would be to breakdown the

USCG online reporting by individual cruise ships, rather than by cruise lines, as is currently required.¹⁷

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

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

III. CONSUMER RIGHTS AND CRUISE SHIP LIABILITY

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

A. CLIA Passenger Bill of Rights

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

- *Seabourn Odyssey* had a power failure and was towed to port in New Zealand;
- Cunard Line's *Queen Elizabeth* had a collision with a tug boat packed with pleasure seekers in New Zealand;
- Hurtigruten's *Kong Herald* ran aground and the cruise was canceled;
- Coastal and Maritime Voyage's *Marco Polo* was holed and canceled its cruise;
- *Carnival Dream* had generator problems and ended a cruise early, flying passengers home from Saint Maarten;

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

- *Carnival Legend* had propulsion problems and was stuck for a day in Costa Maya; the ship altered the itinerary on this cruise and the next because of continuing problems;
- *Carnival Elation* had steering problems and required assistance of a tug to navigate to New Orleans;
- P&O's *Ventura* had propulsion problems transatlantic and changed its itinerary;
- Regent Seven Seas' *Voyager* had propulsion problems causing significant delays;
- *Carnival Sunshine* canceled two cruises because of longer-than-anticipated time in dry dock; when the ship finally left dry dock passengers complained that work was still being done and some ship services are unavailable;
- *Celebrity Millennium* had propulsion problems that caused itinerary changes, at one point being dead in the water for three hours in the South China Sea;
- *Carnival Ecstasy* experienced a power failure;
- *Coral Princess* experienced a fire;

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

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

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

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

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

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

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

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

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

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

Having on board professional emergency medical attention has been a long-standing practice on cruise ships – in fact it is required by International Labor Organization Convention 164, entitled “Health Protection and Medical Care for Seafarers,” requiring that ships “engaged in international voyages of more than three days’ duration shall carry a medical doctor as a member of crew responsible for providing medical care.” However the qualifications of medical personnel has varied widely. In most cases a physician and/or a nurse provide medical services.

Some cruise lines have a policy of only using medical professionals trained and board certified in the U.S., Canada, or U.K. Other cruise lines, in part because the fee paid is less, draw medical professionals from a range of countries. In all cases, medical professionals are considered independent contractors – they are paid a fee by the cruise line and receive a commission based on charges for medical services and prescriptions/supplies. Though the physician wears a senior officer's uniform and is considered a member of the crew, she or he is not a cruise line employee and the cruise line claims no liability for his or her medical practice.

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

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

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

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

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

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

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

This is certainly a fair expectation on the part of passengers. However, there is a huge chasm between being properly trained in emergency and evacuation procedures – there may not be basis to argue that crewmembers aren't trained – and those same crewmembers demonstrating through behavior competence in executing emergency and evacuation procedures.

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

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

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

Like other items in the Passenger Bill of Rights, the obvious question is what is included under "main generator failure" and what is excluded? We can point to *Carnival Splendor*, which had six diesel engines – a fire in one engine caused extensive damage to cables in the aft engine room that meant vessel engineers were unable to restart the unaffected main generator.¹⁹ How can CLIA guarantee that a similar or more catastrophic event wouldn't happen on another ship? In the case of the *Carnival Splendor* it wasn't that the main generator failed, but that the cables

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

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

carrying power from the generator had been destroyed. Also on the *Carnival Splendor* the emergency generator apparently continued to work, but only provided power to emergency services. Does this technically comply with the right stipulated?

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

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

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

This Right is already a common practice of the cruise industry, however the Passenger Bill of Rights doesn't address two situations. First, what Right does a passenger have when a cruise ends early and passengers are returned to the port of embarkation – does the cruise line assume responsibility for the additional travel costs (and change fees on airline tickets) associated with getting from the port of disembarkation, does the cruise line assume responsibility for lodging and food expenses incurred by the passenger in getting home, and does the cruise line provide compensation for a passenger who arrives home later than scheduled thereby losing salary from missed work and having expenses for childcare etcetera? The Right to transportation doesn't appear to extend to these issues. Related to this is whether a passenger is accommodated in the same class of service on airlines and the same class of hotel that they normally choose. How long will a passenger wait for reimbursement of these costs and what mechanism is in place if there is a dispute between a cruise line and the passenger about the amount due to the passenger? Does the cruise line waive the Passenger Contract so the passenger can pursue a case in a court of law of their choosing (for example, if they live outside the U.S. or in a location remote from the court specified in the Passenger Contract's forum selection clause)?

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

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

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

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

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

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

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

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

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

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

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

CLIA Passenger Bill of Rights and the Cruise Contract

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

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

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

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

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

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

Carnival Cruise Lines’ Passenger Contract is even more restrictive:

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

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

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

A common theme across all elements in the Passenger Bill of Rights is how a passenger deals with a Right that has not been fulfilled or has been directly violated. Are these rights ultimately governed by the cruise passenger contract that sets clear terms about when and how complaints and legal action must be filed, and where law suits must be filed? Forum selection clauses effectively truncate a passenger's rights under the Passenger Bill of Rights given the requirement that legal action can only be taken in a court located in the state where the cruise line's corporate headquarters is located (most frequently Florida). The cruise passenger contract also includes a "class action waiver," prohibiting a passenger from taking any legal action as a member of a class or as a participant in a class action. For many passengers these are impediments to taking any action and they often resign to accepting whatever the cruise line offers, if anything.

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

1. Passenger Rights

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

- There is no mention of the recourse a passenger has if one of the Rights is not fulfilled or realized.
- There is no indication of how a partial refund will be computed and whether that refund is provided in cash or, as common in the industry, as a discount on a future cruise or an onboard credit.
- There is no mention of whether the cruise line is responsible for ancillary costs when a cruise is cancelled, including change fees for airline tickets and for the costs of the tickets themselves, the cost of lodging required in travel to the passenger's home city, and

support for food and incidentals associated with delays in getting from the ship to the passenger's home city.

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

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

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

²¹ It is worth mention that Royal Caribbean Cruises Limited, in anticipation of these hearings and concern that the facts might paint an unkind picture, sent an email to all employees asking them to write their Senator with the following text: Dear Senator, As one of your constituents and an employee of _____, one of the major cruise lines serving North America, I am contacting you today out of concern regarding the July 24 Senate Commerce Committee hearing regarding the cruise industry. As an individual who is intimately familiar with cruising, it is apparent to me that there has been a great deal of misinformation and distortion regarding the industry in recent months. As one of your constituents, I am concerned that the industry will be unfairly portrayed at this hearing. As someone that works in the cruise line industry, I know firsthand that cruising is extremely safe and well regulated at the national level, by the U.S. Coast Guard, and by international authorities. Additionally, the cruise

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

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

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

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

industry directly benefits businesses in all 50 states, generating over 355,000 jobs and over \$42 billion in economic impact. It provides \$17.4 billion in wages to American workers each year. I would greatly appreciate your support to ensure that the cruise industry receives a fair and balanced hearing. Thank you for your time and attention to this matter and your service to our nation. Sincerely, Your Name

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

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

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

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

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

2. Cruise Line Rights

While the typical Passenger Cruise Contract accords few rights to the cruise passenger, it gives many rights to the cruise line. Unfortunately, the cruise passenger contract is rarely given to the passenger when they make their booking and put down a deposit. Further, they are not usually given a copy of the passenger contract before making full payment for their cruise 60 – 90 days

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

before the cruise. Most frequently a copy of the cruise passenger contract is provided in small print on the back of the tickets sent to a passenger to be used for boarding. By accepting the ticket the passenger acknowledges receipt of applicable brochures and agrees to abide by the terms and conditions of the cruise line's brochures and web site, including but not limited to the information contained in the "Frequently Asked Questions" and "Embarkation Information" sections.²³ At this point the passenger's rights have already been compromised – he or she cannot cancel the cruise without losing all monies paid. A cruise line would likely say that the passenger could have downloaded the passenger contract from the company's website, however a more proactive approach by the cruise line would make sense. When I buy an airline ticket I receive the passenger contract when I print or receive the ticket and I have 24 hours to cancel that ticket without loss of funds. It only seems reasonable that a cruise passenger should receive a copy of the cruise passenger contract before his or her Right to a refund passes.

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

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

Carnival reserves the right to increase published fares and air fare supplements without prior notice. However, fully paid or deposited guests will be protected, except for fares listed, quoted, advertised or booked in error, fuel supplements, government taxes, other surcharges and changes to deposit, payment and cancellation terms/conditions, which are subject to change without notice. In the event that a cruise fare listed, quoted or advertised through any website, Carnival sales person, travel agent or any other source is booked but is incorrect due to an electronic error, typographical error, human error or any other error causing the fare to be listed, quoted or advertised for an amount not intended by Carnival, Carnival reserves the right to correct the erroneous fare by requesting the Guest to pay the correct fare intended, or by canceling the cruise in exchange for a full refund, but in no event shall Carnival be obligated to honor any such booking resulting from the error or otherwise be liable in such circumstances.

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

The passenger contract also gives the cruise line the right to cancel the cruise contract at its discretion (and without the passengers consent) – the passenger has no reciprocal right. The

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

cruise line also has no obligation to provide a passenger the cabin reserved when a reservation was made. As Carnival Cruise Lines' contract states, "Carnival reserves the right to move Guests to a comparable stateroom for any reason, including but not limited to, instances in which a stateroom is booked with fewer than the maximum number of Guests the stateroom can accommodate." Again, the passenger has no recourse.

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

3. Issues of Liability

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

Baggage and Personal Effects

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

Illness Outbreaks

Cruise lines operating out of U.S. ports and serving U.S. ports have successfully avoided liability for illness outbreaks. This has not consistently been the case in the U.K. where there are stronger consumer protection laws. Part of the cruise industry's defense is their mantra that "passengers bring the illness with them," thereby coloring itself as an unwilling victim. As Rose Abello, vice president of Public Relations of Holland America Line stated, "The ship is not sick. There are

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

sick people getting on the ship.”²⁵ This mantra was first used in late-2002 when there was a wave of very visible norovirus outbreaks on cruise ships, and it proved effective. Interestingly, The International Council of Cruise Lines (ICCL) laid out its strategy at the 2003 World Cruise Tourism Summit on March 3, 2003. An almost-inspirational video was shown about the situation in which the industry found itself and the way that it successfully responded on the public relations front.

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

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

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

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

The problem for passengers is that cruise lines have effectively escaped liability for illness among passengers. To my knowledge there have been no successful lawsuits in the U.S. for these

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

outbreaks even though similar lawsuits have been successful under consumer protection laws in the U.K.

Independent Contractors

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

Medical Care

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

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

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

The family appealed the Circuit Court's decision to Florida's Third District Court of Appeal, where the parents argued the cruise line was vicariously liable for the doctor's negligence. Judge Joseph Nesbitt agreed and reversed the lower court's decision. The judge held that the cruise line

had control over the doctor's medical services for agency law purposes; the doctor was to provide medical services to passengers and crew in accordance with the cruise line's guidelines. And as it was foreseeable that some passengers at sea would develop medical problems (and that the only realistic alternative for such a passenger was treatment by the ship's doctor) the cruise line had an element of control over the doctor-patient relationship. As such, the cruise line's duty to exercise reasonable care under the circumstances extended to the actions of a ship's doctor placed onboard by the cruise line. The doctor was an agent of the cruise line and his negligence was imputed to the cruise line. This invalidated the cruise ticket's purported limitation of the cruise line's liability for the negligence of its agents.

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

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

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

Shore Excursions

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

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

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

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

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

Sexual Assaults

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

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

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

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

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

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

³¹ *Ibid.*

reauthorization bill if ICCL's amendments remained. In the end he capitulated after amended language was adopted for the two provisions.

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

Limit of Liability

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

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

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

³² Glass, J. 1996. "Compromise on US Cruise Tort," *Lloyd's List* (October 1), p. 1.

IV. IN CLOSING

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

V. SUMMARY OF RECOMMENDATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Recommendation #19: *That consumer protection legislation be promulgated that extends to cruise passenger common rights and opportunities for complaint or other*

action similar to those available to consumers of other services, especially transportation services such as train, airlines, and other commercial carriers.

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

Cancelations, Itinerary Changes, Missed Port Calls (N=271)*

Cruise with Media-Reported Canceled Port Calls	104
Cruise with Media-Reported Itinerary Changes	69
Cruise with Media-Reported Canceled Cruises	25
Cruise with Media-Reported Delayed Embarkation and/or debarkation:	73

* Does not include changes caused by a hurricane or tropical storm

Mechanical Problems (N=353)

Aground	19
Collision	37
Collision with Pier	15
Damage in Storm	5
Detained for Safety	5
Electrical Problems	8
Engine Problems	26
Fire (6 evacuation; 4 power loss)	61
Generator Problems	5
Lifeboat Failure	7
Maneuverability/Steering Problems	15
Material Failure	53
Power Loss (7 adrift, 1 towed)	21
Propulsion Problems (7 adrift)	62
Severe List	11
Technical Problems	8

Deaths on Shore (N=37)

Dive/Scuba (1 on Shore Excursion)	4
Jet Ski	1
Parasailing (3 on Shore Excursion)	3
Snorkeling (3 on Shore Excursion)	8
Swimming (7 on Shore Excursion)	13
Other	8

Miscellaneous (N=269)

Accidents Ashore (8 on Shore Excursion)	10
Bomb Threats:	14
Child Pornography Seized	8
Illness Outbreaks	189
Injuries on Shorex (n=52)	5
Passengers expelled/evicted	11
Robberies Ashore (5 on Shore Excursion)	13
Onboard Falls (3 deaths)	9
Thefts > \$10K	10

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

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

A. CARNIVAL CORPORATION (7 companies, 45 ships, 145 incidents)

Carnival Cruise Lines (19 ships, 74 incidents)

Carnival Destiny (n=6)

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

Carnival Dream (n=3)

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

Ecstasy (n=5)

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

Elation (n=3)

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

Fantasy (n=4)

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

Fascination (n=3)

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

Carnival Freedom (n=3)

2/6/2010 Fire in crew cabin
6/27/2011 Blackout due to generator failure; fuel oil filters cleaned, fuel oil purifiers started and chemical treatment added to the both service tanks.
8/21/2011 Material failure

Carnival Glory (n=3)

5/15/2011 Vessel maneuverability
11/14/2012 Material failure
12/2/2012 Propulsion problems

Holiday (transferred to Iberocruises in 2010) (n=4)

1/20/2009 Material failure
2/6/2009 Technical problem causing reduced speeds; dropped port call on this and next cruise

3/9/2009 Material failure
4/11/2009 Material failure

Imagination (n=3)

7/13/2010 Fire in the elevator machinery room leaving two passenger elevators and one crew elevator inoperable
7/27/2011 Collision with Fantasy
9/28/2011 Toilets in front and midship inoperable for day

Carnival Legend (n=10)

3/21/2009 Smoke and fire system on Deck B-A-1 in fault and not operating properly
6/21/2009 Unpalatable water in cabins
9/30/2009 Collision with *Enchantment of the Seas*; minor damage
2/7/2010 Maneuverability problems given malfunctioning azipod
2/14/2010 Mechanical problems cause seven-hour delay leaving Tampa, itinerary changed; vessel pitched when leaving Roatan, maybe caused by touching channel wall
7/11/2010 Loss of propulsion on port azipod while entering port; faulty circuit breaker tripped
1/17/2012 Material failure
1/29/2012 Technical problem with starboard azipod causes late arrival (5 hours) and delayed embarkation (2 hours)
3/14/2013 Disabled and stuck in Costa Maya; a day later underway with reduced speed and changed itinerary
3/16/2013 Propulsion problems; changed itinerary

Carnival Liberty (n=4)

4/26/2010 Problems with palatable water in cabin
11/5/2010 Two diesel generators shutdown because of malfunction
1/15/2012 Technical problem, severe list
11/25/2012 Loss of electrical power

Carnival Miracle (n=3)

1/10/2010 Lifeboat material failure
1/28/2010 Collision with pier at Port Zante (St. Kitts); stay overnight for repairs and arrive late for disembarkation
1/18/2011 Lifeboat material failure

Carnival Paradise (n=2)

8/31/2012 Material failure
10/1/2012 Partial loss of propulsion; power loss

Carnival Pride (n=2)

5/16/2009 Fire in battery room
3/31/2011 Blown from mooring at Port Canaveral; delayed departure

Sensation (n=2)

2/9/2012 Burst pipe floods 10 – 20 cabins; departure delayed 4 – 5 hours
5/22/2012 Fire

Carnival Splendor (n=7)

11/8/2009 Delay in Long Beach (7 hours) to repair fire door
11/25/2009 Collision with *Radiance of the Seas* in Puerto Vallarta
12.17/2009 Collision with pier in Puerto Vallarta, stayed until 3:30PM next day for repairs; next port call canceled
2/18/2010 Sharp turn (radar missed some small yachts in path) causes flooding onboard
11/8/2010 Fire lasting several hours knocks out all power, ship towed back to San Diego; this and next 8 – 10 cruise canceled
1/6/2013 Itinerary changed to permit two days in Puerto Vallarta for repair of damage to propulsion system
1/13/2013 Cruise delayed one day given repair of propulsion system; itinerary changed

Carnival Triumph (n=4)

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

Carnival Victory (n=2)

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

Costa Cruises (1 ship, 2 incidents)

Costa Europa (n=2)

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

Cunard Line (1 ship, 6 incidents)

Queen Mary 2 (n=6)

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

Holland America Line (7 ships, 21 incidents)

Maasdam (n=4)

3/17/2009 Fire in crew galley
5/22/2009 Severe list caused by pilot error
8/8/2012 Sewage and refuse from ship washes up on shore at Nahant, MA

6/13/2013 Port forward propulsion system malfunctioning; 2.5 hour delayed departure and sailing at reduced speed

Prinsendam (n=2)

9/11/2010 Major damage from storm – 50 windows blown out (with flooding) and dent in prow of ship

12/17/2010 Lifeboat failure

Ryndam (n=2)

11/18/2012 Material failure

6/8/2013 Fire – 40 minute wait for all clear after initial alarm

Statendam (n=2)

12/21/2009 Engine problems, changed itinerary

9/22/2012 Fuel pump explosion causes two hour power outage

Westerdam (n=2)

5/11/2011 Collision with ice; damage 15 feet below water line

10/28/2011 Fire

Zaandam (n=6)

1/13/2009 Alternator of #5 generator exploded causing switchboard to ground out; emergency generator started 43 second later

7/13/2010 Fire

7/28/2010 Loss of electrical power

8/11/2010 Material failure

6/7/2011 Material failure

10/19/2012 Mechanical problems and/or flooding onboard

Zuiderdam (n=3)

7/8/2010 Material failure

2/9/2012 Fire in engine room

9/25/2012 Material failure

P&O Cruises (4 ships, 12 incidents)

Artemis (n=2)

4/7/2010 Engine problems, skipped St. Barts

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

Aurora (n=4)

3/3/2009 Propulsion problems – Broke down 4 hours after leaving Sydney. Stuck in Auckland (with passengers aboard) for five days for repairs. Itinerary changed

9/18/2009 Mechanical problems and loss of bow thruster; changed itinerary

9/30/2011 Electrical problems delay for three hours departure from Portland, ME

2/8/2013 Fault with port propeller shaft. Delayed in Auckland, dropped two port calls

Oriana (n=4)

8/5/2010 Delayed four hours in Dubrovnik; computers crash causing loss of steering system

8/7/2010 Fire on tender

11/30/2010 Engine breakdowns; missed port call

6/2/2011 Collision with pier

Ventura (n=2)

10/18/2012 60 mm crack on full width of deck 14; passengers advised to not use balconies

3/17/2013 Propulsion problems cause missed ports and itinerary changes

P&O Australia (3 ships, 10 incidents)

Pacific Dawn (n=3)

1/8/2009 Engine problems; arrival in Sydney 10 hours late

2/15/2010 Propulsion and maintenance problems cause 18 hour delayed departure; itinerary changed

4/10/2010 Loss of power and propulsion; near miss collision with bridge

Pacific Pearl (n=2)

2/2/2011 Three-meter-across chandelier falls three storeys into café area in atrium

2/3/2011 Lack of running water and working toilets

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

11/10/2009 Cruise canceled to permit repair of propulsion system

3/13/2010 Mechanical problems cause canceled port calls at Suva and Denarau

4/21/2010 Engine problems; cruise canceled

11/2/2010 Propulsion problem; 10 hour delayed arrival at Melbourne

2/28/2011 Engine problems, 24 hour delayed arrival at Newcastle; several ports canceled

Princess Cruises (10 ships, 34 incidents)

Caribbean Princess (n=9)

10/16/2009 Severe list, storm damage

4/5/2010 Severe list, steering malfunction

5/9/2010 Collision with gangway; departure delayed several hours

8/8/2010 Material failure

2/4/2012 Engine problems - delays

2/25/2012 Material failure

3/12/2012 Engine problems – next two cruises canceled

6/8/2012 Technical fault; remain in port overnight, itinerary changed

12/15/2012 Loss of electrical power

Coral Princess (n=3)

3/19/2009 Propulsion problems; missed port

8/19/2011 Turbine oil system failure; switch to diesel electric power

5/2/2013 Fire

Crown Princess (n=3)

6/20/2009 Fire in passenger cabin

7/17/2012 Electrical fire in passenger cabin

4/13/2013 Toilets in 410 cabins not operational

Dawn Princess (n=3)

6/15/2010 Propulsion breakdown, adrift for 2.25 hours; restored and sailing at reduced speed

7/16/2010 Engine problems; missed port call

10/27/2011 Mechanical problem; missed port call

Emerald Princess (n=2)

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

Golden Princess (n=3)

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

Royal Princess (n=2)

6/18/2009 Fire in engine room as leaving Port Said, passengers called to muster stations; cruise and next cruise canceled
4/9/2010 Break in fire hose fitting causes extensive damage to restaurants; water leaked all the way down to crew decks

Sapphire Princess (n=4)

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

Star Princess (n=3)

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

Sun Princess (n=2)

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

B. ROYAL CARIBBEAN CRUISES LIMITED

Celebrity Cruises (4 ships, 13 incidents)

Century (n=4)

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

Infinity (n=3)

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

Millennium (n=2)

3/9/2009 Cruise canceled to allow repair of problem with bearing on propeller shaft

4/9/2013 Electrical problem adversely affects propulsion, dead in water for 3 hours; port call at Hanoi canceled

Summit (n=4)

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

Pullmantur (1 ship, 2 incidents)

Zenith (n=2)

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

Royal Caribbean International (10 ships, 32 incidents)

Allure of the Seas (n=2)

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

Brilliance of the Seas (n=2)

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

Enchantment of the Seas (n=5)

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

Explorer of the Seas (n=7)

2/5/2009 Propeller damaged causes change in itinerary on this cruise and next
4/14/2009 Changes in itinerary for several upcoming cruises; too late to cancel, no explanation
9/30/2009 Collision with *Carnival Legend*; minor damage
1/13/2010 Delayed departure because delayed arrival from drydock
3/14/2010 Severe list due to human error; injuries and considerable damage
9/14/2012 Collision with *Norwegian Star* when mooring line breaks; minimal damage
10/29/2012 Sailed into Hurricane Sandy

Grandeur of the Seas (n=3)

2/26/2009 Loss of two engines; material failure
7/30/2009 Loss of power due to malfunctioning power inverter; loss of electrical power
5/27/2013 Fire; cruise canceled

Jewel of the Seas (n=3)

8/3/2010 One hydraulic motor not working forcing reduced speeds; itinerary changes

12/7/2010 Collision with 500 meter long 2 foot wide flexible plastic pipe, becoming wrapped around front of ship
9/6/2012 4.5 hour delay leaving Cape Liberty; no reason given

Legend of the Seas (n=2)

2/9/2009 Pulled into Key West for unscheduled stop because of faulty azipod and leaking oil (needed boom around ship); repaired by day's end
1/30/2012 Fire in bar (Café Promenade)

Majesty of the Sea (n=4)

8/13/2010 Lifeboat malfunction when lowered; damaged and release of oil
9/30/2011 Vessel maneuverability
11/2/2011 Material failure
11/7/2011 Material failure

Oasis of the Seas (n=2)

5/7/2010 Emergency generator damaged; given three months to repair
11/16/2012 Vessel maneuverability

Radiance of the Seas (n=2)

11/25/2009 Collision with *Carnival Splendor* in Puerto Vallarta; minor damage
1/27/2011 Ship is operating under USCG COTP due to one of two main propulsion azipods not working; repairs anticipated in fall 2011

C. PRESTIGE CRUISE HOLDINGS (3 companies, 5 ships, 14 incidents)

Norwegian Cruise Line (2 ships, 4 incidents)

Norwegian Dawn (n=2)

11/27/2009 Loss of power for hours (no A/C), ship disembarks in San Juan instead of Miami; this and next cruise canceled
8/27/2010 Leaves Bermuda 11 hours early because engine problems cause slower speeds; want to arrive in NYC on time

Norwegian Star (n=2)

4/28/2012 Collision while docking
9/14/2012 Collision with *Explorer of the Seas* when mooring line breaks; minimal damage

Oceania Cruise (1 ship, 3 incidents)

Regatta (n=3)

6/20/2011 Material failure
7/24/2011 Material failure
10/19/2012 Electrical outage; delayed return to port (NYC) by several hours

Regent Seven Seas Cruises (2 ships, 7 incidents)

Seven Seas Navigator (n=2)

10/25/2011 Material failure; one day delayed departure from Charleston, itinerary change
11/9/2011 Material failure

Seven Seas Voyager (n=5)

3/22/2009 Propulsion problems (fishing net caught in azipod), reduced speed; many ports canceled

4/1/2009	Passengers told upon embarkation that most port calls canceled from Dubai to Rome because of propulsion problems; following two cruises canceled
12/14/2009	One azipod fails so sailing at reduced speed; port call canceled
10/4/2010	Podded propulsion system fails; passengers flown home from Athens, 2 cruises canceled
3/17/2013	Propulsion problem; skipped ports and itinerary changes

D. INDEPENDENT CRUISE LINES

Avalon Waterways (1 ship, 3 incidents)

Avalon Tranquility (n=3)

7/23/2009	Collision with the tall ship Schoenbrunn, a 1912-built paddlesteamer
9/5/2011	Collision with cargo ship – holed, cruise ended
12/13/2011	Fire in generator room

Celebration Cruises (1 ship, 2 incidents)

Bahamas Celebration (n=2)

2/1/2012	Maneuverability problems
3/30/2012	Maneuverability problems

Fred Olsen Cruises (1 ship, 2 incidents)

Black Watch (n=2)

10/21/2009	Severe list – navigational error while entering La Coruna Harbour (Spain)
8/12/2010	Collision with iceberg – damage superficial

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

Opera (n=3)

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

Poesia (n=2)

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

Saga Cruises (1 ship, 3 incidents)

Saga Ruby (n=3)

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

Silversea Cruises (1 ship, 2 incidents)

Silver Shadow (n=2)

3/19/12	Collision with container ship off Vietnam; major damage to container ship, minor damage to cruise ship
9/9/2012	Material failure

Thomson Cruises (1 ship, 3 incidents)

Thomson Dream (n=3)

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

Travel Dynamics International (1 ship, 3 incidents)

Clelia II (n=3)

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

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

Discovery (n=4)

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

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

A. Gender

Male	73.8%
Female	26.2%

B. Age by Gender

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

C. Vessel

Cruise	91.4%
Ferry	8.6%

D. Passenger vs Crew

Passenger	75%
Crew	25%

E. Rescued

16.7%

F. Alcohol

6.2%

G. Suicide

11.0%

H Murder

3.3%

I. Fall

9.5%

J. Casino loss

2.4%

K. Fight

7.1%

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

Appendix 4: Drug Busts, January 2009 – June 2013¹

A. Gender

Male	83.33%
Female	16.66%

B. Age by Gender

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

C. Drug Busts by Country (N=53)

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

D. Drug Busts by US State/City

Florida	3 (17 persons)
Baltimore	2
Alaska	1
US Virgin Islands	1
Puerto Rico	1

E. Ships with 2 or More Drug Busts

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

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

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

SEX AT SEA: SEXUAL CRIMES ABOARD CRUISE SHIPS

ROSS A. KLEIN* and JILL POULSTON†

*School of Social Work, Memorial University of Newfoundland, St. John's, NL, Canada

†School of Hospitality and Tourism, AUT University, Auckland, New Zealand

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

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

Introduction

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

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

Background

Cruise Ships

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

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

Cruising Holidays

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

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

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

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

Sexual Assault

Although at first glance the apparent risk of crime on a cruise ship is remarkably low, this is also remarkably deceiving (Panko, George, & Henthorne, 2009). In fact, the risk of sexual assault on a cruise ship is almost twice that of forcible rape in the US, and calculated as 48.065 per 100,000 (Klein, 2007). The debate over the calculations used to determine the rate of assaults is explained in the testimony provided to the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security (see Klein, 2008a), and is not further explored here. However, it is worth noting the challenges of comparing cruise ship statistics on assault with those from land. The rate of sexual abuse in the 2007 testimony before Congress was compared to land-based rape data, as the US Criminal Code does not specify sexual assault as a specific category of data. Throughout this article, therefore, Canadian data are used for comparison as Canada has a clear definition of sexual assault in law (see Department of Justice, 2009) and there is a rate of sexual assault for the country and each of the provinces.

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

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

Definitions

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

Possible Influences on Aggressive Sexual Behaviors

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

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

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

Characteristics of the Crew

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

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

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

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

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

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

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

Customer Contact

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

Crew and Passenger Attitudes

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

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

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

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

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

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

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

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

The Sexualization of Romance

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

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

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

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

Uniforms, Power, and Harassment

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

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

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

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

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

Alcohol

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

Summary of Possible Causes

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

Research Method

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

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

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

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

Results

Profile of Cruise Lines

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

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

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

The Perpetrators

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

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

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

The Victims

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

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

Table 1
Sex-Related Incidents by Perpetrator and Victim

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

Note: Totals do not add to 100 due to rounding. Sources: Cruise Ship Safety and FBI report.

^a2003–2005 data correspond to testimony given in the U.S. House of Representatives (Klein, 2007) and U.S. Senate (Klein 2008a).

Table 2
Work Role of Perpetrator

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

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

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

^bRoles with particularly high customer contact.

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

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

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

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

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

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

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

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

The Locations

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

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

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

Table 3
Location of Incident (Where Known)

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

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

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

Even public bathrooms are unsafe:

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

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

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

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

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

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

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

The Influential Factors

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

Table 4
Incident Analysis Showing Involvement of Minors and Alcohol

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

Percentage reflects the proportion of all crimes of that type for that cruise line. Source: FBI report.

^aIncludes rape and attempted rape.

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

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

Discussion

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

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

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

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

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

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

Conclusion and Recommendations

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

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

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

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

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

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

Biographical Notes

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

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

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