

**THE CRUISE PASSENGER PROTECTION ACT  
(S. 1340): IMPROVING CONSUMER PROTECTIONS  
FOR CRUISE PASSENGERS**

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**HEARING**

BEFORE THE

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

**ONE HUNDRED THIRTEENTH CONGRESS**

SECOND SESSION

\_\_\_\_\_  
JULY 23, 2014  
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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

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## CONTENTS

---

Hearing held on July 23, 2014 .....	Page 1
Statement of Senator Rockefeller .....	1
Statement of Senator Wicker .....	4
Statement of Senator Begich .....	25
Statement of Senator Blumenthal .....	27
Letter dated July 23, 2014 from Congressman Jim Himes (CT-4) to Chairman Rockefeller and Ranking Member Thune .....	29

### WITNESSES

Laurie Dishman, International Cruise Victims Association, Victim of Crime ...	6
Prepared statement .....	8
Philip M. Gerson, International Cruise Victims Association Board Member; Chairman, National Center for Victims of Crime, and Attorney and Senior Partner, Gerson and Schwartz, on behalf of a Victim of a Crime .....	10
Prepared statement .....	12
Amanda Butler .....	14
Prepared statement .....	16
Kimberly A. Ware .....	21
Prepared statement .....	22

### APPENDIX

Response to written questions submitted by Hon. John D. Rockefeller IV to:	
Laurie Dishman .....	35
Philip M. Gerson .....	36



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(S. 1340): IMPROVING CONSUMER  
PROTECTIONS FOR CRUISE PASSENGERS**

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**WEDNESDAY, JULY 23, 2014**

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

The Committee met, pursuant to notice, at 2:45 p.m. in room SR-253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

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

The CHAIRMAN. I'd like to begin this hearing in the same way I started the hearing I held on the cruise industry last year, by saying that most people who take cruise ship vacations have a good experience. Millions of Americans—I'd like to have silence, please. Millions of Americans go on cruises every year. Most of the time they have a nice trip and they return home safely, just like the cruise companies promise in their advertisements.

But once in a while things can go terribly wrong. Ships catch fire, passengers fall overboard or get sick, crew members sexually assault passengers. Incidents like these are, unfortunately, also a part of the cruise experience.

I'm very honored today to welcome four witnesses who will help us understand firsthand the consequences of these incidents. We've talked about them in sort of a larger way, but we have not had the direct testimony of those affected by it and those who represent some who were affected by it. So that's what this hearing is for.

The fact that some Senators have left, don't let that bother you. Markups are unusual and that's why they had to come, then they had to go do something else. But you're the point of all of this and I want that to be very, very clear to you.

As I said, I'm very glad to welcome four witnesses who will help us understand firsthand the consequences of these incidents and what they had to go through. I recognize that this is not an easy subject to talk about. Let that be said. So that it's painful, and however you reflect that pain, the Committee understands it, welcomes it, joins you in the difficulty of coming up here and testifying before a Senate committee, although it's really not that difficult, after all.

The cruise industry, I am happy to say, is not happy that I'm holding this hearing. They're very unhappy. Those companies don't

like it when Congress and the media talk about the risks of taking a cruise vacation. They have repeatedly told this committee in both public hearings and private meetings that cruise ships and trips are safe, that's it, no need to do anything.

But the facts tell a different story. That doesn't mean that they're—as I said, the average person will have a good experience. But you don't judge a steel plant by 500 workers not being hurt, but 30 workers being very badly hurt. I mean, it's the problems that you have to address.

So the facts tell a different story. Last year our committee released a report that found hundreds of cruise crimes were not being publicly reported—very basic negligence. We have had several hearings where expert witnesses testified about ongoing safety and security problems, like wrecks, fires, crimes, onboard these vessels. And we continue to see the same issues continuing.

I'm fed up with it. I'm fed up with them trying to stonewall us. Yes, they have lots of money and they have lots of lobbyists, and we're going to win this one.

Almost exactly one year ago, Carnival's president told this committee that his company's number one priority is, quote, "the safety and security of our guests." He explained to us how the cruise lines have every incentive to make sure their customers have a good experience.

That sounds nice in a Congressional hearing, but it's little comfort to the many people whose vacations or in a number of cases lives have been ruined by the cruise line's failure to deliver on their promises. That is, if they had a chance to see what the promises were, which is a problem in and of itself, and we'll talk about that.

In spite of the evidence that crimes, fires, mechanical failures, drownings, and mishandled medical emergencies occur with disturbing regularity on cruise ships, the industry continues to deny that it has a problem, any problem. It just denies that it has any problems. It has circled the wagons and reflexively fought all efforts to provide consumers more information about the risks of cruise ship vacations.

I don't mind if they talk about the joys and the pleasures, but people have to talk about the risks, too. It's not fair if they don't.

They often refer to New York City—they have all kinds of problems, but they don't advertise their problems. Yes, but when you are on a cruise ship out in the ocean somewhere there isn't a hospital next door, there isn't a police station to go to. You're just on an island all by yourself, and it's a very different feeling than being a part of a community which can come to help.

So that's where my legislation comes in. Last year, after witnessing the Costa Concordia tragedy, the Carnival Triumph debacle, and learning about the underreported number of crimes on cruise ships, I introduced something called the Cruise Passenger Protection Act of 2013. In this bill, I have proposed making it easier for consumers to report crimes and make complaints about problems on cruise ships.

Everything is about making it easier. If you make it hard, a lot of people just won't do it. And unfortunately, when you have an en-

capsulated environment like a cruise ship trip you have to be able to report. You just have to be able to do that, and do it fairly easily.

So we make it easier to report. I've also proposed simplifying ticket contracts and publishing more information about crimes and other problems on cruise ships. You know what I'm talking about when I talk about the ticket problem. You have to peel layers of paper away, and you're just signing a ticket. But it's underneath that somewhere that it says: Oh, by the way, you give up your liability. That is not nice. It's a terrible thing to do to passengers.

These aren't crazy ideas that I'm suggesting. They're common sense protections that consumers already have if they travel, for example, in airplanes or if they travel by rail. But the cruise industry vehemently opposes my bill, even the bill's simplest provisions like reporting crimes against minors or putting up a website at the Department of Transportation that consumers could consult while they're making their vacation plans, so they can see what the problems might be and what the advantages might be, so they're making an informed decision.

When an industry opposes even the most basic public disclosure about its conduct, it suggests to me, frankly, that it has something to hide.

Our witnesses today are going to help us understand why it is so important for consumers to have this information. Unlike people vacationing on land, cruise ship passengers who are victims of crimes do not have immediate access to law enforcement. Well, you say, well, sure, they're out at sea. Yes, but they're out at sea and they don't have access to law enforcement. That's pretty basic. And if they suffer a health emergency on a cruise, they could be hundreds of miles away from a health facility that operates at U.S. standards or even below U.S. standards, just something called a hospital.

Our witnesses are also going to tell us that, in spite of the cruise industry's talk about taking responsibility for their passengers, cruise companies sometimes treat their customers with shocking callousness and disregard. My words are harsh because I'm angry about this.

Four witnesses are appearing before this committee today and I thank them. But there are many, many more people, as you all know, who could have shared their experiences and have with my staff. Ken Carver, Jamie Barnett, and countless others have fought for years to help protect others from needless tragedy. I would like to thank everybody who has been willing to step forward and tell us their stories despite, as I indicated, the painful and sometimes tragic circumstances, not just that they happened, but having to recall them verbally and publicly.

Having accurate statistics about crimes and other incidents is important, and it's even more important to understand the human cost of the safety and security problems that this industry is not fully acknowledging. This hearing, along with other hearings and inquiries I've made into the cruise industry since I've been Chairman, are about one thing, and it's called accountability, being honest with people.

I know the cruise companies think that I am singling them out, as they say, for special scrutiny. But I assure them that is not the

case. I have never hesitated to ask companies tough questions when I think their business practices are hurting consumers. That's my job. That's all of our jobs. We have oversight. That's the main reason we exist as a Commerce Committee, is to have oversight and to try and make things better.

This process of asking tough questions is in fact called "oversight." It's one of the most important jobs Congressional committees have, maybe the most important. When it comes to the cruise industry, we've been doing our job. We have held hearings, we have analyzed the data, and we have talked to many different people with experiences in this industry.

This oversight has led us very clearly to the conclusion that we have to act. We need legislation to protect consumers. For anyone on this committee who still hasn't gotten the message, I urge you to listen closely today as these witnesses bravely share their experiences.

I thank everybody. But I have one closing statement. To the cruise industry: Instead of fighting this process, I encourage you to listen carefully to the testimony today. I ask you to honestly consider whether there are steps that you can take to better protect the health and safety of your passengers. Look, the cruise industry is booming. People love to travel. People love to go on those ships, and I don't begrudge them for that. My own son has done that. They have a right to do that. But they also have a responsibility, since they're under our jurisdiction, to do it safely and properly for everyone. I believe there are steps that they could take, and I will continue pushing to make those things happen.

I now call upon the distinguished Senator from Mississippi, Roger Wicker.

**STATEMENT OF HON. ROGER F. WICKER,  
U.S. SENATOR FROM MISSISSIPPI**

Senator WICKER. Thank you, Mr. Chairman. I think you've made a number of very important and valid points.

I also want to thank the witnesses for being here. As you said, Mr. Chairman, it may be difficult for them to share their experiences, but it's important that they do so, and I appreciate their courage in coming forward and being able to share with us today some information we need.

The Chair has billed this hearing as a forum to discuss his bill, the Cruise Ship Passenger Protection Act, S. 1340. We need to protect passengers from crime. We need to ensure access to medical care while on the high seas. These are important and worthy issues.

I would say I think that it would be best if we consider this legislation as a stand-alone bill and not in connection with the Coast Guard Authorization Act. I don't know what the Chair's approach to this is going to be, but I do not believe the reauthorization act is the appropriate vehicle for a cruise passenger protection bill.

In my judgment, we ought to consider cruise ship passenger protection legislation separately from the Coast Guard Authorization Act. Congress deserves the opportunity to examine how we can strengthen the transparency of crimes on the high seas and the public deserves a discussion with full Congressional attention to



making cruising safer for Americans and foreign tourists while visiting U.S. ports.

There are many areas in which the cruise ship industry is receiving criticism, including the effectiveness of crime prevention, their response to crime, sexual assault, the report of incidents, and tax concerns. I hope that safety standards like those that could have been beneficial in the treatment of Violet Butler are a priority in this discussion.

There are cruise ships under way with maximum capacities larger than many of our small towns and cities in America. Some cruise ships have more than 6,000 passengers and some 2,000 staff along with them. And yet they only require two medical professionals onboard. Imagine a small town of that size, for example, in rural Mississippi. Imagine my native home of Pontotoc, Mississippi, where there are some 5,700 people living, and what if we only had two medical professionals in the whole town? As a matter of fact, in my native City of Pontotoc we have 29 health care professionals, 21 members of the police force, as well as 24-hour physician care in the emergency room. So that gives me great pause, to think that a cruise ship containing 8,000 souls would have only two medical professionals aboard.

So we need transparency. We need to promote self-correcting behavior. And we all have a right to hear the stories of the victims.

We do not need to paint the entire industry with a broad brush because of a few bad actors. I think the Chair acknowledges that. But we should look for ways to partner with the industry to make passenger cruises a safe environment for our American passengers and tourists. I encourage the Cruise Lines International Association to work with Congress to find a market-driven solution.

So thank you, Mr. Chairman, and I look forward now to getting to the testimony of our witnesses.

The CHAIRMAN. Thank you, Senator Wicker, very much. The Senator and I come from states with lots of rural places. My sort of home town has about 270 people. So you're urban compared to us.

Let's go right to the witnesses. Laurie Dishman had a very, very bad experience as a Royal Caribbean passenger in 2006. She's also an International Cruise Victims Association Board Member, which means she wants to follow through on that.

I'll read each of the four and then call on them one by one.

Phil Gerson is a lawyer who represented a 15-year-old minor, 15-year-old minor, who was raped on a cruise ship. He is also on that same Board and also Chairman of the National Center for Victims of Crime. And I'm grateful that he is here.

Amanda Butler, who I just met outside, whose mother suffered a medical emergency on a Carnival cruise in 2013 and likely passed away from a lack of adequate medical care, I'm proud that you're here.

And Kim Ware, who was a passenger on the Carnival Triumph that caught fire in 2013 and was stranded for four days.

Now, those are easy things for me to say, but they're very hard to have gone through and even to talk about. So let's get at it, and I'm going to call on Laurie Dishman, and thank you so much for being here.

**STATEMENT OF LAURIE DISHMAN, INTERNATIONAL CRUISE  
VICTIMS ASSOCIATION, VICTIM OF CRIME**

Ms. DISHMAN. Hello. My name is Laurie Dishman. I would like to thank the Chairman and the Committee for convening this hearing and inviting me to Washington. It is quite an honor and privilege to be here today.

Senator Rockefeller, I am a cruise ship rape victim. I have an experience to tell you about. A cruise line employee raped me during a vacation on a Royal Caribbean cruise to Mexico. The crew member was working as a security guard in the disco on the ship. He approached me and asked me my name and cabin number. He later snuck down to my cabin and forced his way in. I resisted and struggled. He strangled me and brutally raped me.

I awoke with ligature marks around my neck and my tampon was impacted during the brutal rape. I did not know what to do. I did not know who to turn to. There were no police on the ship, I learned. I was hesitant to call and report the crime because he wore a security badge.

Just 3 days earlier, I was looking forward to this cruise. The glossy colored brochures advertised an adventure every day, an experience to remember. I was celebrating my birthday and 30 years of friendship with my best friend Michelle. We'd known each other since we were 5 years old. I was so excited.

But in the evening I would find myself in the middle of a nightmare. Michelle called the purser desk to report the crime. A security officer and the head purser, both men, came to the cabin and sat on the bed where the rape occurred. I tried to tell them what had happened, but they insisted that I prepare a written statement and sign it.

They left without securing the cabin or taking me to the ship infirmary. After I had finished my statement, the security officer took me and Michelle to the infirmary. The doctor handed us two black garbage bags and asked us to go back to the cabin and collect the evidence. We tried to preserve hair and other items, folding the pillowcases and sheets, not really really what we were supposed to be doing.

We returned to the infirmary along the public hallways, with still all men surrounding us. It was a painful and humiliating ordeal.

The ship doctor eventually performed the rape kit and examined my neck, but failed to administer anti-retroviral medications. I was returned to my cabin after the ordeal in the ship infirmary. I was traumatized to be back at the scene of the crime. I could not take my eyes off the mattress where the crime occurred. Stripped of its sheets, covers and pillowcases, the mattress seemed naked and dirty to me. It looked like I felt.

I could not stop thinking about what had just happened to me over and over again. I did not know what would happen next. I just wanted to close my eyes and go home.

I was eventually given three options: to get off the ship in Mexico and report it to the local port authorities; to stay on the cruise ship—stay on the cruise ship and report it to the FBI when we returned; or fly back to L.A. and report the rape to the FBI. I opted to fly back to Los Angeles as soon as I could get off the ship.

Once in L.A., I was questioned extensively by the FBI and they photographed the bruising around my neck. A few days later, the FBI boarded the ship when it returned to port, together with the cruise line defense attorneys. The crew member denied even going into my cabin. He did not pass the polygraph. But the FBI said it was just a "She said, he said" case and declined to arrest him. The Department of Justice declined to prosecute on that same day.

The cruise ship then set sail again full of passengers, with the rapist onboard. Two days later, I learned the crew member changed his story and admitted going to my cabin. It was only then that the cruise line confined him to his cabin and then put a security guard outside his door, and then terminated his employment and flew him home to Trinidad.

With nowhere to turn, I hired a maritime lawyer in Miami. Why Miami? Because even though I live in Sacramento, the cruise left from L.A., the crime occurred in international waters, but the ticket says that you need to find an attorney in Miami.

My attorney found out many things that surprised and angered me. The security guard was actually a janitor who the cruise line called a "cleaning specialist," who was paid \$550 a month. He was assigned to act in the "security" department because of the cruise ship's limited number of legitimate guards on its staff. He had no training or experience at all as a security guard.

Royal Caribbean records—my attorney uncovered revealed an employee history which included lying, falsification of records, insubordination, and anger management, and he also had sexually harassed two girls 6 weeks before he raped me. And they put him in a security guard uniform.

We also learned that on the night in question a witness observed him drinking beers given to him by the cruise line bartenders.

Royal Caribbean, pursuant to court orders that my attorney received, stated that the cruise line had studied the problem of sexual assault on their ships as far back as 1999. The outside experts retained by the cruise line concluded that sexual misconduct occurred frequently. Now, the head security guard that came in the cabin told me: Laurie, this never happens. But the cruise line ignored what their experts told them by telling the public that crimes are very rare.

In 2007, I joined the International Cruise Victims and I am now a member of the ICV board. I have testified in the past before the House of Representatives in support of the Cruise Vessel Security and Safety Act. Today, I am joined with the Chairman of ICV, board members, and friends of ICV.

In closing, cruise consumers have virtually no rights or protections. I know this firsthand. I know exactly how it feels to have no rights and to be victimized by the cruise lines a second time after their employee assaulted me. Certainly our Congress can require such a powerful industry to timely and accurately report crimes against cruise ship guests, provide a clear and accurate statement of our rights embodied in a ticket without incomprehensible legal mumbo-jumbo, hire competent medical providers, and provide protection under a consumer agency which will help us in our time of need.

Thank you.

[The prepared statement of Ms. Dishman follows:]

PREPARED STATEMENT OF LAURIE DISHMAN, SACRAMENTO CALIFORNIA

Hello, my name is Laurie Dishman. I would like to thank the Chairman and the members of this committee for convening this hearing and inviting me to Washington. It is quite an honor and a privilege to be here today.

Senator Rockefeller, I am a cruise ship rape victim. I have an experience to tell you about.

A cruise line employee raped me during a vacation on a Royal Caribbean cruise to Mexico. The crew member was working as a security guard in a disco on the ship. He approached me and asked me my name and cabin number. He later snuck down to my cabin and forced his way in. I resisted and struggled. He strangled me and raped me. I awoke with ligature marks around my neck. He impacted my tampon during the violent rape.

I did not know what to do.

I did not know who to turn to.

There were no police on the ship, I learned. I was hesitant to call and report the crime to the security department because a crew member wearing a security badge has just raped me.

No one explained any rape protocols to me. No one provided me with a statement of my rights. I was unaware if I even had any rights.

Just three days earlier, I was looking forward to this cruise. The glossy color brochures advertised an "adventure every day" and an "experience to remember." I was celebrating my birthday, as well as thirty years of friendship with my best friend, Michelle. I've known Michelle since we were both five years old. I was so excited.

But in the evening, I found myself in the middle of a nightmare. Michelle called the purser's desk to report the crime. A security officer and the head purser (both men) appeared at our cabin door. They sat on the bed where the rape occurred. I told them what happened, but they insisted that I prepare a written statement and sign it. They left without securing the cabin or taking me to the ship infirmary.

After I had finished my statement, the security officer took me and Michelle to the infirmary. A doctor (a man) handed me two large, black trash bags. He told us to return to the cabin and collect evidence. Michelle and I returned to the cabin. We tried to preserve hair and other items by carefully folding the sheets and pillow cases and placing them into the bags. We returned to the infirmary along the public hallways. We then watched the nurses take everything out of the trash bags, unfold the sheets and put everything into other bags.

It was a painful and humiliating ordeal.

The ship doctor eventually performed a rape kit and examined my neck, but failed to administer anti-retroviral medications to me. The procedures seemed disorganized and unprofessional. None of the medical staff were U.S. citizens. The experience was degrading.

I was returned to my cabin after the ordeal in the ship infirmary. I was traumatized to be back at the scene of the crime. I could not take my eyes off of the mattress where the crime occurred, stripped of its sheets, covers and pillow cases. The mattress seemed naked and dirty to me. It looked like I felt. I could not stop thinking about what had just happened to me over-and-over again.

I did not know what would happen next.

I just wanted to close my eyes and go home.

I was eventually instructed to meet with officers in an office where the questioning continued. Like the Security Officer, Head Purser, and cruise ship doctor, the officers were all men.

I was eventually given three options: (1) get off the ship when it reached Mexico and report the crime to the Mexican police; (2) stay on the cruise ship and report the crime to the FBI when the ship returned to port in Los Angeles; or (3) fly back to L.A. and report the rape to the FBI.

I opted to fly back to Los Angeles as soon as I could get off of the ship.

Once in L.A., I was questioned extensively by the FBI. They photographed the bruising around my neck.

Two days later the FBI boarded the ship when it returned to port, together with the cruise line defense lawyers. The crew member denied even going into my cabin. He did not pass a polygraph. But the FBI said it was just a "she said/he said" situation and declined to arrest him. The Department of Justice declined to prosecute on the same day.

The cruise ship then set sail again, full of passengers and the rapist onboard.

Two days later, I learned, the crew member changed his story. He claimed he had a romantic, consensual encounter with me. It was only then that the cruise line confined him in a cabin and put a security guard at his door. It was only then that the cruise line terminated him and flew him home to Trinidad.

With nowhere to turn, I hired a maritime lawyer in Miami. Why Miami? Because even though I live in Sacramento, and the cruise left from L.A., and the crime occurred in international waters heading to Mexico, the cruise line passenger ticket says that all passengers have to file suit in Miami. I subsequently learned that there are virtually no passenger rights at all contained in the cruise line tickets—only limitations, exclusions, disclaimers, and other fine print which act as a protective shield for the benefit of the cruise industry.

My attorney found out many things that surprised and angered me.

The “security guard” was actually a janitor, who the cruise line called a “cleaning specialist.” He was paid less than \$550 a month. He was assigned to act in the “security” department because the cruise ship has a limited number of legitimate guards on its staff. He had no training or experience at all as a security guard.

Moreover, the Royal Caribbean records my attorney uncovered revealed an employee history which included lying, falsification of records, insubordination, anger management problems and sexual harassment of girls (who were passengers) during prior cruises. We also learned that on the night in question, witnesses observed him drinking beers given to him by the cruise line bartenders in the disco.

My attorney obtained reports from Royal Caribbean, pursuant to court orders, stating that the cruise line had studied the problem of sexual assaults on their ships as far back as 1999. The outside experts retained by the cruise line concluded that sexual misconduct occurred “frequently and the victims had no advocates to support them.” But the cruise line ignored what their own experts concluded, telling the public that such crimes are “rare.”

The cruise industry has grown tremendously in the last ten years. There will be more and more crimes as the industry grows. Twenty-one (21) million passengers are expected to cruise this year. Royal Caribbean now has the largest cruise ships in the world, with two of its ships (the Allure of the Seas and the Oasis of the Seas) carrying 6,500 passengers and over 2,000 crew members each. There is no doubt that women and children will continue to be victimized on these gigantic ships.

In 2007, I joined the International Cruise Victims. I am now a member of the ICV’s Board of Directors. I have testified in the past before the House of Representatives in support of the Cruise Vessel Security and Safety Act.

Notwithstanding our best efforts in the past, there remain serious shortcomings in the reporting of crimes and the protection of families whose choose to spend their vacations on cruise ships. Let me provide this committee with a few examples:

- There is substantial under-reporting of crimes on cruise ships. For example, in 2011, there were 563 alleged crimes reported by the cruise lines but only 105 publicly disclosed.
- Few cruise ship crimes are investigated and prosecuted. In 2012, the FBI opened only 18 cases and there were only 4 convictions.
- The cruise lines do not disclose when a crime involves a minor. Yes, there are sexual predators (both passengers and crew members) on cruise ships. Passengers deserve to know if children have been sexually abused in child daycare centers and in their cabins on prior cruises.
- The medical care on cruise ships is often substandard. Cruise lines try to isolate themselves when they maim or kill passengers through incompetent doctors and bad medical care. Most cruise lines claim that ship doctors are “independent contractors” for whom they are not liable. Few consumers understand this, until it is too late.
- The cruise ship passenger tickets, drafted by cruise line defense lawyers, are one-sided, unfair and entirely anti-consumer and pro-cruise line.
- As matters now stand, there is no one in the Federal Government empowered to help cruise consumers.

The cruise industry is strong and vibrant. Each year, there are millions more passengers who cruise. The ships are becoming bigger and bigger and carry more and more passengers. The cruise industry collects some 35 to 40 billion dollars a year in ticket sales and onboard purchases of excursions, casinos activities, spa and gift shop items, and alcohol. And as you know, the cruise lines pay virtually no taxes despite their great wealth and despite their use of our U.S. ports and our Federal agencies. The cruise lines do not have to follow U.S. labor laws, minimum wages or overtime laws, or occupational health and safety laws. Tax loopholes protect the cruise lines from paying their fair share.

Cruise consumers, on the other hand, have virtually no rights or protections. I know this first-hand. I know exactly how it feels to have no rights and to be victimized by the cruise line a second time after their employee assaulted me.

Certainly our Congress can require such a powerful industry to:

- timely and accurately report crimes against cruise ship guests;
- provide a clear and accurate statement of our rights embodied in a ticket without incomprehensible legal mumbo-jumbo;
- hire competent medical providers; and
- provide protection under a consumer agency which will help us in our time of need.

Thank you.

The CHAIRMAN. Thank you very much, Ms. Dishman. You did that well and I know it was hard.

We will have questions, but first we want to hear from Phil Gerson, who, as I indicated, is a lawyer who represented a 15-year-old minor who was raped on a cruise ship. Mr. Gerson.

**STATEMENT OF PHILIP M. GERSON, INTERNATIONAL CRUISE  
VICTIMS ASSOCIATION BOARD MEMBER, CHAIRMAN,  
NATIONAL CENTER FOR VICTIMS OF CRIME, AND ATTORNEY  
AND SENIOR PARTNER, GERSON AND SCHWARTZ,  
ON BEHALF OF A VICTIM OF A CRIME**

Mr. GERSON. Thank you. Mr. Chairman and members of the Committee: my name is Philip Gerson. I'm a lawyer in Miami, Florida. For more than 40 years my law practice has focused on representing crime victims both at sea and on land. I appreciate your invitation and your willingness to consider my views in this August chamber. I will be brief. I will not read to you from my written testimony, which states the case facts about the incident the Chairman just referred to in more detail than I will mention now. And I welcome any questions the Senators may ask.

The Cruise Passenger Protection Act should be passed. It is far short of the needed solutions, but it is a next step on the path to greater passenger safety. If you think that young women are safe on cruise ships, think again. They're not. My 15-year-old autistic teenage client was not supervised like she was on land because her family thought she was safe. They were vigilant in managing all of her activities scrupulously and on the ship she was supervised in teen activities.

On the last night of the cruise, the teen activities ended early, but no one told her parents, and she was gullibly led away by a sexual predator to his stateroom, where she was brutally raped and attacked by a juvenile and an adult male.

This occurred two years after the Cruise Vessel Safety and Security Act of 2010 was signed into law. But despite that fact, the offenders stateroom was "Lysoled" and cleaned before law enforcement could gain access to it. Ship Security officers said: "Well, there was a mistake, we locked it out, but the housekeepers somehow overrode the lockout not knowing that a crime had been committed, and the evidence on the bed clothes and other evidence in the room was lost."

Fortunately, Florida's State legislature has had the wisdom to enact and to extend jurisdiction to crimes on cruise ships when the ships leave and return from Florida ports. So there were Fort Lau-

derdale-based Broward sheriff's deputies standing on the pier when the ship returned to port, who took custody of these two offenders, and they were punished under State law. But had this occurred anywhere else besides Florida, they likely would have gone unapprehended and unpunished.

Now, what's worse about what happened is that the cruise lines not only suppress the facts, but they foster a misleading disinformation campaign, boasting that vacationers are safer at sea than they are on land. Now, in some ways you are safer at sea. You're not going to get hit by a car or a truck walking in public places, nor is it likely that you're going to be shot by an armed robber because there are no vehicles or guns allowed on the ship.

But sexual crimes like the one that my innocent teenage client was the victim of are far too common, and the risks of them are high. There are thousands of people onboard and there are no police to deter crime or to stop a crime before it harms somebody.

Ship security officers are trained to protect ship owners, not passengers, and that's exactly what they do. The real answer in my view, based on my lifetime of experience in this work, is that independent sea marshals should be placed on cruise ships, a trivial cost in view of the large number of people who are assembled on these floating city vacations.

If we can't get that today, we can start now with DOT empowerment to make the risks known. Truthful disclosure of risks has been required by government for decades and it is a part of the fundamental fairness which is the fabric of the American society. Full disclosures of risks is a first step toward improving safety.

Very few travelers understand the legal relationship which exists in the cruise contract. As passengers cross the gangway, they surrender all legal rights to protect their own welfare except as the cruise ticket allows them to. This is not an informed consent. The ticket doesn't explain how the legal relationship is different at sea from what we know it to be on land. And it is not semantics when we refer to the ship's captain as the master. The master is just that, and the passengers have virtually no individual rights.

The CLIA, the Cruise Line International Association, "bill of rights is illusory," it's empty, and it's meaningless. A close reading of the cruise line tickets reveal a frightening list of contractual and statutory disclaimers of any legal responsibility for harms to passengers. The tickets say the cruise line has no legal liability in port for any excursion which they arrange, which they sell to the passengers, and which they share fees with the tour operators with, but they disclaim any responsibility.

They say the same thing about the physician services that they sell in shipboard medical clinics onboard. But if there's medical negligence, they have no legal responsibility.

There is also reference to statutory and international maritime treaties which limit passenger rights and passenger remedies when something goes wrong onboard, and neither the cruise ticket nor the cruise line adequately inform the passengers of the nature or extent of what they have given up by crossing that gangway.

The bill should be passed so that the outdated "buyer beware" business relationships at sea are replaced with truth in advertising, full disclosure, and informed consent, which are the hall-

marks of American life, required by government for business and industry. Until Congress gives passengers more protections, American nationals on cruise ships are just on their own.

I invite you to read my brief written statement, which provides more details, so that I take no more time than is necessary now, and I volunteer to assist in this process in any way that I can in the future.

[The prepared statement of Mr. Gerson follows:]

PREPARED STATEMENT OF PHILIP M. GERSON

I am a board certified civil trial lawyer. I have practiced in Miami Florida since 1970. I represent individuals and families harmed by the fault of others in state and Federal courts in Florida and occasionally other states. My work is focused on civil remedies for victims of crime. Along with other honorary and voluntary service organization memberships I now sit as current board chair of the National Center for Victims of Crime which is America's best known training, education and advocacy non-profit devoted solely to serve the needs of all crime victims. In addition, I am a member of the board of the International Crime Victims Association, a non-profit world wide organization made up of victims harmed on cruise ships. It is this work which brings me to your committee to testify.

The Cruise Passenger Protection Act should be passed to take an important step forward for progress to enhanced safety and security for cruise passengers. These benefits will enable the public to self-protect by providing accurate factual data for travel decisions in the free speech enabled advertising marketplace. In short, does a Disney cruise have more dangers than a Disneyworld visit? Don't passengers have a right to know? If so, shouldn't the data be readily available and understandable?

For many of my clients cruising has hidden dangers only congress can expose. One client gave permission to talk about her experience. It wasn't Disney but her experience was part of the cruise industry vacation fantasy claim that people are safer at sea than on land.

My client wanted a long white dress and a formal ceremony onboard a Christmas—New Year's Caribbean cruise. She researched the cruise line website and spoke in detail with sales representatives to make the plans. It was not her first cruise on this line. But it was the first time she brought her Asperger's syndrome, autistic spectrum teenage daughter along. Of course, they were the most conspicuous passengers onboard when the ceremony was performed on the first night at sea. Dressed in her gown she went to the teen nightclub where "mocktails" are served to underage youths in a disco environment. She explained her daughter's poor social skills and immature judgment but boasted about the fifteen year old's superior intellectual functioning. Re-assured all activities would be supervised just as the website advertised for an "award winning" youth program my client let her daughter return nightly from the teen club after closing to meet family members never suspecting sexual crimes on cruises were a risk. Just under 9,000 people including crew were onboard. The population in numbers mirrored a typical American small town with no law enforcement personnel and poorly trained security officers whose jobs depend on pleasing their employer not upon an oath to uphold laws, rules, or even good moral judgment. The routine of meeting her mother, aunt or older sister after nightclub closing fit the behavior model which helped the teen achieve integrated social participation in school in her midwestern home state. Following the rules was the structure she needed to minimize risk of judgmental errors. On the last night of the cruise the family followed the routine. But unlike the other nights the teen nightclub closed early and the gullible young girl was enticed to willingly go to a stateroom for a continuation of the "party". The other teens would be going too or so she thought. And other youngsters did just after 2 a.m. but when they arrived and knocked it was too late. My client had already been attacked and raped by two foreign national passengers, one a juvenile and the other a young adult. After multiple oral and vaginal rapes she fought her attackers when she heard the other teens at the stateroom door. After a struggle the door handle unlocked allowing a group of others to push their way in. Rescued by her peers they found their way to cruise line security officers who brought her to the ship's medical center. With mother present a rape kit was used. The security officers claimed they securely locked the crime scene stateroom door but could not explain why housekeepers were able to override the security lockout and the next morning routinely clean the room destroying all physical evidence of the crimes. My client was shocked when I showed her evidence of prior sexual crimes onboard cruise ships. She was



angry when I showed her the crime scene preservation statute passed on 2010 but not followed on January 3, 2012. Her research before planning the cruise did not reveal any criminal history at sea. Like others, she believed when she crossed the gangway and surrendered her legal rights to the will of the master of the ship her family would be safe. Unlike the land based environment the cruise line is in complete control of all persons and property onboard. No one has the right or power to do any more to protect or defend themselves than my innocent client did by trying to fight off her attackers. Every other potential measure for safety and security from crime is exclusively possessed and can only be exercised by the cruise line. She wasn't safe. There was danger. She could not let her child out of sight without risk. Nobody told her that. She did not know that until she was educated by the brutality of the attackers. Fortunately, Florida lawmakers have exercised jurisdiction to criminalize sexual assault and other offenses onboard vessels stopping at Florida ports. But passengers on tax haven and regulatory vacuum foreign flagged vessels are victimized with no deterrent threat for criminal actors if Florida is not part of the cruise. Florida police were at the pier to take the offenders into custody and punish them under state law. But almost every offender escapes with impunity in the jurisdictional abyss which exists on the high seas. Flag states care not about the security of cruise ship passengers. International maritime organizations are guided by nautical and commercial considerations not security from criminal victimization. This recurring problem calls out the need for the United States to take action. The Cruise Passenger Protection Act is a first step. After these preliminary measures to understand the scope of the problem preventative undertakings can be adopted.

It is not in the economic interest of cruise lines to disclose much less publicize crime at sea. CPPA improves the crime reporting usefulness of the CVSSA. A consumer protection website and consumer protection advisory committee are low burdens with substantial benefits for the cruising public. The informed judgment of consumers has long been a hallmark of American government. It is the role of government to enable a neutral forum for public disclosure. Business and industry have proved inadequate as both reporters of and advertising risks inherent in their operations. Virtually every three letter agency of the administrative branch fulfills a public need to funnel information to consumers which they would not otherwise find readily available. The American public is highly educated, smart, and intuitive. Given the tools administrative agencies provide public understanding leads to improved decision making and gives the public the voice in the marketplace it deserves. Congress should not let us down so more suffer like my clients described above.

Cruise line passenger tickets typify the proverbial "fine print" colloquialism. The type is too small for many people to read. The ticket language is available on line which can overcome this problem for computer literate readers but few people even try to comprehend the complex legal jargon printed on the ticket. As a lawyer, I can and do understand the terminology and its meanings. In broad context the non-negotiable take it or leave it ticket language empowers cruise lines to do practically anything they want to do or not on the ship. No private hospitality operator in the United States could have such expansive rights. Nor does any vacationer on land expressly surrender the legal rights like the all cruise ticket expansively contractually bind passengers to accept. Buried but repeated in every permutation are disclaimers by cruise lines for any responsibility for any vendor or affiliate whom they alone select for passenger services onboard. These empowerment and waiver provisions have been upheld by courts in a wide range of lawsuit challenges over the last 20 years. Moreover, beyond contractual limitations, international, maritime and foreign laws are recited in the tickets obliging passenger consent to requirements and limitations of remedies which only trained readers can comprehend. The sum of these contract features means passengers have dramatically different rights at sea compared to what most Americans expect as basic on land. There is a compelling fairness rationale for legislative of re-writing these contracts to protect the public and provide reasonable remedies for wrongs at sea. CPPA does not take that step.

The CPPA calls out for far less. Only a minimal plain language disclosure is sought. Congress has mandated truth in lending, truth in product labels, securities instrument risks, and countless other examples of simplified disclosures to enhance consumer understanding. It is not surprising the cruise industry objects to an informed traveler. Not all, but many thoughtful travelers may weigh these risks against alternative travel options and decide they would be safer, healthier and have effective remedies for harm if they stayed on land.

No one wants to curtail or even inhibit the unprecedented growth of the cruise ship industry. Disclosure will merely permit the free market forces to foster change so cruising safety and security through competition become comparable with land based travel.

The CPPA contains another important measure worthy of passage. Not all flag states even require cruise ships to have medical professionals onboard. Nevertheless, most all now do as they say in the Cruise Passenger Bill of Rights. Surely, the voluntary acceptance of the minimum medical standards for cruise ships promulgated by the American College of Emergency Physicians was an important step forward taken to address an alarm of a medical crisis at sea according to a study of the American Bar Association. As the tickets contracts referenced above all state, cruise lines benefit financially from sale of services in onboard medical clinics with no burden of legal responsibility so under current practice medical services are a risk free profit center.

More study is needed. Larger ships come into service each year. Floating resort cities must have adequate medical resources available to meet foreseeable needs of passengers and crew. What they have now varies widely. There is no uniformity for physician staffing or training. Criminal victimization, accidental injury, epidemic outbreaks of disease occur with regularity. Operational and navigational errors compound the challenges for foreseeably needed medical preparedness and response. Remarkably, cruise lines sell medical services to passengers in onboard clinics but under archaic maritime law principles still applicable have no legal responsibility to provide a minimum standard of care. The ticket language only firms and strengthens this immunity. So this largely unregulated industry benefits from medical care at sea but has no legal duty for its failure. Many options to be studied can remedy this growing problem. Existing agencies having relevant expertise should study this problem before medical disasters claim the health or lives of innocents. Quality medical care is a cornerstone of American life and the public should not be exposed to harm when United States based corporations take United States citizens outside the territorial jurisdiction.

The CHAIRMAN. Thank you, sir, very much.

Amanda Butler, your mother suffered a medical emergency in 2013 on a Carnival cruise and, as I indicated, probably passed away from a lack of adequate medical care.

#### **STATEMENT OF AMANDA BUTLER**

Ms. BUTLER. Senator Rockefeller, members of the Committee: I appreciate the opportunity to tell my mother's story, to share what we have learned, and to offer recommendations from our perspective in an effort to ensure that no other family will go through what we had to experience.

My mother experienced a catastrophic health event on a family cruise April 18, 2013. She subsequently passed away on May 4, with the cause of death listed as anoxic brain injury. She was a woman who loved life, loved her family. She had a generous heart. She was a faithful and devoted wife and mother who was there to nurture her children, support her husband, and provide care and kindness to many individuals in our community of Columbus, Mississippi. In fact, more than 800 people came from the community to her visitation.

We had just returned from a shore excursion on April 18, passed through security, and were planning events for the evening when she collapsed in mid-sentence. She had no pulse. She was not breathing.

I ran to plead with security personnel in the area, but all that they did was seal off the entrance and exit of the boat so nobody could see that there was a problem and an event that had happened. They did not step forward, period, to help my mother, and no one indicated that they were calling for help.

So I ran down the corridors in an attempt to find a defibrillator or someone that could explain that we had a medical emergency. A nurse arrived after my mother had been on the ship floor for

what American physicians are estimating would be 15 minutes. The nurse had a radio, but no defibrillator and no medical equipment when she arrived.

She examined my mother and then she waited for a gurney to arrive. She did not initiate CPR. My mother was taken into the medical facility located within a distance that my father and myself could have carried her had we been told.

They had to unlock the doors, turn on the lights and the computers, and prepare the tiny examination room for the resuscitation process. They set up a portable defibrillator. After four cycles, her pulse did return. Nevertheless, the duration of time that she went without oxygen approached 32 minutes.

Once resuscitated, we were instructed to leave the ship. We did not have the option to stay. My father went to his room with personnel to pack his bags and Carnival sent their personnel into my room to gather my belongings. They made us stay on the gangway, and after we got off of the water taxi we had to wait on an ambulance to come and get her.

One Carnival employee accompanied us, but no arrangements were made with customs to expedite us as a medical emergency. We were all processed as tourists, including my comatose mother. The Carnival employee gave my father the telephone number for the port authority and left us completely alone in a foreign country to find our own way to transport my mother back to the United States for additional medical treatment.

Carnival's current contract states that they are not responsible or liable for anything involving the welfare or safety of its passengers. The company makes no assurances that a physician will be available on a cruise. And it states that medical care, in fact, may not be available at all or will be delayed. The contract also states that Carnival is not responsible for the actions of physicians and nurses, whom it considers independent contractors.

As it turned out, my mother's cardiac event was the type that, had she received CPR in a timely manner, she would be here today. My mother died needlessly because humane emergency protocol was not followed or enforced.

The contract was too small to read. The general public does not understand all U.S. rights are surrendered to Carnival upon entering that vessel. Had we known, our family would have never boarded that ship.

We offer the following recommendations to improve health care. We know that some of these items are included in the Cruise Vessel Security and Safety Act of 2010, but we have been informed also that the medical requirements of that Act have been very narrowly interpreted. Our recommendations would be:

To modify the 2010 Act to add a section on general medical care, with the following requirements: AED machines, defibrillators. They should be placed throughout each ship, with locations clearly designated and discussed during the initial safety meeting. CPR training and certification should be a requirement for all personnel on the ships. The personnel must be trained on how to respond to medical or emergency situations, including alerting and summoning medical assistance and initial response to aid the passenger and family.

The English language should be a requirement for personnel on these vessels that have United States ports of call. At a minimum, all personnel should be able to understand key words such as “emergency,” “help,” and “doctor.”

24-hour health care is necessary, given that these ships carry several thousand people per Cruise. The ship’s physician must be present and available to treat passengers or must be on-call for immediate response to the event of the emergency situation.

Doctors must have United States medical board credentials in emergency medicine, internal medicine, or family medicine, and have at least served a practicum.

Carnival, through CLIA, has agreed to adopt standards that demand these basic requirements and more. However, Carnival has ignored virtually all of the standards that they agreed to implement on their ships as a member of CLIA. This must change for the safety and welfare of future passengers.

My father and I greatly appreciate the opportunity to tell my mother’s story, our experiences, and our recommendations before this committee. Thank you.

[The prepared statement of Ms. Butler follows:]

#### PREPARED STATEMENT OF AMANDA BUTLER

##### “VIOLET BUTLER’S STORY”

Respectfully submitted by Amanda and Ermon (Butch) Butler

We set sail on a family and friends reunion out of New Orleans, LA on April 14 after taking a charter bus from Columbus, MS. We boarded the cruise ship and had a great time with our family and friends until the 18th of April. Up until this point Violet Butler stood out as the ring leader and entertainer for our group. There were no signs or symptoms of any possible underlying medical issue. She was very active and playful for the first four days. On April 18, our family went ashore at George Town, Grand Cayman for a short excursion to the Seven Mile Beach. We had an amazing day with our relatives. We grabbed a quick burger and began to re-board the shuttle boat back to the cruise ship. When we arrived at the ship, we stopped before boarding to snap a couple of photos while we could capture the entire length of the boat. Once inside the ship, we walked straight through security with several other passengers. She was discussing what we were wearing to dinner that night for family pictures. Violet reached over to collect her beach bag. After doing so, she took three to four steps forward and collapsed in mid-sentence.

I ran for help immediately upon her collapse and after seeing that she was not breathing nor had a pulse. I pleaded with the security team members in the security area to help us, but they appeared to be unable to speak English. They had a radio but did not make any effort to assist or approach Violet. Instead, they focused on barricading the door and hallways so that people could not see what was happening. I ran down corridors desperately trying to find any medical personnel or someone to help me communicate the urgency of the situation to the guards. My father was kneeling by her body trying to get her to regain consciousness. Violet’s bathing suit cover was slipping off at this time, so he was also trying to keep her modestly covered as several minutes had passed.

After what seemed to be an eternity but was probably 12 to 15 minutes after she collapsed, help did arrive. One lady got there before the rest of the medical team and checked Violet’s vitals but did not initiate CPR. She had a radio but no medical equipment. When the rest of the medical team arrived, Violet was loaded on a gurney and taken to their medical facility.

The medical facility was around the corner and less than a hundred feet away from where she fell. The office, however, was closed and had to be unlocked and opened. Dad and I waited with Violet’s body while the lights and computers were turned on. There was an AED locked away in a closet that was brought out and plugged in. After what seemed to be another 3 or 4 minutes, Violet was taken into the examination room of the facility. I was asked to come into the examination room with her to remove her jewelry and, to my surprise, start an IV in her leg. My fa-

ther was detained in an outer office to sign “important papers”, which he was never given. They gave him his sign and sail account paperwork, not medical consent documents. The medical team began the process of shocking her heart followed by 2 minutes of CPR. They had to repeat this protocol four times before her heart began to beat on its own. By now we were approaching 30 minutes since she collapsed. About this time, the ship’s doctor returned from shore excursion and had to be briefed on what happened. He inquired whether she was stable enough for transport off the ship and into an ambulance. He was told that she was.

My dad and I were told we had to leave the ship. Dad was instructed to go pack everything and get out of their room. I was still with Violet at this point but my father was not allowed to see her. Personnel were sent with my father to assist in the packing process. Carnival personnel were sent to my cabin as well. My roommate, Debbie Williams, saw the ship’s personnel trying to open our cabin door. I eventually ran up to help pack with Debbie while my mother’s body was being “prepped to ship.” Debbie immediately sent me back down to be with mom while she packed for me. Dad and I met again in the medical facility to accompany my mother’s body to leave the ship.

We boarded the shuttle, and Violet’s body was placed on a box containing life vests and equipment. She was not properly strapped down. When we arrived at the dock, we learned that the ambulance crew had grown tired of waiting for us and left. We waited on the dock for another ambulance to come. During that time, we were standing in the hot sun with Violet on a transportable stretcher. She lay fully exposed to the glare and heat of the sun and had not been iced or cooled in any way. Since leaving the ship, we were also taking turns with a manual ventilation pump to make sure that she was still breathing since that seemed to be sporadic. We can only recall one member of the medical team coming with us. She helped taking turns with the manual ventilation pump and did nothing else. The crew on-board the ship appeared to be far too concerned with making sure that our suitcases were on the ambulance instead of sending qualified personnel to take care of my mother.

When we arrived at customs, we learned that the cruise line had done nothing to expedite processing as a medical emergency. We all, including my comatose mother, had to clear customs as if we were tourists and declare that we would not seek work or stay more than thirty days. We had to show Violet’s passport and U.S. driver’s license for her to clear customs in an unconscious state. The female from Carnival followed us in while our luggage was being placed in family waiting lounge. The lady gave dad a number to the port authority and the U.S. Embassy. Then she left immediately after that and before my mother was even checked in the hospital.

When we finally arrived at the hospital on St. George, Dad and I took a quick nap but remained with Violet for the duration. Dad spent quite a bit of time on the phone to find an air ambulance company and arrange the medical airlift into the U.S. At the same time, he was working to make the financial arrangements to pay the hospital bill in cash in order for the hospital to release my mother and also to pre-pay the aeromedical transport. I remained with her at all times.

When the National Air Ambulance arrived, Violet and I were loaded into an ambulance and taken to customs again before being allowed to board the jet. She was still unconscious but had to be cleared through customs like an ordinary tourist before we could load her onto the airplane. I also had to be cleared. I did not have my passport but had my birth certificate, social security number, and driver’s License. We waited in a holding area until my passport was found in the system and then were allowed to board the airplane and take off.

We took off at approximately 5:30 p.m. with a destination of Miami International Airport. We were separated from Dad and no idea if he was being successful in arranging air transportation to Miami for himself. Port authority representatives transported dad to the airport on St. George and left him completely alone with no means of communication with me. Until he arrived at the hospital in Miami, dad had no way of checking on Violet’s status or knowing what was happening. He also did not know where the hospital in Miami was located. Someone at the St. George hospital gave him a slip of paper that simply read “Jackson Memorial Hospital”, and that was all he had to go on.

The aeromedical transport physicians’ narrative notes provided a brief overview of Violet’s status upon receiving her body from the Georgetown Hospital. The notes specifically stated that Violet’s skin was “warm and dry” indicating she was not kept cool between 30–35 degrees Celsius as she should have been. Violet survived the flight, and we were transferred by ground ambulance arriving at the Cardiac Care Unit of Jackson Memorial around 8:00 p.m.

Dad’s plane landed around the same time that we were moving Violet into CCU. The cardiology and neurological teams went to work right away performing their re-

spective examinations and doing everything possible to save her. Because of medications administered by the hospital on St. George, we had to wait twenty-four hours after arriving before performing any diagnostic tests. We kept Violet on life support, running every possible test for eight days. On the eighth day, we were told by the Neurology team that she would never recover nor would she have any quality of life. She would never open her eyes, speak, or move again. Based on this information, we made the decision to remove Violet from life support. She spent her final days in palliative care with my father and me always at her bedside. We watched and prayed for days that she would open her eyes, but she never did. Violet Butler died with us at her side at 10:44 PM on the 4th day of May. Her death was unnecessary and never would have happened if she had received effective treatment within the first few minutes of her collapse. Even though several security personnel were in the immediate area at that moment, we estimate it was about 15 minutes before help arrived and several more minutes before lifesaving treatment was started. By then it was too late.

Since this event happened, we have learned many things about Carnival and also what happened to my mother. Our understanding of the medical records and autopsy report indicated that she had the type of cardiac event such that if she had received CPR within the first few minutes after collapsing, there would have been a reasonable probability that she could have been completely restored with no ill effects. The medical team was very slow to respond and begin life-saving measures. By the time they did start their efforts, significant brain damage due to lack of oxygen would have occurred. We also learned that because she wasn't iced down to cool her body and her head, the exposure to the glaring sun and heat during transport, while we waited on the dock, and while clearing customs may have accelerated further brain damage than would have occurred if she had been cooled. We also took note that we were essentially abandoned by Carnival once we were off the ship. Not discounting the fact that they sent someone from the ship with us, that individual did nothing to help and seemed to be there more to make sure that we were away than to provide any assistance. She did take her turn with my dad and me in pumping the ventilation bag to keep my mother breathing, and she gave my father the telephone numbers to the U.S. Embassy and Port Authority. But she did nothing else to assist and quickly left us.

At face-value, Carnival has promoted itself as caring about its passengers and ensuring their well-being through its membership in the Cruise Line Industry Association (CLIA). In 2009 CLIA began a campaign on behalf of the member cruise line companies, including Carnival, that the passenger's welfare is of utmost importance, particularly in the area of medical care with the following announcement: "As a result of cooperative efforts between experienced cruise ship physicians and ACEP, CLIA cruise lines traveling regularly on itineraries beyond the territorial waters of the coastal state, have agreed to meet or exceed the requirements of the ACEP Health Care Guidelines on Cruise Ship Medical Facilities as revised February 2013." ACEP is the acronym for the American College of Emergency Physicians. These standards are very detailed and specify the number of examination rooms per 1,000 passengers a cruise ship must have, recommendations regarding physicians and nurses, the availability of medical care 24 hours a day, a list of equipment and pharmaceuticals that must be maintained onboard a cruise ship, and protocols for emergency including a rapid response team that must be drilled monthly. The list of equipment includes an EKG machine and oxygen, neither of which made an appearance in the care of my mother. The medication requirements include sufficient quantities of cardiovascular and advanced life support medications for the management of cardiopulmonary arrests. The list goes on and can be found at <http://www.acep.org/content.aspx?LinkIdentifier=id&id=29980&fid=2184&Mo=No>.

However, the most recent passenger contract with Carnival states that "The Guest admits a full understanding of the character of the Vessel and assumes all risks incident to travel and transportation and handling of Guests and cargo. While at sea or in port the availability of medical care may be limited or delayed. Guest acknowledges that all or part of their voyage may be in areas where medical care and evacuation may not be available." The contract continues on to state that Carnival regards its physicians and nurses to be independent contractors for whom Carnival holds no liability: "All rights, exemptions from liability, defenses and immunities of Carnival under this contract shall also inure to the benefit of Carnival's facilities, whether at sea or ashore, servants, agents, managers, affiliated or related companies, suppliers, shipbuilders and manufacturers of component parts and independent contractors, including, but not limited to, shore excursion or tour operators, ship's physician, ship's nurse, retail shop personnel, health and beauty staff, fitness staff, video diary staff, and other concessionaires, who shall have no liability to the Guest, either in contract or in tort, which is greater than or different from that of

Carnival.” And, lastly, Carnival states again that it has no responsibility regarding the actions of the physicians or nurses: “Guest acknowledges that all Shore excursions/tours (whether conducted in the water, on land or by air), airline flights and ground transportation, as well as the ship’s physician, and onboard concessions (including but not limited to, the gift shops, spa, beauty salon, fitness center, golf and art programs, video/snorkel concession) are either operated by or are independent contractors. Even though Carnival shall be entitled to collect a fee and earn a profit from the ticketing or sale of such services by such persons or entities, Carnival neither supervises nor controls their actions, nor makes any representation either express or implied as to their suitability. Carnival, in arranging for the services called for by the physician or nurse, all onboard concessions, all shore excursion/tour tickets, all pre and post cruise airline flights or other transportation off of the ship and its tenders, does so only as a convenience for the Guest and Guests are free to use or not use these services. Guest agrees that Carnival assumes no responsibility, does not guarantee performance and in no event shall be liable for any negligent or intentional acts or omissions, loss, damage, injury or delay to Guest and/or Guest’s baggage, property or effects in connection with said services. Guests use the services of all independent contractors at the Guest’s sole risk. Independent contractors are entitled to make a proper charge for any service performed with respect to a Guest.” (Source: <http://www.carnival.com/about-carnival/legal-notice/ticket-contract.aspx>)

One month after Violet’s collapse, Carnival, with the other CLIA members, adopted the Cruise Ship Passenger Bill of Rights which includes a statement on emergency medical care: “The right to have available onboard ships operating beyond rivers or coastal waters full-time, professional emergency medical attention, as needed until shore side medical care becomes available.” (Source: [http://www.cruising.org/news/press\\_releases/2013/05/cruise-industry-adopts-passenger-bill-rights](http://www.cruising.org/news/press_releases/2013/05/cruise-industry-adopts-passenger-bill-rights))

The Cruise Vessel Victims Safety and Security Act of 2010 requires the constant availability of medical care and specifies the credentialing of physicians and nurses.

It appears that what Carnival is professing on the one hand does not match with what Carnival does on the other hand. The company has ignored all of the guidelines and standards that it implied were adopted through the CLIA declarations. It also ignored the requirements of the 2010 act. The response time to my mother was not “rapid” nor was it handled as an emergency should be handled. No one from the ship’s crew stepped forward to assist other than possibly calling a medical responder who did nothing when she arrived. The bottom line is that Carnival was not prepared to handle a medical emergency. As a result of lack of preparedness, my mother died unnecessarily when, as we learned later, she possibly could have been restored to good health if help had arrived and she had been treated as a true emergency. No other family should experience what we have gone through this past year. This must change.

We have attached below a list of recommendations to improve the availability and quality of medical care on cruise vessels based on our experiences, our observations, and what we have learned since my mother’s event on April 18, 2013.

Respectfully,

AMANDA AND BUTCH BUTLER

Having lost my mother and my father losing his wife, we are both dedicated to making a change in how the cruise ship industry functions. There are very easy steps that can be incorporated into law that will save hundreds of lives each year. My father and I would like to see several changes including:

*AED Machines* should be placed throughout each ship with locations clearly designated and discussed during the initial safety meeting. We would like to see these ships be as equipped for emergencies as airports and planes.

*CPR (Basic Life Support)* training and certification should be a requirement for all personnel that work on cruise liners. This requirement is based on the general age of many individuals who vacation aboard cruise ships. In addition, ship’s personnel must be trained on how to respond to medical urgent or emergent situations including alerting and summoning medical personnel, initial response to aid the passenger and family, and providing manual assistance, as required, to medical personnel.

*The English language* should be a requirement of all ship’s personnel on the vessels that have United States ports of call. At a minimum, all personnel should be required to understand key words such as, emergency, help, doctor, etc.

*Twenty four hour health care* is necessary given that these ships carry several thousand people per cruise. In Violet's case, her life would have been saved had the medical facility been staffed and ready for immediate response.

*Ships' Doctors* must have United States medical board credentials in emergency medicine or internal medicine and have served a practicum before being allowed to care for the lives of thousands of United States citizens on each cruise. A physician must be present or on call for immediate response at all times.

*Enhancing the Safety Briefing* to include the location of the medical facilities, and steps to take during an medical event if it should be necessary. Also mandatory in the safety briefing are the following: The location and use of AED machines; How to report an incident and/or reach out for police/security assistance in the event of a medical emergency. In the current circumstance, security officers who were present on that date offered no assistance other than blocking fellow passengers from seeing that someone had collapsed on the floor.

*For the cruise lines that accept children as cruise passengers*, pediatric care must be readily available. The rationale for this requirement focuses on the observation that children are not miniature adults when receiving medical treatment. Many infirmities are unique to children and require treatment quite distinct from that given to adults. And infirmities that are common to both adults and children are often treated differently for children than for adults. The American College of Emergency Physicians recommends that at least one physician be trained in pediatric advanced life support. Other infirmities or traumas could be managed via Telehealth consultations with a U.S. based pediatric medical facility.

The CHAIRMAN. No, thank you very much, Ms. Butler.

Just for the benefit of the members of the Committee, what Amanda Butler has been talking about in part is, I would have to lose 60 years off my present life length and have triple-strong glasses and probably a magnifying glass to be able to read what you're talking about.

Ms. BUTLER. Yes.

The CHAIRMAN. This is—I gave it to Bill Nelson. He's getting older, too. You give up your—

Ms. BUTLER. You give up your rights.

The CHAIRMAN.—your liability, and you have no idea that you're doing that. One, because you can't read this thing.

I'm breaking protocol here and I apologize. But you give things up. You don't know what. You can't possibly read this. When you're buying a ticket, you're kind of in a hurry. That's the whole point. And in this is your whole trip, so to speak. It's just deceitful to me, easy to correct, and unnecessary.

Ms. BUTLER. If you don't mind, could I make one more statement, Senator?

The CHAIRMAN. Yes.

Ms. BUTLER. Carnival is suing my father and myself over \$1,200, literally, for the lack of medical care that we received after they dumped us off on an island completely alone. You do give up all of your rights. My mother was left in the hot tropical sun and she did not have a chance because of the way that they treated her medically.

The CHAIRMAN. I thank you, and I apologize to my colleagues for interrupting protocol.

Kim Ware was a passenger on the Carnival Triumph that caught fire in 2013 and was stranded for 4 days, which I really want to hear about. I don't know how one gets stranded for 4 days on a cruise ship.



**STATEMENT OF KIMBERLY A. WARE**

Ms. WARE. Chairman Rockefeller, Committee members: My name is Kim Ware. I am from Houston, Texas. I am the mother of five children and three grandchildren. My family and I have cruised many times. We love cruising and I naively had never given a thought to the possible dangers onboard a cruise ship.

Being weary of the cold, in February 2013 my boyfriend Ed and I booked a last minute cruise on the Carnival Triumph to enjoy some sun in Mexico. For the first 2 days of the trip, everything went as planned. As we went to bed on the second day, we had no idea of what was to come. The passengers of the Carnival Triumph would be adrift at sea for 4 days, living in horrendous conditions.

In the early morning hours of our third day at sea, we were awakened by an emergency announcement that sounded ominous. Ed quickly jumped up and went onto our balcony, where he saw a great amount of smoke coming from the back of the ship. We immediately knew it was a fire. Fear overcame me immediately, as during our muster drill the crew had repeated over and over that fire was our gravest danger while at sea.

Shortly thereafter, the cruise director informed us that there was a situation in the engine room. There was confusion among the passengers as to whether to go to the muster stations or not. Several hours later, our worst fears were confirmed. There had been a fire. It was out, but we were dead in the water—no power.

Eventually, the giant ship began to list and, as you can imagine, this caused a great deal of fear among the passengers that the ship was going to capsize. It was soon very clear that Carnival Cruise Lines had no plan in place for such a disaster. They were essentially winging it.

Conditions aboard the ship began to deteriorate quickly. There was no electricity. We had water intermittently. We were informed that the sewage system no longer operated. All passengers were given red bio bags to use instead of the toilets. As passengers understandably did not want to use the bags, all public toilets onboard the ship were quickly filled to the top with human waste. The sewer system quickly backed up and came out of the shower drains, and later red bio bags lined the hall filled with feces. The stench was terrible and sanitation aboard the ship was nonexistent.

I was one of the very fortunate passengers who had a balcony cabin. The unlucky passengers who had booked inside cabins had no access to fresh air or sunlight. These passengers were forced to move their families to mattresses in the hallways on upper decks or onto the lounge chairs on the pool deck, where sheets were quickly raised as protection from the sun. A tent city was born.

These passengers suffered the worst hardships. It was very disconcerting to see the elderly and young children in these circumstances. I couldn't help but wonder if the elderly had enough medicine with them, had the parents of the babies packed enough diapers.

The crew was doing its best to provide us with meals. However, passengers waited hours in line for food. Hoarding food became a problem as people were concerned that food would run out. I wit-

nessed many heated arguments among passengers over food hoarding.

The buffet no longer looked clean. People who had not bathed in days were handling serving utensils and food. With the unsanitary conditions of the food service and the sewage problem, it is a miracle that a massive viral outbreak did not occur.

I was constantly in fear of becoming sick in these conditions. We tried to stay out of the public areas as much as possible.

In truth, the entire ship had quickly become a refugee camp. I was very concerned that violence was going to erupt as passengers struggled with these living conditions. There seemed to be no security at all. At night, the ship became very dark and I never saw any type of security patrolling the ship.

As time slowly dragged on, the plans to get us back to shore kept changing. First we would go to Progresso and be flown out. Then the plan was for tugs to take us back to Houston. The final decision was that tugs would pull us into Mobile, Alabama. This decision was made with no thought to the passengers onboard. Going to Mobile caused the passengers to endure the miserable conditions aboard the Triumph for an extra 24 hours.

With no way to communicate with my family and days adrift at sea, I felt as though the cruise would never end. I finally broke down and cried.

Upon return home, the only communication I received from Carnival was a letter with a \$500 check and a refund voucher toward a future cruise. This seemed to me inadequate for the danger I was put in aboard the Triumph.

After being home a while, I realized that I had put my trust in the cruise industry with no knowledge of what would happen in the event of a real emergency situation. I now know that Carnival sent the Triumph out with only four of the six generators working and with knowledge of a potential fire hazard in the fuel lines. I wish I had known these things prior to setting sail.

I feel that the cruise ship industry has a duty to provide not only a great vacation for passengers, but to ensure their safety at all cost and to impart the utmost care when an emergency arises. Information should be made public of problems occurring on cruise ships so that future passengers can make educated decisions on which lines to travel.

Further, passengers should have the right to pursue compensation for any wrongdoing on the cruise industry's part.

Cruising is a wonderful way for families to vacation together. However, cruising needs to be made safer for all U.S. citizens. My hope is that Congress will pass legislation to ensure that the cruise industry abides by strict standards for passenger safety so that a future disaster of even greater magnitude aboard a cruise ship can be avoided.

Thank you for your time.

[The prepared statement of Ms. Ware follows:]

#### PREPARED STATEMENT OF KIMBERLY A. WARE

My name is Kim Ware. I am from Houston, Texas. I am the mother of five children and have three grandchildren. For the last six years, I have worked as a Health Care Recruiter.

My family and I have cruised many times. We love cruising and I, naively, had never given a thought to the possible dangers onboard a cruise ship.

Being weary of the cold in February of 2013, my fiancé and I booked a last minute cruise on the Carnival Triumph to enjoy some sun in Mexico. For the first two days of the trip everything went as planned. As we went to bed on the second day, we had no idea of what was to come. The passengers of the Carnival Triumph would be adrift at sea for four days living in horrendous conditions.

In the early morning hours of our third day at sea, we were awakened by an emergency announcement that sounded ominous. My fiancé quickly jumped up and went onto our balcony where he saw a great amount of smoke coming from the back of the ship. We immediately knew it was a fire.

Fear overcame me immediately, as during our muster drill the crew had repeated over and over that fire was the gravest danger while at sea.

Shortly thereafter, the cruise director informed us that there was a “situation” in the engine room.

There was confusion among the passengers as to whether to go to the muster stations or not.

Several hours later our worst fears were confirmed. There had been a fire. It was out, but we were dead in the water. No power.

Eventually, the giant ship began to list. As you can imagine, this caused a great deal of fear among the passengers that the ship was going to capsize.

It was soon very clear that Carnival Cruise Lines had no plan in place for such a disaster. They were essentially winging it.

Conditions aboard the ship began to decay quickly. There was no electricity. We had water intermittently. We were informed that the sewage system no longer operated. All passengers were given red bio bags to use instead of the toilets. As passengers understandably did not want to use the bags, all public toilets onboard the ship were quickly filled to the top with human waste. The sewer system quickly backed up and came out of the shower drains. And later, red bio bags lined the halls filled with feces. The stench was terrible and sanitation aboard the ship was non-existent.

I was one of the very fortunate passengers who had a balcony cabin. The unlucky passengers who had booked inside cabins had no access to fresh air or sunlight. These passengers were forced to move their families to mattresses in the hallways on upper decks, or onto the lounge chairs on the pool deck where sheets were quickly raised as protection from the sun. A tent city was born. These passengers suffered the worst hardships. It was very disconcerting to see the elderly and young children in these circumstances. I couldn't help but wonder if the elderly had enough medicine with them. Had the parents of the babies packed enough diapers?

The crew was doing its best to provide us with meals, however, passengers waited hours in line for food. Hoarding food became a problem as people were concerned that food would run out. I witnessed many heated arguments among passengers over food hoarding. The buffet did not look clean and people who had not bathed in days were handling serving utensils and food.

With the unsanitary conditions of the food service and the sewage problem, it is a miracle that a massive viral outbreak did not occur. I was constantly in fear of becoming sick in these conditions. We tried to stay out of the public areas as much as possible.

In truth, the entire ship had quickly become a refugee camp. I was very concerned that violence was going to erupt as passengers struggled with the living conditions. There seemed to be no security at all. At night, the ship became very, very dark and I never saw any type of security patrolling the ship.

As time slowly dragged on, the plans to get us back to shore kept changing. First, we would go to Progresso and be flown out. Then, the plan was for tugs to take us back to Houston. The final decision was that tugs would pull us into Mobile, Alabama. This decision was made with no thought to the passengers onboard. Going to Mobile caused the passengers to endure the miserable conditions aboard the Triumph for an extra 24 hours. With no way to communicate with my family and days adrift at sea, I felt as though the cruise would never end. I finally broke down and cried.

Upon return home, the only communication I received from Carnival was a letter with a \$500.00 check and a refund voucher towards a future cruise. This seemed to me inadequate for the danger I was put in aboard the Triumph.

After being home awhile, I realized that I had put my trust in the cruise industry with no knowledge of what would happen in the event of a real emergency situation. I now know that Carnival sent the Triumph out with only four of the six generators working and with knowledge of a potential fire hazard in the fuel lines. I wish I had known these things prior to setting sail.

I feel that the cruise ship industry has a duty to provide not only a great vacation for passengers, but to insure their safety at all costs and to impart the utmost in care when an emergency occurs. Information should be made public of problems occurring on cruise ships so that future passengers can make educated decisions on which lines to travel. Further, passengers should have the right to pursue compensation for any wrong doing on the cruise industry's part.

Cruising is a wonderful way for families to vacation together. However, cruising needs to be made safer for all U.S. citizens. My hope is that Congress will pass legislation to insure that the cruise industry abides by strict standards for passenger safety so that a future disaster of even greater magnitude aboard a cruise ship can be avoided.

Thank you for your time.

The CHAIRMAN. Thank you very much, Ms. Ware.

I'm going to start the questioning, to be followed by Senator Wicker, Senator Nelson if he comes back, and Senator Begich and Senator Blumenthal, who is a 29 year Attorney General of the State of Connecticut and one of the most astute questioners I have ever listened to. But you're last, so be patient and stick around.

Last year—this is going to be a question for you, Ms. Butler. Last year the major cruise lines adopted what they call a Passenger Bill of Rights. Now, we've done that in the airline industry and we pretty much enforce it. One of those so-called rights is that passengers have the right to, quote, "full-time professional emergency medical attention as needed until shoreside medical care becomes available." That's their language, not mine.

A few weeks ago, senior representatives from the Cruise Line International Association, which I affectionately refer to as "CLIA," told my staff that cruise lines have a duty to provide passengers competent medical care.

My question to you is, would you say that the medical care provided to your mother—in the first iteration, it was "full-time professional emergency medical attention as needed until shore medical care became available," and then all of a sudden it became "competent medical care." So my question to you is: Was the medical care provided to your mother competent?

Ms. BUTLER. No. They did everything wrong. We were expecting that one of the security guards would step forward to initiate CPR. Instead, they waited at least ten minutes to even call for someone to come down and look at my mother's body to see if she was breathing or not. In that case, she was not breathing. She did not have a pulse.

To top it off, the infirmary was closed. So we had to wait literally for them to turn everything on. They had to unlock the defibrillator, the AED, out of a closet and then plug it into the wall. They had to set up their own hospital while we were standing there waiting and my mom's not breathing. It was horrific and completely unacceptable for an American citizen.

The CHAIRMAN. Now, in your mother's case, Carnival claims that it has and had no duty to provide medical care, no duty to train or supervise medical staff, and no duty to make the sick bay available. Further, they claim no duty to provide medical equipment, like basic automatic external defibrillator machines.

So, Ms. Butler, when you bought your ticket for the cruise did you understand that if you accepted medical care provided by the cruise line you would be doing so at your own risk, at your own

cost, and that the cruise line would deny liability for the quality of the care?

Ms. BUTLER. We had no idea. We couldn't read the font. It was tiny. You have to click a link and click "Yes, I Agree" to even be able to print off your ticket. But you can't see what they're trying to hide. And the average lay person—we're a humble family from Mississippi. We didn't own—we don't own a magnifying glass and we weren't going to print it off and then try to figure out what their legal jargon or lack thereof was hidden in the contract.

The CHAIRMAN. Plus you assume a certain level of responsibility, right?

Ms. BUTLER. Yes, yes.

The CHAIRMAN. Do you all have, Senator Begich, Senator Blumenthal, do you have this in your folder? I would just like to have it passed to each of you. I've circled the word "liability," but it's unbelievable. I can't read any of it.

Ms. BUTLER. Neither could we.

The CHAIRMAN. At the beginning of a voyage, the cruise lines provide safety—and this is to anybody—provide safety information at a, quote, "muster drill" to help passengers prepare for an emergency like a fire or a wreck. This information helps passengers prepare and know what to do in the event of an emergency.

My question is for the panel. Many of you experienced emergency situations that you were unprepared for. Did the cruise lines provide any information on what to do in the event of criminal or medical emergency? I'm asking any of you.

Ms. DISHMAN. Senator, no. In my situation, no, the cruise line did not.

Ms. BUTLER. In our situation as well, Senator, no. And it would be very simple to just add: Oh, by the way, our medical infirmary is on yadda-yadda floor. We had no idea where to go.

The CHAIRMAN. The obvious question: would have—if you had had this information, that might have helped, right?

Ms. BUTLER. If we had the information we could have saved her life. Someone should have given her CPR.

The CHAIRMAN. OK. Well, I've got more questions, but my time is up for my first round. So I go to Senator Begich.

#### **STATEMENT OF HON. MARK BEGICH, U.S. SENATOR FROM ALASKA**

Senator BEGICH. Thank you very much, Mr. Chairman.

I appreciate the opportunity to have you all here today and thank you for sharing your story. Let me ask you—and I think, Ms. Butler, you gave some suggestions, if I remember the lineup here and my writing here. You had suggested AED machines should be more visible or available, I think. I'm not sure if that's the right word, but tell me what you mean by that?

Ms. BUTLER. We've been told that Carnival does have defibrillators, AEDs, but they keep them locked up because they're afraid that the passengers may steal them.

Senator BEGICH. And your comment about CPR training to make sure that employees—all employees or employees related to security? Help me understand what you were thinking there, too?

Ms. BUTLER. At the very least, security when people are coming back onboard from excursions.

Senator BEGICH. There is part of the proposal that the Chairman has is to make sure that there's information available to potential passengers or customers. Let me ask you a question. When you were researching your desire—was this your first cruise or second or—

Ms. BUTLER. We've been doing this for years.

Senator BEGICH. OK, so you're a cruiser.

Ms. BUTLER. Used to be.

Senator BEGICH. In Alaska, we have a lot of cruise ships, so I understand.

So when you go look for a cruise, just tell me how you go about that when you want to go?

Ms. BUTLER. I'll be honest. I have a cousin that organizes our family reunions, so she picks it out and we all basically chip in for all the tickets.

Senator BEGICH. Do you—well, maybe I may not be able to ask you. Maybe I can ask one of the other two this question. I'm trying to find out, when you go on line—I have not done a cruise. I am very familiar with cruises, let me make that very clear, with over a million passengers coming to Alaska every year, from everything from small cruises to the big Disney cruises, Carnival, Princess, and so forth. I've been on many of the ships, but have not done a full-scale cruise.

When you go online to look up what you want to do, do you—in your mind are you looking for not only what your location is, what you're interested in, but do you decide, jeez, I want to know how safe this cruise is? Does that come across? Is that one of the thoughts that you have?

Ms. BUTLER. You assume that if you're leaving out of a U.S. port that you have U.S. health care and safety, period. It was just an assumption.

Senator BEGICH. Here's where I'm trying to go, and anyone can answer this. And I appreciate the Chairman's piece of legislation, but in it it talks about putting a lot of information on the Department of Transportation website. My guess is that is not a place you would go to if you were going to look up a cruise and think about the safety of a cruise.

Do you see where I'm going?

Ms. BUTLER. Yes.

Senator BEGICH. In other words, if you're going onto a cruise site and you're thinking, I want to go on a cruise to the Mediterranean, I wonder how safe this cruise is, let's say that is your question. Would your first instinct say go to DOT's website?

Ms. WARE. No.

Senator BEGICH. Where would that be?

Ms. WARE. I think all of us would go to Travelocity, Expedia, Cruise.com, something like that. But I think the assumption is there, just like with air travel, that—I thought regulations were in place. A corporation as large as Carnival, with a reputation to uphold, I just assumed that they would have great safety measures in place on ships of that size. I was naive.

Senator BEGICH. No, I understand that. I'm just trying to figure out—what I'm worried about—and I've told the Chairman this—adding another layer of information, but then the customer has no idea where that information is.

Ms. WARE. Maybe they could put something on Expedia saying go to this site.

Senator BEGICH. I'm just trying to figure out what is the better—go ahead. I'm sorry.

Ms. DISHMAN. Well, definitely every cruise line needs to have an updated reporting on their website. In regards to the transportation, to me that would fall along with airline or train or if I was a consumer looking for something that involved all different types of transportation and incidents that occurred. But the regular consumer may go to that Royal Caribbean or Carnival website or even a travel website.

But you should be able to know what type of crimes occur aboard ships when you're planning your family vacation. I mean, the television commercials give you this false sense of let your kids go and have fun and do what you want to do while you're on the cruise. And I feel that the different crimes and things that happen need to be reported, and I feel all of them need to be reported, not just if they're opened and never closed. I believe they all need to be reported.

Senator BEGICH. Do you think that should be the case for all types of transportation?

Ms. DISHMAN. I don't know. For a family—after what you've learned, what I didn't know, because I had the false sense when I left out of San Pedro-Los Angeles I thought I was taking all my rights with me and didn't know that it was flown under a Liberian flag and that they were the ones that the law was under.

Senator BEGICH. Very good. Thank you very much.

The CHAIRMAN. Thank you, Senator Begich.

Senator Blumenthal.

**STATEMENT OF HON. RICHARD BLUMENTHAL,  
U.S. SENATOR FROM CONNECTICUT**

Senator BLUMENTHAL. Thank you, Mr. Chairman, and thank you for championing this bill, which I am very, very proud to co-sponsor. Thank you for having this hearing, which gives us an opportunity to really not only express our support and sympathy, but also to make you a part of the crusade for this legislation, which will really in a sense make something good come of your horrific experiences.

I have a family who is a constituent family in Greenwich who suffered very tragically a loss that in some ways is reminiscent of yours, a loss that still is with them. George Smith IV vanished, literally disappeared, sometime overnight going into July 4 of nine years ago. He remains missing since 2005. There was blood on the ship when it went into a harbor. The crime scene was never secured, let alone adequately investigated. His death remains a mystery today, much to the understandable consternation of his family.

His death is with us still in Connecticut. It is a grievous reminder that the rights of people who suffer as victims of crime

while at sea are completely inadequately protected, as, Ms. Dishman, you have reminded us so dramatically and graphically.

That's the reason that these kinds of limitations on liability make a mockery of the implicit promises that are made to passengers on cruise ships that they will be kept safe. That's the minimal obligation that a cruise ship has to its passengers, to keep them safe. It can't guarantee that they will be happy, that they will always be celebratory, that the weather will always be good. But to keep them safe is a minimal obligation.

In each one of your instances and examples, the cruise ship failed in that basic obligation and passengers were left without remedy, and without hope of real recovery. And in your instance, Ms. Butler, what happened to your mother may well have been avoidable and unnecessary in its ultimate consequence. You have my special sympathy in that regard.

So we are really trying to impose minimal protection on cruise ships, and that's the purpose of the Cruise Passenger Protection Act. It imposes standards of decency, standards of minimal, basic decency and fair dealing on cruise ship lines.

I'd like to ask you, Ms. Butler, whether you have taken any legal action. I note in your testimony that you consulted with an attorney and he advised you as to where you had to file suit and some of the basics of the law in this area, and I wonder whether you've taken any legal action?

Ms. BUTLER. Yes, we have. John Arthur Eaves and Frank Spagnoletti have picked up our case.

Senator BLUMENTHAL. And has he indicated to you that there are obstacles because of the way the law is now structured?

Ms. BUTLER. Death on the high seas, it's—literally, it's David versus Goliath and we're David.

Senator BLUMENTHAL. So passengers like yourself are not only on an island, as the chairman indicated, passengers are not only on an island in the high seas, but it's a lawless island.

Ms. BUTLER. Exactly.

Senator BLUMENTHAL. Ms. Dishman, if I may ask you, have you taken any legal action?

Ms. DISHMAN. Yes, I did.

Senator BLUMENTHAL. Has your lawyer advised you as to obstacles that are in your way because of the inadequacy of the law?

Ms. DISHMAN. Yes, and I experienced several different challenges and things that occurred in regards to my case.

Senator BLUMENTHAL. Ms. Ware and Mr. Gerson, let me ask you the same question. I know you are an attorney, so let me ask you whether you've taken legal action on behalf of your client?

Mr. GERSON. Indeed, I did, and my client's case was settled, for a handsome sum, I must say, just recently. And I would comment on Ms. Butler's situation, that I litigated a very similar case for 7 years involving the anoxic brain injury to a 26-year-old third year medical resident from Ohio who collapsed on a treadmill onboard the ship in the presence of the fitness center director, who took no steps at all to resuscitate her, and there was a factual dispute over the length of time she was down without any defibrillation.

There are international treaties that require crew members to be trained in CPR, and the position that the cruise lines take is that



the training is only advisory; they're not required to use it and it's discretionary as to whether or not they want to use it, and Federal maritime law is that they're not legally responsible if they don't use it. And they didn't use it in this case, and this young woman, who had a brilliant career ahead of her, essentially lives the life of a vegetable today, with no recovery.

Senator BLUMENTHAL. Thank you.

Ms. Ware?

Ms. WARE. Yes, I have taken legal action, and I did not know that by signing that ticket I was giving up all my rights according to Carnival for compensation.

Senator BLUMENTHAL. Mr. Chairman, again my thanks for having this hearing. I'm going to ask that a letter from my Connecticut colleague Congressman Jim Himes be entered into the record in support of this legislation, and that concludes my questioning.

I'm out of time, but I really want to thank you again for being here today. Thank you.

[The information referred to follows:]

CONGRESS OF THE UNITED STATES  
4th District, Connecticut, July 23, 2014

Senator JAY ROCKEFELLER,  
Chairman,  
U.S. Senate Committee on Commerce,  
Science, and Transportation,  
Washington, DC.

Senator JOHN THUNE,  
Ranking Member,  
U.S. Senate Committee on Commerce,  
Science, and Transportation,  
Washington, DC.

Dear Chairman Rockefeller and Ranking Member Thune,

I want to thank you both, my friend and colleague Senator Blumenthal, and the other members of the Senate Commerce Committee for turning their attention today to the important issue of improving protections for cruise passengers. This is a personal issue for me. It has profoundly affected a family in my district and Senator Blumenthal's home state. In 2005, George Smith IV of Greenwich went missing while on his honeymoon cruise in the Mediterranean Sea, but the investigation surrounding his disappearance remains open to this day. Many blame poor safety regulations and lax oversight of crime scenes on vessels that operate outside of U.S. territorial waters for the lack of information surrounding Mr. Smith's disappearance. Since his apparent death, Mr. Smith's family has been fighting for regulations that would improve safety on cruise ships and protect cruise ship passengers.

The fight that began for the Smith family in 2005 and continued through the signing into law of The Cruise Vessel Security and Safety Act in 2010, continues today with The Cruise Passenger Protection Act. This bill builds on the work we did in 2010 by adding in tighter crime reporting requirements, expanding video surveillance equipment and record-keeping requirements, and streamlining the Federal government's tracking and public reporting of alleged crimes on cruise ships. It is safety improvements like these that will help prevent more avoidable tragedies like the Smith family's, and I remain just as committed today as I was when I took office to improving crime reporting and consumer safety onboard cruise vessels. I once again thank the Senate Commerce Committee for its leadership on this important but oft-neglected safety issue, and urge this bill's swift passage.

Sincerely,

CONGRESSMAN JIM HIMES (CT-4)

The CHAIRMAN. Thank you, Senator Blumenthal.

There are a lot of questions, a lot of questions.

Do you know, the thing that amazes me is you have a very profitable industry. They make a lot of money. They're very popular. I think their popularity will continue to increase. Many people have a pleasant experience. They pay virtually no taxes in the United States, even though they're based in Miami and a couple of other places.

Everybody thinks they're getting on an American ship, but they're getting on a Panamanian. You know, it's always registered in some other country where there are no taxes and there is no sense of accountability or responsibility.

And I say to myself, why is it that they are so resistant to making some basic changes on things which are so obviously going to come back to haunt them? We understand that 90 percent plus or whatever, whether it's a 3,000-person boat or a 6,000—now I think they're building them 6,000 to 7,000 passengers.

If you're making the money, you don't have to pay taxes, you don't pay the Coast Guard for when they come to bail you out and drag you, or when the FBI is involved you don't pay them. They have a free ride. They make a lot of money. They have a very good future.

So why not, as a matter of business sense—forget humanity for the moment, but just as a matter of business sense—wouldn't they take steps to clear up some of these problems we've been talking about? I mean, I remember when my wife and I—I'd never done CPR and our children were in high school. We went and took a lesson in CPR, which I got through, and I think probably 3 days later I couldn't have repeated what I did, because there wasn't a focus, there wasn't the same focus, because it was all something that might or might not happen.

Why don't they make these, voluntarily make these things? Why don't they inform you?

I remember—I've said this a number of times in this committee—I come from a state with a lot of coal, and coal's a dangerous occupation, but it's one where miners can be kept safe if you ventilate the mines and you pay attention. Operators for the most part don't. They just get the coal out, and the miners take their losses and get black lung and die from black lung. But the companies continue to be profitable.

I don't understand why the cruise industry doesn't spend the money to fix some of these problems, because it would inure to their benefit. It would protect them from people like me and Senator Blumenthal and others who are determined to make them do what they should be doing, and we'll do that no matter how many years it takes. But they just push us away. They don't want to talk. They don't want to discuss, just like they didn't want to react to any of your situations.

In modern society, if you're in bankruptcy that argues for not doing anything. But if you're not in bankruptcy and you're making a lot of money and these are really good people that you have, why wouldn't you do that? I simply don't understand that, and that sense of frustration, the sort of corporate mentality of "You're from the Federal Government; don't do anything about this. What you're doing is you're talking about regulation."

Well, yes, we do regulation, and we did it on the airlines when pilots were flying way over their limit of being alert and they had a big airplane crash in Lackawanna, New York, and a lot of people were killed on a twin-engine, this style, not jet, and the pilots had gone a long time without sleep. So we put on requirements they have to have before they get on an airplane to fly, they have to have eight hours of sleep. If they don't sleep, OK, they don't sleep,

but they have to have that time to be able to sleep, with time on each side to prepare for that and then to get up from that.

If that's government running roughshod over an industry, that's just not true. It's just not true. It's just common sense protection of passengers. Airlines are the safest thing you could possibly be on. You wouldn't know that reading international news recently. Stay away from certain countries and air spaces.

But I don't understand why they won't do it. So one of the reasons that we have had this hearing today and you have been patient enough to put up with it and to answer questions and tell your stories is to put certain colleagues on this committee in a position where they need to help.

One of our colleagues said, well, we should pass this as a separate bill and you shouldn't attach it to the Coast Guard bill. Everybody knows that the Coast Guard bill is a bill that you've got to pass. The cruise ships want the Coast Guard bill to pass. But if you separate them, the Coast Guard bill will pass, the cruise ship bill will get flushed down the toilet.

So you don't allow that to happen. You hold them accountable. It's done in life, it's done in business, it's done in family situations. You have to take responsibility.

So I've got a lot of questions here, but I don't feel the need to ask them because most of them have been in part responded to. This whole idea of a hotel versus a city, you know, it's mystifying. When we had our last hearing, the representative of CLIA, which is their lobbying organization, sat right where you're sitting, Ms. Ware—you may want to move—

[Laughter.]

The CHAIRMAN.—and just dismissed it all. We're doing everything we possibly can. People have a responsibility for their own safety.

Well, that's true, but when—General Motors is discovering that when certain things don't work in GM cars the entire Nation gets interested, and then they're pulled before Congress and they've got to end up paying a whole lot of money to change their ways and to learn how to run a company with the consumer in mind.

I'll just give you one sort of final example. People often dismiss people that are trying to help consumers, protect consumers. This committee used to be kind of—the Commerce Committee was more business-oriented. Now we've tried to make it people-oriented, consumer-oriented. That's what it's meant to be.

I just give you this just to contemplate, because it sounds so stupid, but it affects people's lives so directly and it's so nasty. People move and so they call a mover. And not in all cases, but in some cases the mover comes and they sign a contract, they load all of their belongings onto the van, the mover goes five miles and then goes into an alley and calls them up and says: We're going to triple your price. Sorry about that, but we're going to triple your price. You have to pay us three times more money than the contract you signed. You can go get a lawyer if you want, but you're not going to get your furniture back because you don't know where we are.

It's a horrible thing. You just don't let that stuff pass by. So we're making life more difficult for them and better for the consumers.

I don't know. You all made a trip with good spirits, with good thoughts, with enthusiasm, and ran into terrible problems and there was nobody to help you. Now, if you had been going on a little rowboat or something that would have been one thing. But you were going on a huge corporation's ship, who had all the experience and the wherewithal, the money, to solve your problems if you ran into them. But they just didn't.

The tent city concept that you were talking about, that's famous throughout the world now because it was such a vile thing to do to people. Corporations have to be responsible.

This committee exists, as do others in other areas, to do oversight, to find out if they're carrying out their businesses properly, with care. Some mistakes can happen. We understand that. But when there's this attitude of just neglect—and I was asking behind me and I'm not sure the answer, but I sort of remember the last hearing that when you sign the ticket with that invisible print, that many pages, you give away your liability and all the rest of it, your ability to have recourse, but I believe—and I may be wrong, and if I am I forgive myself, but this is what I remember—that it was in the signing of the ticket, after your signature was on the ticket, it was then that you were able to, not take—you were able to take the sticky covering of the next page, which had that liability clause, which of course you weren't going to go to look at, and you couldn't read it even if you decide you wanted to. And then you could see it, if you could see it.

That's awful behavior if it was true, and I'm not saying it was true. I remember that is the case, but I may be wrong.

But I don't have to be right about that, because what happened to you was just simply wrong in a modern society from corporations that are doing very well, are on the upswing, and have every right to want to make people have a happy experience and to make sure that they do, because everybody knows that not everything works out the way it should. There will be problems, 4 days waiting, stranded, and a mother who didn't get any attention and a 15-year-old girl who gets raped, and your own case, Ms. Dishman.

You don't let stuff like that pass, particularly if it happens with a certain degree of consistency. So that's why we've had this hearing. It's all in the record. Everything you said is all in the record. And that bill, if we're going to pass the Coast Guard bill, which I'll tell you those cruise lines want because they need that Coast Guard, and that Coast Guard is so broke it has ships that are very, very old, but they still function, and they're still used by the cruise ship lines.

The minority leader speaking, asking why do we have to do these things, why can't we do them separately, well, he had a very clear purpose for asking that question, because he knew if we did it separately the Coast Guard thing would pass and the cruise ship thing would fail. It's my job as chairman to make sure that we don't play the game that way.

So I just want to, I want to totally thank you, one, for talking about experiences that are not comfortable to talk about, doing so in a very forthright way, for educating this panel. And believe me, just because not all the members are here, a lot of the staff is, and

it's always the staff that really counts. If you've got good staff you're going to be a good Senator. If you don't, well.

So I'm not going to carry this hearing forward, because I think the points that need to be made have been made, and that's because you have made them clearly and with firmness and with certainty, and with a degree of anger, which I share. So wherever you've come from, go back safely, and I thank you.

This hearing is adjourned.

[Whereupon, at 4:08 p.m., the hearing was adjourned.]



## A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV  
TO LAURIE DISHMAN

*Question 1.* Passengers can be in for a rude awakening when a crime happens on a cruise ship,—you can't just call 911 to get the police to come investigate the crime, you can't go to a U.S. hospital for treatment, and you can't always just get off the ship or away from your attacker. How important is it that passengers have an understanding of the number and types of alleged crimes that occur on cruise ships? Many parents and children take vacations on cruises ships, is it important to publicly report the number of alleged crimes that occur against children? Do you think many parents are aware of the crimes that occur against children? Are we providing enough onboard support and assistance for victims on ships?

Answer. Yes, it is very important. Passengers need to be informed about the types of crimes and number of crimes that occur on cruise ships. A passenger needs to know a ship of 6,000+ (floating city) guests and crew has, NO Police department, NO Fire Department, NO hospitals like in the U.S. An American citizen would not take a vacation to a city without being aware of these kinds of crimes that occur before traveling.

Parents are not aware and need to be because these crimes are happening often. The advertisements give a false sense of security with supervised activities that you can let your children be a part of while on the ship. Parents need to ask questions they ask a babysitter who watches their children at home to the cruise lines before allowing their children out of their site. These are strangers to you and your children that work for the cruise lines and the ship is full of thousands of more strangers who are passengers, all with NO background checks!!!

Victims do not receive enough onboard support and assistance from the cruise lines if they become a victim while on the ship. Victims of sexual assault and Rape need to have a third party assistance that can immediately assist them in person or via Skype. Speaking as a victim that was brutally raped by a crew member and I reported it right away but the Purser and head security guard immediately re-victimized me (secondary victimization) by telling me, "Ms. Dishman it sound as if you need to control your drinking." An online hotline would even help if a victim wasn't able to talk about what happened she could at least get the best assistance from an expert in the field of working with victims of Rape and sexual assault. A third party Police is also needed because if a crew member commits the crime you have a better chance for justice and an investigation not a cover up that destroys all the evidence. On a cruise ship it is actually a perfect place to capture a criminal because it is a confined location that with the proper security in place we would see more justice being served.

*Question 2.* In past hearings, we have heard from experts that cruise line contracts include "extreme limits" on the company's liability and that passengers don't understand the rights they are giving up. From your experiences working with other victims, are the contracts clear to passengers? Do they have any understanding of the rights they are giving up? Senior cruise industry representatives have told Committee staff there is a clear summary for passengers in ticket contracts. Do you agree with that assessment? How would a summary of key contract provisions be helpful? If you wanted to get more information, is there any place you can find helpful information about contract provisions?

Answer. The contracts are not clear to the passenger, the type is hard to read and the travel agent and cruise lines are directing you to look at the excursions to pre-book before the cruise. A passenger that goes on a cruise sees all the advertisements on TV that is giving a false sense of security to take a vacation of a life time.

I do not agree with the assessment and feel that the cruise lines need to acknowledge that crime can happen anywhere even on their ships and to do the right thing, and help their passengers, guests and crew when something happens.

The only thing I saw online was the CLIA Passenger Bill of Rights that I feel doesn't really say anymore than what the cruise lines ticket says of what I was able to read because the type is so small.

*Question 3.* In recent litigation, Carnival has argued that the passengers' ticket contract makes "no guarantee for safe passage, a seaworthy vessel, adequate and wholesome food, and sanitary and safe living conditions." Do you think these provisions are fair to passengers? Were you surprised to learn that these basic provisions weren't guaranteed? Do you think this is important information for passengers to know before booking a cruise?

Answer. I feel that the provisions are not fair in the contract for the passengers that are paying to take a vacation that the expectations in the color brochure and on TV commercials do not say that at all. I was not surprised after I have learned what is most important to this cruise industry more than providing a sanitary and safe living conditions for their passengers, how much money are our passengers going to spend while on our ship. . . Yes, I feel this is important information because the passengers see the color brochures and commercials on TV first and after they pay their money they get the ticket that they can hardly read and well at that point are so excited about vacation. It is when they become a victim themselves that they learn about the laws and rights that you leave at home when traveling in international waters.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV  
TO PHILIP M. GERSON

*Question 1.* Passengers can be in for a rude awakening when a crime happens on a cruise ship,—you can't just call 911 to get the police to come investigate the crime, you can't go to a U.S. hospital for treatment, and you can't always just get off the ship or away from your attacker. How important is it that passengers have an understanding of the number and types of alleged crimes that occur on cruise ships? Many parents and children take vacations on cruises ships, is it important to publicly report the number of alleged crimes that occur against children? Do you think many parents are aware of the crimes that occur against children? Are we providing enough onboard support and assistance for victims on ships?

Answer. Land-based crime prevention measures work. We have reduced serious crimes over the past few decades. This is no coincidence. It is because we have increased awareness, prevention measures, and remediation of victim's losses. Parents and children are misled to believe that the need for routine protections undertaken on land need not be utilized at sea. Except for the measures required by the CVSSA of 2010, there are no victim services for passengers or crew. We need more reform legislation to empower passengers and crew members to be able to control their own destiny and have access to the same resources available on land.

*Question 2.* In past hearings, we have heard from experts that cruise line contracts include "extreme limits" on the company's liability and that passengers don't understand the rights they are giving up. From your experiences working with other victims, are the contracts clear to passengers? Do they have any understanding of the rights they are giving up? Senior cruise industry representatives have told Committee staff there is a clear summary for passengers in ticket contracts. Do you agree with that assessment? How would a summary of key contract provisions be helpful? If you wanted to get more information, is there any place you can find helpful information about contract provisions?

Answer. Plain language disclosures are required for most products and services in the United States' commercial economy. No such disclosure is required now. In fact, cruise lines often don't even give passengers the "fine print" (which it literally is when it exists). Instead, they refer them to website postings which many cannot access and few read. In my cases, there frequently is no proof from the cruise lines that any disclosure of the contract was ever made.

*Question 3.* In recent litigation, Carnival has argued that the passengers' ticket contract makes "no guarantee for safe passage, a seaworthy vessel, adequate and wholesome food, and sanitary and safe living conditions." Do you think these provisions are fair to passengers? Were you surprised to learn that these basic provisions weren't guaranteed? Do you think this is important information for passengers to know before booking a cruise? In your experience, do cruise lines try to hide this information from passengers before they book? How do these types of provisions prevent passengers from getting justice after something bad happens?

Answer. The cruise line ticket contract is legally anchored to traditional maritime law which guarantees little or nothing to passengers. Everyone should know their



legal status onboard before they disembark. Unfortunately, almost no one does. The industry touts its safety and security record accomplishments and hides its failures. Full disclosure is a fundamental concept of commercial relationships which all Americans embrace in their everyday lives. If everyone understood the risks and the lack of remedies the marketplace would reduce passenger traffic unless the industry voluntarily provided full disclosure and effective remedies equivalent to what we expect on land that we can get in a courtroom if a resort operator violates our rights.

*Question 4.* The cruise industry tells us that we should think of cruise ships like floating hotels. They tell us that a cruise vacation should not be regulated any differently than resort vacations that happen on land. Mr. Gerson, you addressed this issue in your testimony. You say that cruise ship passengers have fewer legal rights than people who vacation at land-based hotels and resorts. Can you explain how this happens and how this puts cruise passengers at risk?

Answer. We live in a democracy. We are governed by consent. Though our democratic process we have established individual rights and public officials to enforce them. The officials are obliged to serve the interests of the public and the laws of the land.

Based on historical maritime principles, a ship is a part of the flag state. This is the country name printed on the back of most ships. Thus, passengers are actually in Panama, the Bahamas, Malta, or other foreign states which have little or none of the legal protections we all enjoy as Americans and nationals of other developed nations.

Moreover, onboard any ship the captain/master has absolute control. So, not only have passengers surrendered their United States legal rights but they cannot take any measure to protect themselves without the consent of the vessel operator acting through the captain/master.

Yes, these are floating resorts analogous to land-based environments. However, there are no constitutional rights, no laws, no courts, no police, and no rights to protect one self.

