



**New York City Council Oversight Hearing**  
**COMMITTEE ON**  
**CULTURAL AFFAIRS, LIBRARIES AND INTERNATIONAL INTERGROUP**  
**RELATIONS**  
**"Equity, Civic Engagement, and the Role of Libraries "**  
**December 8, 2022**

Good afternoon, my name is Tony Marx and I am the president of The New York Public Library (NYPL). I am joined by Dr. Brandy McNeil, NYPL's Deputy Director of Branch Programs & Services and Brian Bannon, the Merryl and James Tisch Director of Branch Libraries and Education. I would like to thank City Council Speaker Adams, Chair Ossé and the members of the committee for the opportunity to testify this afternoon on "Equity, Civic Engagement, and the Role of New York City Libraries." Equity is an essential element to the Library's mission. This is not only through free and unfettered access to knowledge and opportunity for all New Yorkers. Equity means taking this a step further by seeking out those who are systematically disenfranchised from pursuing that same knowledge and opportunity. That is why so many of our programs and services are geared towards New Yorkers living in underserved communities. Civic engagement and the ability of these communities to play a more impactful role in the policy decisions affecting their livelihood is a key tenet of this commitment to equity. NYPL accordingly seeks to give its patrons the information and knowledge they seek to become better-informed voters and more civically-minded citizens. In the years to come, we are expanding and strengthening our efforts to not only support equity across the city, but to bolster the Library's role as a force for civic engagement and civic action in our various communities.

### *Programs and Services*

One of the most essential aspects of our commitment to equity is our programs and services for school-aged children. Students in school were among the most disadvantaged New Yorkers during and following the pandemic. We also know that many primary caregivers rely on the Library as a place where their children can safely learn and develop their interests and skills. This is the rationale behind our current focus on youth and education for students of all ages. Early education services begin at birth and have been designed with the aim of preparing our youngest patrons for enrollment in primary schools. Through programs like storytime, family literacy workshops, and Pre-K for all partnerships, NYPL has established itself as the leading provider of early literacy programs and services in the city. Already this fiscal year, these offerings have reached 131,474 attendees as we continue to rebuild programming. Programs of note include our Performers in Residence initiative, which features multilingual performers and teaching artists who present eight consecutive weeks of music and movement programs for children ages birth to five and their families. Our partners include: WeBop! from Jazz@Lincoln Center, Flor Bromley, YaYa Preschool, and Bilingual Birdies, among others. We also host multilingual caregiver conversations on multiculturalism, process art, and learning and creating as a family in libraries throughout the Bronx, with a new initiative called “Be creative.” “Be creative” emphasizes visual learning as a family and targets Spanish speaking (and other major languages spoken throughout the Bronx) families; in April this program expanded from 12 to 20 branches.

In the fall of 2021, we launched our new drop-in after school program, with free homework help, tutoring, and career exploration services. NYPL After School is currently in 31 of our branches and aims to help students in historically marginalized communities keep pace with their more affluent peers, a dire need given pandemic-related learning loss. Tutors reflect multiple dimensions of diversity within age, race, disability status, sexual orientation, gender identity, and

nationality, with 17 languages represented. The tutors and children's librarians also create and execute Science Technology Engineering Arts and Mathematics (STEAM) and literacy-based activities to inspire a love of reading and learning. NYPL After School was revamped with equity in mind as it welcomes children from a range of educational and socioeconomic backgrounds. In FY22, before the program expanded to 20 additional locations, it served a total of 15,500 attendees with 1,200 programs offered. During the 2021-2022 school year, NYPL After School served at least 1,325 unique participants. Over 86% of our daily attendees to date have come from New York City public, public charter, and community schools. The remaining 14% come from homeschooling environments or local independent and parochial schools. Many of these independent and parochial schools provide financial aid and/or enroll high numbers of students with vouchers.

Our focus on responding to youth and education disparities in our city ultimately hinges upon the programming we offer to teens and young adults. Many of New York City's young adults are passing through the most turbulent times in their lives. Teen centers provide safe and stable access to free, up-to-date technologies, spaces to gather and socialize, as well as both academic and socio-emotional support. Young adults can gather at teen centers to build digital literacy through the use of new technology and tools and by collaborating on projects that help them develop the technological and media fluency they need for post-secondary success. Our flagship teen center is at our newly-renovated central circulating library, the Stavros Niarchos Foundation Library (SNFL). On any given weekday you can easily find teens from across the city there utilizing books, computers, programs, staff expertise, or a state-of-the-art recording studio. In October, SNFL hosted NYPL's first annual "The Library After Hours: Teen Takeover." Four hundred teens came to the library after hours to engage in Halloween-themed activities such as Kooky Karaoke, Murder Mystery Trivia, Creepy Crafts, and a costume contest. Thus far in FY22 (through the first week of December), the SNFL Teen Center has hosted 212 programs

with 2,294 attendees. In FY23, the Library – with significant support from the City, Google, Best Buy, and the Joly Family Foundation – is opening 19 additional teen centers in underserved neighborhoods.

Equity in services and programs extends to adults of all socioeconomic and ethnic backgrounds as well. In 2017, the City reported an immigrant population of nearly 40% with 44% in the workforce, many of these New Yorkers are undocumented, exacerbating challenges to accessing crucial information and services. Offerings like our ESOL classes, which are freely accessible to anyone who walks through our doors are key to our commitment to equity as they allow immigrants and the undocumented to breach the existing barriers barring them from these services. NYPL partners with the Mayor's Office of Immigrant Affairs on its ActionNYC initiative to provide free legal services to immigrants. The Library also hosts English Conversation Groups, Citizenship Study Groups, and applying for citizenship, civic engagement, and Know Your Rights information sessions. Over the past several months, the Library has stepped up to meet the needs of an influx of asylum seekers in search of basic needs and information on services such as housing, health care, or identification. Our Bronx Library Center branch in the central Bronx has quickly become a hub for hundreds of asylees arriving in New York City. These patrons have received free and unfettered access to our IDNYC popup location. Our branch staff have worked diligently in partnership with the IDNYC and MOIA team to expand our capacity to meet this spike in demand for both IDNYC and library services. NYPL is also hosting community events in collaboration with the New York Immigration Coalition and working with the Department of Education to distribute information and resources. We are collaborating with our fellow systems in Brooklyn and Queens and the Mayor's Office of Immigrant Affairs to supply this information to the City's new Asylum Seeker Navigation Center

NYPL is also a space for those adults seeking employment opportunities or to develop their professional skill sets. For job-seekers, we provide job training courses, one-on-one career and

financial counseling, coaching for interviews, and templates for resumes, cover letters, and emails. We also offer a robust TechConnect program, which administers courses geared toward the development of professional skill-sets such as advanced proficiency within the Microsoft Office suite, coding, and website development.

New Yorkers who face learning, cognitive, or developmental disabilities rely on NYPL for equitable access to a centralized range of offerings. This includes sensory-friendly programming for children which engages them through music, movement, stories, and activity play. Our Andrew Heiskell Library provides free access to over 50,000 professionally-narrated titles in talkingbook, braille, or digital formats for people who are blind, visually impaired, physically disabled, or who have a biologically-based reading disability such as dyslexia.

Our adult programming includes our creative aging workshops, a series of art programs aimed at promoting creativity among older adults. From April to June 2022 we hosted workshops at 20 branches, with over 1,300 attendees. Programs ranged from watercolor painting to improv acting and storytelling. As noted, equity is an essential element of all our programming, this includes services in the mental health space. In response to the pandemic's disproportionate impact on the city's Black and Latin(x) residents, the Library worked with partners at the Department of Psychiatry at Columbia University and Black Health, to create the Community Mental Health Project. The project teaches participants about mental wellness through informational animated videos, valuable resources, and a curated book list; it aims to reduce distress and trauma in racially and ethnically diverse communities and decrease the stigma of seeking help.

### *Initiatives and Collections*

While our programs and services are an indispensable piece to the Library's credibility as an institution focused on equity, there are a number of initiatives NYPL has taken on that bolster

this commitment. When Black Lives Matter protests took place across the city in the summer of 2020, we reaffirmed our commitment to social equity and fighting ignorance by expanding our digital collections on Black heritage, Black liberation, and anti-racism through our Schomburg Center for Black Culture. Within the first few weeks of its availability, our Black Liberation reading list had 35,000 checkouts. Our "Books for All" initiative is among the most recent pledges to equity. In response to recent efforts to ban certain books in some communities across the United States, the Library has made a selection of commonly banned books available to everyone for free. Many of these banned titles are relevant to the struggle facing marginalized communities across our city. Our decision to make books such as *Stamped: Racism, Antiracism, and You*, *King and the Dragon Flies*, or *Speak* demonstrate our support of the Black, LGBTQIA+, female victims of violence in New York's struggle for equal rights and justice as well as our ever present invitation to these communities to engage with our spaces and materials. "Books for All" yielded nearly 12,000 new SimplyE users and close to a 1,000 percent increase in checkouts for titles within the collection.

Beyond these specific initiatives in response to social developments across our city and the nation at large is our ongoing observance of occasions such as Women's History Month, Black History Month, and Pride month, among others. NYPL celebrates these communities by featuring special collections and events such as topically-relevant book discussions and author talks.

### *Internal Commitment*

An external commitment to equity is much more effective and credible if it is reflected by an internal one. NYPL has taken a number of internal measures in recent years with this in mind. We established a Diversity, Equity, Inclusion, and Accessibility (DEIA) office in 2018 and a staff DEIA council in 2021. In April we hired a new Director of DEIA and require DEIA and bias awareness training for all hiring managers. We also rolled out a guide to support our

transgender and gender-diverse employees and best practices for human resources, managers, and allies to support colleagues through this process. We look forward to the creation of six Employee Resource Groups and the ongoing analysis of non-union compensation to ensure pay equity across protected classes in 2023. We have incorporated this internal commitment to equity to our hiring practices. We have hired 449 staff since July 2021, among them are 239 Black, Indigenous, People of Color (BIPOC), 250 females, and 24 who identify as non-binary. Over the past two years, we have promoted six Black, Indigenous, People of Color (BIPOC) staff to senior leadership roles, with three at the level of vice president.

#### *Trusted Partner and Civic Engagement*

NYPL's presence and legitimacy as a force for equity in our city is ubiquitous across our neighborhoods of service. This pervasive credibility makes us a uniquely trusted institution, which is precisely the reason that we are regularly tapped by City government, national campaigns, and third party partners to engage New Yorkers in key initiatives. During the pandemic, NYPL worked as a partner to the City to repurpose closed branches as Learning Labs that provided remote learning and after school assistance for K through 8 students. As the Library restored full service, branches served as Covid-testing and vaccination sites and are currently places where anyone can receive an at-home test kit for free. These pandemic-related partnerships built upon existing cooperation with the City on initiatives such as IDNYC, polling sites, and cooling centers.

The trust New Yorkers have in their libraries is the same reason our branches serve as "go-to" conveners for civic engagement and voter education initiatives. While our 2020 efforts were confined to activities such as providing voter registration forms for National Voter Registration Day in our open branches and limited participation in Census 2020 outreach, the Library safely expanded these efforts in 2021 with a robust voter engagement initiative focused on the 2021

municipal elections. During the June 2021 primaries, as part of the GoVoteNYC initiative, NYPL introduced a number of voter education and civic engagement programs and outreach efforts that included Ranked Choice Voting training sessions and panel discussions targeting low turnout segments of the electorate. Following the primaries, the Library participated in efforts to encourage voter registration as part of National Voter Registration Day and held a virtual event, "New York City After the Election," which featured the perspectives of thinkers and activists at the forefront of city politics in a discussion on climate change, police reform, fair elections, and other important issues facing New York's future. Events leading up to and amid the primaries were coordinated with the help of our co-sponsors and community partners at Queens Public Library, Brooklyn Public Library, the Campaign Finance Board, the Hispanic Federation, Gothamist, and Citizens Union, among others. Leading up to the 2022 elections we continued our participation in National Voter Registration Day and maintained our partnership with the Campaign Finance Board to share an "NYC Votes" digital toolkit and collateral and cosponsor voter information sessions. In FY22, 335 programs with 4,296 participants were held to engage communities with civics through conversation and learning in programs such as Everyday Civics, Activism, Power In Print book discussion groups and Citizenship Study Groups. This included events and programs coordinated during the election season. From September to November 2022, NYPL held 25 voter registration events at 22 branches and 35 voter education/civic programming events at 21 branches.

NYPL is also a trusted partner to the City Council's Participatory Budgeting initiative. Our branches serve as spaces where a diverse range of New Yorkers can participate in valuable idea generation sessions and cast their votes for projects. Additionally, branch improvements are often selected by voters as their projects of choice. In FY22, NYPL's branch technology upgrades were the top Participatory Budgeting choice for constituents voting in the districts of Council Members Erik Bottcher (3) and Julie Menin (5). This year, we are collaborating with the



Civic Engagement Commission on their citywide participatory budgeting process, “The People’s Money,” through serving as a partner on their idea generation phase in six of our branches. We continue to partner with the City and HR&A Advisors on the “NYC Speaks” initiative, which aims to make policy decisions more informed by the direct needs and concerns of New Yorkers. The Library distributed the “NYC Speaks” initial survey to its patrons, held Community Conversations at its branches, and participated in the “Action Plan Workshop” where agencies and CBOs from around the city came together to evaluate New Yorker’s request for new and/or improved community hubs and spaces. We continue to work with NYC Speaks and the team under the Deputy Mayor for Strategic Initiatives, to determine how public libraries can play a role in collecting useful data from and engaging with our communities on issues of their choosing. This year, we are doubling down on our commitment to civic engagement, focusing on the three pillars of civic knowledge, civic attitudes, and civic actions. While fostering civic knowledge (e.g. understanding how bills are passed) and attitudes (e.g. trust in public institutions) are more familiar ground for public libraries, we are experimenting with a variety of approaches to civic action: how New Yorkers can, collectively, bring about tangible change in their communities and in the city at large. As a part of this effort, in the new year, we will be soliciting ideas from library staff and funding a series of pilots focused on civic-action oriented programs, services, and partnerships to engage communities on local issues of concern. We plan to evaluate these different experiments to assess which may be expanded regionally or system-wide. We believe as an institution that we can, and must, do more to strengthen the civic fabric of our city.

Equity is different from equality. It doesn’t just mean providing everyone with the same opportunities, but requires us to go a step further to understand which segments of the population have been the most disadvantaged, and cater our services to their ability to catch up with their peers. This is the library’s primary focus and it plays a critical role in decisions such as where we place our teen centers and after school locations or the demographic that stands to

benefit most from a given curated book list. Civic engagement is part of this, but it would not be possible to serve as a credible convener for activities such as Ranked Choice Voting training sessions, if it weren't for the trust that elected officials, city government, and the community have in us. Essential to all of this, of course, is your support; we hope we can continue to count on you to ensure that equity remains an integral piece to our work and to move forward with the next phase of our civic engagement agenda.

Thank you for the opportunity to testify. We remain available to answer any questions you have.



**Statement by Nick Buron, Chief Librarian & SVP, Queens Public Library**

**New York City Council's Committee on Cultural Affairs, Libraries, and International Intergroup Relations – Oversight: Equity, Civic Engagement, and the Role of Libraries**

**December 8, 2022**

Good afternoon. I am Nick Buron, Chief Librarian and Senior Vice President at Queens Public Library (QPL, Library). On behalf of the Library and our President & CEO Dennis Walcott, it is a pleasure to be here. Thank you, Chair Ossé and the members of this esteemed committee for the opportunity to speak with you regarding the key role public libraries play in advancing equity and civic engagement.

Queens Public Library is committed to serving the most diverse county in the nation, and ensuring equity of access and opportunity is at the heart of our work. Regardless of one's background, identity, socio-economic circumstances, or points of view, libraries welcome everyone. Despite the attacks on intellectual freedom and efforts to censor certain literary works and programs in libraries across the nation, we continue to make sure that libraries are spaces where all are welcomed with dignity and respect and are able to freely seek, access and express diverse viewpoints.

In 2018, QPL established systemwide Equity, Diversity, and Inclusion training and implicit bias workshops for all staff. In 2020, building on this work and in response to the murders of George Floyd, Breonna Taylor and many other Black people, and the national reckoning around race and systemic racism in our society, Mr. Walcott established the President's Council for Racial Equity (PCRE) at the Library. Its mission is to identify racial barriers in policy, procedure, practice and history that may have a negative impact on Black employees and customers, and to identify solutions to create a more equitable experience for all. PCRE members, who total over 50 dedicated employees, are examining QPL's recruiting, hiring and promotion practices, culture, learning and growth opportunities, governance, programs and services, collections, and outreach and marketing strategies. The PCRE is working with a consulting firm that specializes in supporting anti-racism, diversity, equity and inclusion efforts at non-profit and government organizations to create a comprehensive plan for lasting change at our institution.

The Library's LGBTQ+ and Allies Committee, formed in 2018, aims to promote the visibility of LGBTQ lives, to deepen understanding, and to ensure an inclusive environment for staff and the public. Since its creation, the committee has led the development of numerous measures to make the public feel more welcome. For instance, earlier this year, the Committee spearheaded the distribution, for the entrances of all locations, of window decals with the QPL logo, the Pride flag, and the phrase, "Everyone is Welcome Here," in English, Spanish and Chinese. Additionally, recognizing that some customers may not be comfortable speaking to staff about personal

situations, the Committee created a sign listing a range of potentially sensitive topics and identifying where such books are located within our collections. Located in the collections areas of every QPL library and with 45 topics listed, these signs guide customers in finding subjects such as abortion, depression, loss of a child and personal finance. The Committee also supports the Library's participation in the annual Queens Pride Parade and Festival. Staff, customers and volunteers march under QPL's banner in celebration and solidarity, and offer resources and services during the parade. In 2019, we were honored with the Screaming Queens Award, awarded to the group with the best sound at the parade.

Queens is home to nearly 1.1 million immigrants speaking over 150 languages. For 45 years, QPL's New Americans Program (NAP) has aided the borough's immigrants in adapting to life in the United States, while celebrating their cultures. Immigrants can come to our libraries to learn English, their rights, and the realities of the immigration process, prepare for the citizenship exam, and receive support from experienced lawyers and staff. Our English Language Learner and High School Equivalency classes are offered in beginner, intermediate and advanced levels, and we also offer supplemental educational applications allowing students to hone their skills at their own pace. With attendance of over 15,500, and exit surveys showing educational gains of sixty percent, these classes provide quality lessons with devoted instructors at no cost.

QPL has been instrumental in helping asylum seekers in Queens adjust to their circumstances. Staff have conducted outreach in shelters where people are staying, providing them with books, games, school supplies, and gloves, as well as information on free library services such as ESOL classes, our hotspot lending program and other QPL resources. When asylum seekers come to our Central Library to apply for an IDNYC card, staff volunteer their time to provide interpretation services to answer questions and provide assistance in the application process. Our Adult Learning Center case managers will be making appointments for people with the City's new Asylum Seeker Resource Navigation Centers. We will be expanding our Spanish language and bilingual collections at targeted locations both for adults and children. We have trained staff systemwide so they are prepared to meet the needs of our newest arrivals, and we will continue to work with the Adams Administration to provide additional support.

On December 5, we launched LanguageLine, a live, phone-based interpretation service, at all of our locations. Each public service location has at least one handset at a reference or circulation desk. With the ability to interpret 240 languages, this new service removes a significant barrier to access to our resources and other information for many of our customers. LanguageLine Solutions, a major provider of interpretation and translation services around the world, is operating the system. After identifying their language from a list of 36 of the most commonly spoken languages in Queens, customers can have a three-way communication with a staff member and an interpreter. So far, customers speaking languages such as Spanish, Mandarin, Cantonese, French, Arabic, Pashto, Russian and Urdu have used the service at Central, Flushing, Poppenhusen, Queensboro Hill and South Ozone Park, among other locations.

In partnership with the NYC Mayor's Office of Immigrant Affairs (MOIA), we offer ActionNYC, a program that allows New Yorkers to access free and safe immigration legal help. In Fiscal Year 2021, despite the COVID-19 pandemic, we provided over 110 immigration sessions. We also collaborated with MOIA and the U.S. Citizenship & Immigration Services for our New Americans

Corners, dedicated spaces at every location that serve as an easy way for immigrants to find resources on how to become U.S. citizens. These services are extremely popular across the borough. At our Laurelton branch, a Jamaican immigrant customer came to the library worried about preparing for her upcoming citizenship exam. The Customer Service Specialist offered to review the materials with her during weekly one-on-one sessions over the course of eight weeks. The patron, who is now studying to become a nurse, recently visited the library to show the Specialist her citizenship certificate and thank him for all his help.

NAP also coordinates with community-based organizations to ensure we reach all populations. These collaborations include:

- Women-focused programming for the South Asian community with the non-profit Connect in Bengali, Hindi and Urdu. Topics range from creating a safe and healthy environment at home to discussing tough issues faced by women in a supportive atmosphere, including domestic violence and maintaining and improving relationships with their children;
- Presentations in Mandarin to older adults by the Association of Chinese American Physicians on various health topics; and
- “Know Your Rights” workshops with the New York Immigration Coalition in English and Spanish. The workshops cover immigration policy, DACA updates, and rights relevant to interactions with immigration officials such as ICE.

The Far Rockaway Teen Library provides teens with dedicated space they can call their own, helping them explore their interests and learn outside of the classroom with their peers and trusted adults. It aims to stimulate creative thinking, encourage civic engagement and – with the guidance of youth counselors and teen librarians – help teens explore their school and career options. Aside from offering a robust assortment of in-person and virtual programming, such as financial literacy and health and wellness workshops, the Library also operates a Youth Justice Court (YJC). In partnership with the Queens Defenders, the program teaches 13–19 year olds about the criminal justice system and provides an alternative response to youth crime in the community. This process of restorative justice allows teens, with guidance from lawyers and adult professionals, to have a direct say in how their peers are held accountable with dignity and compassion in a familiar setting. During the pandemic, 40–50 youth met virtually each week and participated in Know Your Rights workshops, mock trials and a multi-week series called “Justice Without Barriers,” which engaged the formerly incarcerated and their families. YJC often serves as a pipeline for its participants to positive roles within the community, such as joining the Black Male Initiative or New York State My Brother’s Keeper Initiative. For example, YJC member Jaden Gabb is the youngest member of Queens Community Board 14, where he advocates for the youth of Far Rockaway.

In October, we announced the expansion of this successful program to several other libraries under the Mayor’s teen initiative. In addition to the Youth Justice Court sites, QPL is upgrading teen centers at Central, Cambria Heights and Flushing libraries, as well as establishing a new teen center at the Long Island City Library. With guidance and assistance from our dedicated staff, teens will be able to develop creative and technology skills, receive counseling and resources to navigate the college application process and identify a post-secondary path, and learn the impact of community service and civic engagement. For young adults who are 16 – 24 years old, staff at our Central Library and Far Rockaway Teen Library will offer high school equivalency preparation, as well

as digital literacy support, workforce readiness and resume workshops, case management services and more.

For too long, our policy of imposing fines for overdue library materials discouraged individuals from accessing our services, especially our youth. In October 2021, Queens Public Library, along with the Brooklyn and New York Public Library systems, permanently ended the practice of charging late fines on overdue materials and cleared all existing late fines on customers' accounts. When the policy was enacted, there was a 10 percent increase in the number of impacted cardholders who borrowed physical materials compared to the month prior, and a 16 percent increase in request activity among impacted cardholders. Now more than a year into implementation, 45,898 customers who had their fines removed as a result of the policy change have returned to use our free resources. We hope the policy continues to encourage customers, especially our younger users, to come back to their local library.

The COVID-19 pandemic has highlighted many inequities, one of the most alarming being the lack of broadband access in households across New York City, particularly in Queens. Many residents in our borough do not have the access they need for students to complete their homework assignments, adults to fill out job applications, or older adults to submit senior housing forms. Working to narrow the digital divide, QPL loaned 475 mobile hotspots to students in 2020 through our ongoing collaboration with the DOE. In October 2021, QPL announced an initiative funded by Sterling National Bank, National Grid and the Thomas & Jeanne Elmezzi Private Foundation to provide over 250 hotspots and laptops for loan to the public at the Lefrak City, South Jamaica, Astoria and Long Island City libraries. We have continued to prioritize securing hotspots for our customers and currently have over 2,200 hotspots to lend, which are available at 25 locations throughout the borough. However, we know more are needed.

A vibrant democratic society requires a well-informed citizenry with access to unbiased and undistorted information, which is becoming increasingly challenging in a social media-dominated world. In addition to electing a new Mayor, Comptroller, Public Advocate and 51 Council Members last year, New Yorkers were introduced to a new method of voting: ranked-choice voting (RCV). QPL, BPL and NYPL (Tri-Li), received a GoVoteNYC grant to assist with public education and outreach in preparation for the June primary and November general election. Together, we sponsored a series of four RCV virtual sessions in Mandarin, Cantonese, Bengali, Spanish and Haitian-Creole. We also jointly hosted programs that prompted attendees to consider how voting has long-term consequences in regards to local issues. With QPL's Queens Memory Project, Tri-Li hosted "NYC Flood Resiliency: Ask the Experts," a dynamic discussion about flood resiliency in the City, including history, policy and neighborhood level actions. The topic was especially poignant since Hurricane Ida had impacted many Queens residents the prior month.

In addition, QPL worked with over 20 partners to conduct 37 programs, reaching 3,100 participants. These workshops included:

- QPL Hip-Hop Coordinator Ralph McDaniels interviewing Esmeralda Simmons, the Executive Director of the Center for Law & Justice at Medgar Evers College on the recent expansion of voter rights for justice-involved individuals;
- A book discussion with Gilda R. Daniels, Associate Professor at the University of Baltimore School of Law, to explore the themes of historical and modern day

disenfranchising mechanisms in her book, “Uncounted: The Crisis of Voter Suppression in America”;

- A bilingual civic engagement Drag Story Hour (DSH) for children. Additionally, we piloted a DSH book club, which highlighted two civic oriented books. For the book, “Act,” by Kayla Miller, we distributed 200 copies in “grab and go” kits. These kits included civics-related activities for children and voting information for their adult caregivers; and
- Hosting the young adult programs, “The Future of Queens” with Hot 97’s Ebro Darden, which focused on elevating the voices of Gen Z New Yorkers, and “Tuning into the Issues,” a panel discussion where young experts from local organizations (NYC Votes, NYLAG, #DegreesNYC) urged their contemporaries to become involved through sharing their personal experiences.

We also conducted nine outreach events, connecting with 3,500 individuals, and hosted text banking with approximately 250,000 messages delivered.

QPL annually participates in National Voter Registration Day (NVRD) to raise awareness for the November general election and to encourage people to register to vote in time for Election Day. On the third Tuesday of September, all our community libraries join the effort by ensuring that voter registration forms, one-pagers on how to fill out the form and absentee ballot request forms are visible and readily available to the public. Our public service staff is educated and prepared to answer questions from the public. Our goal is for customers to receive objective information so there is no confusion when they enter their voting site.

Before each primary and general election, we create a special blog post that provides an overview of what voters should expect, such as the offices being sought, ballot measures, and other useful information such as where to check one’s voter registration status and poll site. Additionally, every election season we partner with the New York City Board of Elections to serve as polling sites for early voting primary and the general elections. Last month, 12 of our libraries served as general election sites, and four served as early voting locations.

QPL’s volunteer opportunities encourage people to contribute to their communities in meaningful and sustained ways. For example, our volunteers support mobile food pantries held at our libraries in partnership with Food Bank for NYC, provide interpretation services for asylum seekers, and conduct English conversation groups for new Americans. In October 2020, QPL’s Volunteer Services department began a six-month series focused on community building and engagement to encourage individuals to become more active in the civic, education and social service arenas affecting their neighborhoods. These discussions covered vital topics such as strategies for community change, public speaking and tools for strategic planning. Additionally, the Library created an online resource microsite supporting the goals of the project. This initiative gained a local, national and international audience with nearly 1,000 people registering for activities and over 300 individuals attending the workshops. In the upcoming year, we are continuing this important series with a concentration on media literacy, cultural awareness, community wellness and emergency preparedness.

Last year, QPL worked with the NYC Department of Corrections and other community partners on Get Out the Vote efforts on Rikers Island. Our Correctional Outreach Service staff created two

videos for inmates' tablets in English and Spanish focusing on voter information and voting rights. Prior to the 2021 election, the voter information video was viewed by over 100 individuals, while the latter was watched by nearly 75. We also distributed "Make Your Voice Heard" flyers to forty housing units and included them in book packages. These efforts continued into 2022. When the tablets were discontinued at Rikers, we worked closely with NYC Votes to create a hardcopy voter guide for the upcoming election, and distributed it throughout Rikers Island.

These are just a few of the examples of the work QPL staff do each day to help people find success in their lives and participate in our democracy. Unfortunately, at a time when NYC public libraries should be expanding services for our customers, QPL is facing significant cuts to our budget. While we are still reviewing the potential impact, it is clear that if these cuts are not reversed, Library operations will be greatly affected. We are in ongoing communication with the Administration regarding the consequences of the proposed cuts and will be able to provide an assessment at our Preliminary Budget hearing in the New Year. Despite the challenges ahead, we remain dedicated to providing high quality resources, information, and opportunity to all.

We thank you for your partnership in creating a more equitable and engaged city. Again, thank you, Chair, for the opportunity to speak today.



TESTIMONY OF BROOKLYN PUBLIC LIBRARY  
**EQUITY, CIVIC ENGAGEMENT AND THE ROLE OF LIBRARIES**

*to the*

Committee on Cultural Affairs, Libraries, International Intergroup Relations  
Committee Room, City Hall - December 8, 2022

Good afternoon. I am Linda Johnson, President & CEO of Brooklyn Public Library. Thank you, Chair Ossé, Speaker Adams and committee members for the opportunity to testify. Thank you, as well, to our Brooklyn delegation and the entire City Council for your efforts to ensure our branches remain safe and inclusive spaces for all.

**A Welcoming & Inclusive Space**

Five years ago, as a response to former President Trump’s Muslim Ban – the executive order prohibiting citizens of seven mostly Muslim countries from visiting the US – Brooklyn Public Library’s Bay Ridge branch put out a sign daily that read, “You are welcome here. You are loved.”

With racist and anti-immigration rhetoric on the rise, Brooklyn Public Library adopted this as our unofficial slogan across our 62 locations and our 100+ outreach sites. We created an “Everyone is Welcome Here” campaign in 12 languages and launched a multi-lingual and cultural series to show patrons that the library is for everyone. And that we mean it.

To further our commitment to inclusion, we focused on programming and policy changes that open doors, particularly for underserved communities. Along with our colleagues at the New York Public Library and Queens Public Library, we eliminated late fines for overdue books, removing one of the largest barriers for low-income households. We also expanded our language offerings. Today, patrons can access our library materials in over 125 languages and library services in about 200 languages through translation devices and Language Line, a live phone-based interpretation service.

Just this week, we kicked off a month-long Heritage Ambassador Program, which brings folk and traditional artists, library staff, and communities together through storytelling and relationship-building. Throughout December, we will host several in-person and virtual events featuring Korean folklore, indigenous art, Nigerian and Trinidadian textiles, steelpan and calypso music, Haitian storytelling, and more.

Earlier this year, we released the latest version of our strategic plan – Finding Level Ground – building on our commitment to diversity, equity and community participation, with objectives developed the pandemic - an intense period of growth and learning. The planning process, which began in Spring of 2021, included a series of listening sessions that helped us identify the following **four strategic priorities** for the next two years.

### **First, Community Connections.**

After more than two years of pandemic related service disruptions and physical closures, reestablishing neighborhood relationships and strengthening in-person programming is a top priority.

We know the effects of the Covid-19 pandemic will be felt in Brooklyn for years to come, as residents continue to grapple with evolving public health threats, learning loss among school children, and increasing economic uncertainty.

While we successfully transitioned to digital services, making historic investments in our electronic books and resources during the pandemic, we face a particular challenge now, balancing in-person and virtual offerings. Brooklyn Public Library strives to offer the innovative and cutting-edge programming that we are known for, providing it in all the ways the public has come to expect.

### **Our second strategic priority is Digital Inclusion.**

Public libraries have been leading advocates for digital inclusion and equity. In Brooklyn, this movement is more important than ever.

Nearly 30% of Brooklynites lack a home broadband connection, with a much higher rate in neighborhoods like East New York, where the number soars to 50%. During pandemic closures, many families were completely cut off from critical digital resources, further exacerbating disparities we had been working to overcome.

In order to increase internet access during the pandemic, we launched the Brooklyn Reach project, extending our free wi-fi signal outside of our branch buildings, 300 feet in all directions, 24 hours a day.

And because digital equity is an economic issue, we are helping community members access low-cost internet services. This fall, we launched Digital Navigators, a program that builds awareness around the FCC's Affordable Connectivity Program and provides one-on-one support to interested patrons, including those who speak languages other than English.

At the same time BPL will continue to serve as a hub for internet-based resources. We are investing in new tools and spaces for digital learning, including a new teen tech center in Crown Heights Library, a Techmobile to help us better reach underserved communities, and expanded laptop and hotspot lending, especially for our adult learning and justice initiatives.

### **Our third strategic priority is to continue building a culture of anti-racism and anti-bias in all Brooklyn Public Library locations and neighborhoods.**

Libraries and librarians are among the most trusted resources within our society, offering spaces where everyone is welcome to pursue their interests and dreams. For young people, librarians are often among the most dependable adults in their lives: caring role models they can turn to for guidance with

almost anything. From helping with schoolwork and extra-curricular interests to sharing the excitement and struggles that accompany coming of age.

In our incredibly diverse borough, it is essential for children and youth to have librarians whose backgrounds they share, and for library staff to represent and reflect the communities they serve.

But, nationally, the field of librarianship is remarkably homogeneous – 84% of American librarians are white. While BPL’s librarians are already significantly more diverse than the national average, we are determined to better represent Brooklyn.

Towards this goal, we launched Pathways to Leadership. The program offers scholarships for master’s degrees in library and information sciences (MLIS) for existing non-librarian staff from historically underrepresented groups, thus building a more diverse pool of library leaders.

We currently have 11 Pathways scholars, representing a range of departments and experience levels within the Brooklyn Public Library system. Some are native New Yorkers, while others hail from more distant places. For all Pathways scholars, BPL has been central to their lives.

In addition to launching the Pathways Program, Brooklyn Public Library hosted a systemwide conversation titled Real Talk: Race, Truth, and Transformation and formed an internal Diversity, Equity & Inclusion Council and a board committee. Over the past two years, these committees have examined internal and external policies at the library and held remarkable programs for both staff and the general public.

**And, finally, our fourth strategic priority, supporting our staff,** is critical to all of our goals and objectives.

To nurture the vibrant, community-based nature of our library system, we must make sure our staff has the tools, training and support they need to thrive.

In addition to professional advancement opportunities and mentorship, we’ve found that staff also benefit from increased connections throughout the system. We are committed to creating opportunities for staff to care for and learn from each other across branches and departments.

### **Outreach Services**

Brooklyn Public Library’s outreach services work is an integral part of addressing our strategic priorities and overarching goals of inclusion, inside and outside of our branches. Serving immigrants, older adults, people experiencing homelessness, families affected by the justice system, and veterans, we are providing essential services that contribute to healthier, more equitable communities throughout the borough.

Many of our patrons are unable to access services in our branch locations for a variety of reasons. Brooklyn Public Library’s skilled outreach staff provide a vital conduit for information, tools, and resources for those who need it the most.

For example, Brooklyn Public Library's Bookmobiles have traveled more than 2,000 miles this year, participating in nearly 300 outings from block parties to community outreach events. You may have seen one taking Jimmy Kimmel for a ride on his show this past September. In the coming weeks they will be on the road visiting shelters to share resources with recently arrived asylum seekers, rerouted here from Texas and Florida.

Outreach services are especially critical for those who have immigrated from other countries. We provide multilingual programs, including citizenship classes, English classes, seminars for immigrant professionals and entrepreneurs, and legal support from accredited immigration staff and attorneys.

For families separated by incarceration, the Library fills an often-overlooked gap in support. We provide video visitation, jail-based library services in New York City Department of Correction facilities, as well as programs for people when they return home.

Our outreach also includes health and wellness programming to improve the overall well-being of Brooklynites, a service more vital than ever over the last two years. As you know, we have partnered closely with the city to offer a variety of services during the pandemic and are currently distributing thousands of free COVID test kits at all of our locations.

Our older adult patrons also benefit from outreach and special programming. The Technology for All initiative includes workshops and personalized tech support sessions for 1100 seniors. And we offer art classes, musical performances, Books to Go, and a Books by Mail service that delivers to 300 older adults who are confined to their homes.

We recently wrapped up our third series of Senior Debate, in collaboration with the Association for Senior Debate. In this 10-session series library staff and debate experts taught debate structure, formed teams and instructed participants in preparing to debate both the affirmative and negative sides of a resolution. There were several weeks of workshops and practice sessions before 2 weeks of debates leading to the Championship tournament on November 15. This was a great opportunity for older adult patrons to learn a new skill, engage in civil discourse and come together in the library to build new relationships.

### **Civic Engagement**

Programs like Senior Debate also connect to our deep and active commitment to civic engagement. If we are to fully represent the communities we serve, we must provide a platform for our patrons to participate in all levels of civil society.

By hosting polling sites every election day and providing voting information and resources, we are contributing to fair elections and an informed electorate.

By promoting our Books Unbanned programming for teens, we are protecting intellectual freedom, assuring access to information and encouraging independent thought among young people.

By hosting government partners in our branches, to provide constituent services, we advocate for patrons and facilitate connections with elected officials and city agencies.

By attending Community Board meetings across the borough, and hosting participatory budgeting sessions in our branches, we ensure inclusion, community ownership and long-term investment in the city.

By investing in comprehensive community engagement sessions when we renovate our branch libraries, we are creating stronger connections to and building responsive, inspiring new spaces. When we include stakeholders in our internal decision-making, we help nurture broader civic engagement and leadership.

At a time when so many city residents feel disenfranchised and forgotten, it is more important than ever to create inclusive, welcoming and functional spaces.

Our recently created Civic Commons at Central Library, with its own entrance on Flatbush Avenue, is a dedicated hub for civic organizations and services. It houses the Passport Services Center, the IDNYC office, a computer center and a Community Partner office, where immigration attorneys meet clients for free, and the Brooklyn Borough President hosts weekly constituent services hours.

The community can use the Civic Commons for a range of programming, including informational workshops, voter registration drives, and local committee meetings. At Central Library, and most of our branches, patrons can reserve meeting rooms and space to gather.

Thanks to your investments over the years, we are renovating one third of our branches, and are constantly working to upgrade all neighborhood libraries to be the welcoming and inspiring spaces the community deserves.

Chair Ossé, members of the committee;

Brooklyn Public Library is much more than a valuable educational resource for Brooklynites. Our programs and spaces are interwoven throughout the fabric of our patrons' social, civic and cultural lives.

Unfortunately, despite growing needs throughout our community, at a time when we ought to be ramping up our service, we learned that our operating support has been significantly reduced.

The Library is the city's most democratic civic institution. It protects free speech and nurtures intellectual freedom for patrons of all ages and backgrounds. It responds to the specific needs of community members and provides services they need to participate fully in public life. It empowers informed decision-making at a time when our country needs strong diverse voices more than ever.

But we can only meet these needs with your support. By supporting a healthy, thriving library system, you are empowering the vibrant voice of our community.

New Yorkers for Culture & Arts  
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Testimony for NY City Council hearing of the Committee on  
Cultural Affairs, Libraries, and International Intergroup  
Relations  
December 8, 2022  
1PM

Thank you Chair Ossé, Council Members Caban and Ayala, and the Committee. My name is Lucy Sexton of New Yorkers for Culture & Arts, a coalition of more than 300 culture organizations and artists from across the five boroughs. I'm here today to testify in support of Intros 0387 and 0392, addressing the Jones Act and the contract with the energy company LUMA, both affecting Puerto Rico.

In November I was honored to co-produce an event in San Juan, along with the Caribbean Cultural Center African Diaspora Institute and Taller Comunida LaGoyco. It was a discussion with local cultural centers in Puerto Rico called The Role of the Artist is to Make Revolution Irresistible. We heard about the renewed devastation visited on the island following Hurricane Fiona—a storm whose impact directly relates to the lack of investment in infrastructure following Hurricane Maria. The

cultural leaders spoke of providing food and power and wifi to their communities when the power was again knocked out. And most importantly they spoke of the necessity of art and culture to not only hold communities together, but to advocate for their communities in the public realm. The underlying causes of a community's struggles and suffering must be addressed.

I'm so grateful that our Department of Cultural Affairs Commissioner Laurie Cumbo attended the event and engaged in deep discussion with the Puerto Rico- and NYC-based cultural leaders who'd gathered. And I'm so proud of our NY cultural community. In just two weeks, NY4CA was able to raise \$20,000 from members of the Cultural Institutions Group (CIG), smaller cultural groups, artists, and the lobbying firms who work with culture (Wright Group, Cozen O'Conner, and Park and K). A small part of that money was used to produce the event and the rest allowed us to make substantial donations to the four San Juan cultural centers that participated.

In San Juan during the Somos conference, I was also pleased to participate in a press event put together in part by Council Members Ayala and Caban which called for an end to the contract with LUMA, the energy company which has so clearly and devastatingly failed to do its job.

When I told our cultural colleagues in Puerto Rico of these intros by the NY City Council, they were deeply moved—and

surprised. I salute the Council's leadership in supporting Puerto Rico, which is so deeply connected to our city. NY and San Juan have long been joined at the hip with artists, workers, and families moving back and forth. NYC culture IS Puerto Rican culture.

I will end by saying that last night I was at the Borimix reception, produced by The Clemente Center, at the Whitney Museum in honor of the Whitney's exhibit of Puerto Rican artists making work in the wake of Hurricane Maria. I recommend the show highly — it is powerful work and it tells the story of the long extraction of resources from the island by US companies in ways that only art can.

Culture is community is politics. As a member of NYC's cultural community, I lend my voice in support of these intros which send a clear political message to our country's leadership that we can and must take action to correct years of extraction and oppression and support Puerto Rico's right to thrive, as a people, as a community, as a culture.





Written Testimony in Support of Res. No. 387-2022

Calling on the U.S. Congress to repeal the Merchant Marine Act of 1920

New York City Council Committee on Cultural Affairs, Libraries and International  
Intergroup Relations

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LatinoJustice PRLDEF, a national civil rights organization with a 50-year history of advancing and defending the rights of Puerto Ricans in the archipelago and the diaspora, submits this statement in support of New York City Council Res. No. 387-2022 calling for Congress to repeal the Merchant Marine Act of 1920 (the “Jones Act”). This World War I-era shipping law, enacted to support the U.S. shipping industry as part of its national defense plan and to stimulate post-war economic growth,<sup>1</sup> has strangled the economy of Puerto Rico for over a century and is a major contributing factor to its appalling poverty rate of 43.4%.<sup>2</sup>

Puerto Rico has suffered devastating hurricanes and earthquakes in recent years, in addition to a longstanding recession, severe economic crisis leading to bankruptcy proceedings, austerity measures imposed by an unelected statutorily-imposed fiscal board, and a pandemic that paralyzed the economy for many months. Adding to these crises, the Jones Act places a chokehold on Puerto Rico’s ability to improve its economic conditions and respond to repeated natural disasters in the most effective ways.

The impact of the Jones Act on Puerto Rico is immense, as the archipelago imports most of its goods. Once rich in agricultural products, Puerto Rico now imports between 80-85% of its food.<sup>3</sup> Puerto Rico also imports chemicals, oil, electrical appliances, machinery and equipment, transport vehicles, and plastics.<sup>4</sup> The Act requires that maritime transport of cargo between points in the U.S. and Puerto Rico be carried on ships that are U.S.-built, owned, registered and crewed. Because freight rates of U.S. vessels are higher than those charged by foreign carriers for shipments of similar products and distances the Act thus significantly increases the cost of living in a U.S. territory in constant struggle to achieve food security, economic growth and a

<sup>1</sup> Merchant Marine Act, 1920, 46 U.S.C. §§861-899, §861.

<sup>2</sup> See, <https://datausa.io/profile/geo/puerto-rico/>

<sup>3</sup> See, <https://www.nytimes.com/2021/10/01/opinion/puerto-rico-jones-act.html>

<sup>4</sup> See, <https://tradingeconomics.com/puerto-rico/imports> (November 2022 data)

better quality of life for its residents.

Puerto Rico is the only U.S territory that is not wholly or partially exempt from the statute. While the territory of Guam has partial exemptions to the Jones Act, the territories of American Samoa, the Northern Mariana Islands and the U.S. Virgin Islands are exempt from the Act entirely.<sup>5</sup> At a time when Puerto Rico continues to suffer from food shortages and power outages after Hurricane Fiona, it is unconscionable to continue tolerating the rigors and restrictions of the Jones Act on Puerto Rico's economy.

While President Biden earlier this year expressed "unwavering support" for the Jones Act as a "Made in America" policy adding billions of dollars to the federal coffers<sup>6</sup>, such is not the impact of the law on U.S. citizens living in Puerto Rico. LatinoJustice PRLDEF urges the New York City Council's Committee on Cultural Affairs, Libraries and International Intergroup Relations to pass Res. No. 387-2022 in support of justice, respect and dignity for the people of Puerto Rico and its fight for economic growth and sustainability.

Thank you.

A handwritten signature in black ink, appearing to read "Lía Fiol-Matta".

Lía Fiol-Matta  
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<sup>5</sup> See, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/support-for-permanently-exempting-puerto-rico-from-the-jones-act>

<sup>6</sup> See, <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/05/20/a-proclamation-on-national-maritime-day->

[2022/#:~:text=BIDEN%20JR.%2C%20President%20of%20the,2022%2C%20as%20National%20Maritime%20Day](https://www.whitehouse.gov/briefing-room/presidential-actions/2022/05/20/a-proclamation-on-national-maritime-day-2022/#:~:text=BIDEN%20JR.%2C%20President%20of%20the,2022%2C%20as%20National%20Maritime%20Day)



Written Testimony in Support of Res. No. 392-2022

supporting a democratically governed public entity that will provide reliable and affordable electrical power to the people of Puerto Rico and supporting the cancellation of the contract with LUMA Energy  
New York City Council Committee on Cultural Affairs, Libraries and International Intergroup Relations

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December 11, 2022. LatinoJustice PRLDEF, a national civil rights organization with a 50-year history of advancing and defending the rights of Puerto Ricans in the archipelago and the diaspora, submits this statement in support of New York City Council Res. No. 392-2022 calling for the cancellation of the contract with LUMA Energy, which has proven to be disastrous for the people of Puerto Rico.

In July 2021, only a month into LUMA's operations, LatinoJustice joined close to 80 archipelago and stateside organizations in a letter to the Chair of the U.S. House of Representatives Natural Resources Committee, Hon. Raul Grijalva, calling for an urgent investigation into LUMA Energy due to its inability to properly manage the energy grid, putting the lives and property of Puerto Ricans at risk because of prolonged outages and voltage fluctuations, its lack of transparency and overall inability to provide reliable electric service to the archipelago.<sup>1</sup>

From the start, the process for selecting LUMA Energy to operate Puerto Rico's electrical system, particularly the operation of its transmission and distribution systems, power dispatch, customer service and billing, has been questionable and highly criticized. After a year of operations, LUMA has exceeded its budget and its service gets worse as time goes by. There are widespread complaints by citizens and mayors regarding longer and more frequent power outages and voltage fluctuations that damage home appliances, pose health risks to individuals requiring electrical power for medical equipment and refrigeration of medications and even

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<sup>1</sup> See, <https://www.workers.org/2021/07/57542/>

causing fires to occur.<sup>2</sup> LUMA's failure to properly operate the electrical system makes the cancellation of its contract imperative.

Recently, New York Attorney General Letitia James called for an investigation into LUMA Energy. In a letter to the U.S. Department of Energy, the Federal Emergency Management Agency Administrator, as well as the Federal Energy Regulatory Commission, Attorney General James urged for federal investigation into the energy situation in Puerto Rico and into LUMA, in addition to calling for critical upgrade and improvements in the electrical system. AG James pointed out, among other serious failings of LUMA, that the cost of electricity per kilowatt-hour in Puerto Rico is double the U.S. national average, which is extremely burdensome for the average household in the archipelago.<sup>3</sup> Such a situation is unconscionable in a U.S colony with an appalling poverty rate of 43.4%.<sup>4</sup>

Despite LUMA Energy's contract being temporarily extended,<sup>5</sup> LatinoJustice considers LUMA woefully unequipped to provide safe, affordable and efficient energy service which is a basic human right Puerto Ricans and all people should enjoy. We denounce the unreliable, costly and awful services of LUMA Energy and call for the cancellation of its contract.

LatinoJustice PRLDEF urges the New York City Council's Committee on Cultural Affairs, Libraries and International Intergroup Relations to pass Res. No. 392-2022 in support of a public entity to provide electrical power to the people of Puerto Rico and supporting the cancellation of the contract with LUMA Energy.

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<sup>2</sup> See, [https://cambiopr.org/wp-content/uploads/2022/11/CAMBIO-Submission-for-the-Record\\_House-Congressional-Hearing-11\\_17\\_22.pdf](https://cambiopr.org/wp-content/uploads/2022/11/CAMBIO-Submission-for-the-Record_House-Congressional-Hearing-11_17_22.pdf)

<sup>3</sup> See, [https://ag.ny.gov/sites/default/files/luma\\_letter.pdf](https://ag.ny.gov/sites/default/files/luma_letter.pdf) See also, <https://ag.ny.gov/press-release/2022/attorney-general-james-calls-investigation-puerto-rico-energy-provider>

<sup>4</sup> See, <https://datausa.io/profile/geo/puerto-rico/>

<sup>5</sup> See, <https://www.nbcnews.com/news/latino/puerto-rico-extends-luma-energy-contract-power-outage-concerns-rcna59465>



Thank you.

A handwritten signature in black ink, which appears to read "Lía Fiol-Matta".

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## WRITTEN TESTIMONY OF THE TASK FORCE ON PUERTO RICO

### NEW YORK CITY COUNCIL COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND INTERNATIONAL INTERGROUP RELATIONS PUBLIC HEARING

#### OVERSIGHT - EQUITY, CIVIC ENGAGEMENT, AND THE ROLE OF LIBRARIES

December 8, 2022

The New York City Bar Association (the City Bar) and its Task Force on Puerto Rico submit this written testimony in support of Res. No. 387-2022 (CM Ayala), a resolution calling on the U.S. Congress to repeal the Jones Act. The City Bar supports a permanent exemption from the Jones Act for Puerto Rico, just as the U.S. Virgin Islands has been exempted from that law's requirements.

The appended report outlines the City Bar's support for repealing the Jones Act, and thus its support for Res. No. 387-2022.<sup>1</sup> Independent studies have indicated that the Jones Act costs the Puerto Rican economy hundreds of millions of dollars every year because, as an island, Puerto Rico imports approximately 85% of its food. In addition to food, Puerto Rico imports chemicals, oil, electrical appliances, machinery and equipment, transport vehicles, and plastics. The Jones Act requires that all goods shipped between two points within the United States be transported on a vessel at least 75% owned by U.S. citizens, with a crew of at least 75% U.S. citizens, and built in the U.S. Our report concludes that exempting Puerto Rico from the Jones Act "would be a way for Congress to help Puerto Rico's economy at no additional cost to American citizens."

The City Bar supports Res. No. 387-2022 and urges a permanent exemption from the Jones Act to allow the global markets to help Puerto Rico and remove impediments to its economic growth. We applaud the City Council and the Committee on Cultural Affairs, Libraries and International Intergroup Relations for advancing this issue and hope our report can be helpful.

Wanda Sanchez Day, Co-Chair  
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<sup>1</sup> Available online at <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/support-for-permanently-exempting-puerto-rico-from-the-jones-act>.

#### **About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has over 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*

**REPORT BY THE TASK FORCE ON PUERTO RICO  
IN SUPPORT OF PERMANENTLY EXEMPTING  
PUERTO RICO FROM THE JONES ACT**

This report is respectfully submitted on behalf of the New York City Bar Association (“City Bar”) concerning Congressional attempts to provide aid and relief to the people of Puerto Rico as they recover from the devastation of Hurricane Maria.<sup>1</sup> Specifically, we write to strongly encourage Congress to permanently exempt Puerto Rico from the requirements of the Jones Act, just as the U.S. Virgin Islands have been exempted from that law’s requirements. Because Puerto Rico is an island economy, the restrictions imposed by the Jones Act have had a uniquely negative impact on the people of Puerto Rico by substantially increasing the cost of basic goods such as food and electricity. Now that Congress has taken up the task of addressing an aid package to Puerto Rico, we respectfully urge that this permanent exemption be granted so that the people of Puerto Rico can rebuild their economy.

All of the independent studies that have examined the impact of the Jones Act on Puerto Rico have unanimously found that it has had—and continues to have—a substantial negative impact.<sup>2</sup> The Jones Act raises the price of energy on the island<sup>3</sup> at a time when Puerto Rican families are suffering through an energy crisis, and it raises the price of food when over 44% of the island is living in poverty.<sup>4</sup> Estimates indicate that the Jones Act costs the Puerto Rican economy hundreds of millions of dollars every year, and in 2010 alone cost \$537 million.<sup>5</sup> Because of these substantial costs, a wide range of voices, on a bi-partisan basis, have

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<sup>1</sup> Founded in 1870, the New York City Bar Association (the “City Bar”) is a voluntary association of lawyers and law students with over 24,000 members. The City Bar regularly reviews, and sometimes addresses, complex legal issues that transcend the boundaries of New York City. The City Bar formed a Task Force on Puerto Rico in October 2016 comprised of members of the City Bar’s Committees on Bankruptcy and Corporate Reorganization, Inter-American Affairs, International Human Rights and International Law, and has been active in relief efforts for Puerto Rico in light of its financial crisis and the catastrophic devastation caused by Hurricane Maria. Post-Hurricane Maria, the City Bar advocated for a 1-year exemption to the Jones Act (*see* [http://s3.amazonaws.com/documents.nycbar.org/files/Jones\\_Act\\_Puerto\\_Rico\\_TASK\\_FORCE\\_9.27.17.pdf](http://s3.amazonaws.com/documents.nycbar.org/files/Jones_Act_Puerto_Rico_TASK_FORCE_9.27.17.pdf)). Upon further study, the City Bar has concluded that a permanent exemption is warranted for the reasons described herein.

<sup>2</sup> See *infra* Section II.

<sup>3</sup> Ori, Sam, *Puerto Rico’s Challenges After Hurricane Strengthen Case Against The Jones Act*, Forbes, Nov. 17, 2017, <https://www.forbes.com/sites/ucenergy/2017/11/07/puerto-rico-has-had-a-hard-time-getting-fuel-for-our-next-disaster-lets-fix-the-problem/#136f9ccf6646> (all websites last visited May 7, 2018).

<sup>4</sup> United States Census Bureau, <https://www.census.gov/quickfacts/PR>.

<sup>5</sup> Economic Impact of Jones Act on Puerto Rico’s Economy, at 75/88. <http://docplayer.net/494027-Economic-impact-of-jones-act-on-puerto-rico-s-economy.html>.



consistently requested that Puerto Rico be exempted from the substantial burdens of the Jones Act.<sup>6</sup> The time to listen to these voices is now.

## I. THE SCOPE OF THE JONES ACT

### a. The Creation of the Jones Act

The Merchant Marine Act of 1920, 46 U.S.C. §55101 et seq., also known as the “Jones Act,” was signed by President Woodrow Wilson shortly after World War I, at a time when the annual budget for the United States Navy was only \$628,726,000.<sup>7</sup> Arizona had only recently been admitted as the forty-eighth state in the union, the non-contiguous territories of Alaska and Hawaii would not be added as states for another thirty-nine years, and the small island of Puerto Rico had only recently been acquired from Spain in the Spanish-American War of 1898.

Pursuant to the terms of the Jones Act, all goods shipped between two points within the United States must be transported on a vessel that meets certain federal regulatory requirements. Specifically, the vessels cannot transport shipments between two United States ports unless they meet certain registration requirements, and can demonstrate, *inter alia*, that (i) the company that owns the transporting vessel is comprised of at least 75% of United States citizens; (ii) the transporting vessel was not built or re-built in a foreign country; and (iii) at least 75% of the crew are United States citizens.

By having U.S. consumers indirectly subsidize the domestic shipping industry (in addition to direct subsidies by the U.S. Navy) through these restrictions requiring use of domestic rather than international vessels, Congress sought to bolster the creation of a domestic fleet of ships that could be made available to provide essential support to the U.S. military for transporting cargo by sea in times of war. In so doing, “the Jones Act effects a transfer from U.S. consumers of water transportation services to U.S. maritime carriers, with the result being that domestic shippers can charge rates substantially above comparable world prices, increasing the revenue of domestic shippers by billions of dollars a year.”<sup>8</sup> The federal government continues to believe that having a marine reserve force on standby to call up in times of war is necessary for national security and war-readiness; indeed, we understand that U.S. commercial ships were used in substantial volumes during the Gulf War and in Iraq and Afghanistan to supply U.S. military personnel. However, we also understand that a portion of the Navy’s current budget goes toward subsidizing that maritime fleet.<sup>9</sup>

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<sup>6</sup> Exhibit 1 (List of Organizations That Have Supported Exempting Puerto Rico from the Requirements of the Jones Act in Whole or in Part); Exhibit 2 (Members of Congress That Have Supported Exempting Puerto Rico from the Requirements of the Jones Act in Whole or in Part).

<sup>7</sup> Budget of the U.S. Navy, <https://www.history.navy.mil/research/library/online-reading-room/title-list-alphabetically/b/budget-of-the-us-navy-1794-to-2004.html>.

<sup>8</sup> The Jones Act in Perspective: A Survey of the Costs and Effects of the 1920 Merchant Marine Act, <http://www.grassrootinstitute.org/2017/04/the-jones-act-in-perspective/>.

<sup>9</sup> Notably, the United States Navy now has an annual budget of \$171.5 billion, only a limited portion of which is used for direct subsidies to U.S. merchant vessels, and is the most powerful fleet in the world. *See* FY 2018 Department of the Navy (DON) President’s Budget (PB) Summary, [http://www.secnav.navy.mil/fmc/fmb/Documents/18pres/DON\\_PB\\_OVERVIEW.pdf](http://www.secnav.navy.mil/fmc/fmb/Documents/18pres/DON_PB_OVERVIEW.pdf).



Putting aside the question of whether the Jones Act is still needed to maintain national security and military readiness, we respectfully submit that exempting Puerto Rico from Jones Act restrictions would have little to no effect on the overall scope and purpose of the law and the ability of the U.S. to maintain an effective marine reserve force. Even if somewhat greater direct subsidies funded by all U.S. taxpayers became necessary as a result of exempting Puerto Rico from the Jones Act—as is not at all clearly the case—having this national military priority funded by all taxpayers seems preferable to having it funded disproportionately by residents of that currently highly distressed and economically disadvantaged territory as it is now.

**b. The Jones Act Does Not Apply to Foreign Shipments**

Importantly, these Jones Act restrictions do not apply to foreign shipments going into, or out of, the United States. The Jones Act only applies to shipments that go between two United States ports. What this means is that the Jones Act does not directly restrict trade between Puerto Rico and foreign countries, such as Mexico. Rather, what the Jones Act does is restrict trade between Puerto Rico *and the mainland United States*. It does so by imposing restrictions that raise the price of common goods, such as food and fuel, when they are shipped from the mainland United States to Puerto Rico. As is discussed in further detail below, this has two significant impacts: (i) it causes the people of Puerto Rico to pay increased costs for everything that they import; and (ii) it drives Puerto Rico to import the majority of its goods by volume from foreign countries rather than the mainland United States, even for goods that the mainland United States could have provided at a cheaper price.<sup>10</sup>

**c. The Jones Act Already Has Substantial Exemptions**

Not all territories within the United States are required to abide by the Jones Act. The United States Virgin islands are exempt. Similarly, the territory of American Samoa and the commonwealth of Northern Mariana Islands are also exempt. There are also partial exemptions for the territory of Guam, and the coastal town of Hyder, Alaska. Puerto Rico is the only non-contiguous territory not wholly or partially exempt.<sup>11</sup>

**II. THE IMPACT OF THE JONES ACT ON PUERTO RICO**

**a. The Jones Act Has Cost Puerto Rico Billions of Dollars**

Every independent study—with no exceptions that we have found—indicates that the Jones Act is significantly harming the people of Puerto Rico. This is because Puerto Rico is an island economy that imports approximately 85% of its food, a percentage which is likely to

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<sup>10</sup> GAO, *Puerto Rico: Characteristics of the Island’s Maritime Trade and Potential Effects of Modifying the Jones Act*, at 11-12 (“Over the entire year 2011, 67 percent of the vessels that operated in the port of San Juan were foreign-flag vessels, while 33 percent were U.S.-flag vessels”), <https://www.gao.gov/assets/660/653046.pdf>.

<sup>11</sup> Marie Olga Luis Rivera, *Hard to Sea: Puerto Rico’s Future Under the Jones Act*, 17 Loy. Mar. L.J. 63 (2018).

increase after the decimation of 80% of its crop value post-Hurricane Maria.<sup>12</sup> In addition to food, Puerto Rico imports chemicals, oil, electrical appliances, machinery and equipment, transport vehicles, and plastics.<sup>13</sup> Just about everything that the people of Puerto Rico need to survive is imported. And to the extent that Puerto Rico seeks to import any of those goods from the United States, it is required to pay substantially increased shipping costs.

Simply put, the increased shipping costs imposed by the Jones Act cause an increase in the cost of goods on the island. Although some reports are uncertain of the exact amount of damage caused to Puerto Rico by this law, and it is impossible to predict the damage with absolute precision, they are unanimous in finding that the Jones Act substantially impacts the cost of goods.<sup>14</sup> For instance, a 2012 report from the Federal Reserve Bank of New York, titled “Report on the Competitiveness of Puerto Rico’s Economy,” found that the shipping cost for a twenty-foot container from the mainland United States to Puerto Rico was *twice* as much as the same container from the mainland United States to the Dominican Republic.<sup>15</sup> Similarly, an International Trade Commission report on the Jones Act found that the law’s requirements are generally the equivalent of a 64.6% tariff on shipping services.<sup>16</sup> In addition, in 2015, three former International Monetary Fund economists—Anne O. Krueger, Ranjit Teja, and Andrew Wolfe—issued a report titled “Puerto Rico -A Way Forward,” in which they noted that Puerto

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<sup>12</sup> Robles, Frances and Ferré-Sadurní, Luis, *Puerto Rico’s Agriculture and Farmers Decimated by Maria*, The New York Times, Sept. 24, 2017, <https://www.nytimes.com/2017/09/24/us/puerto-rico-hurricane-maria-agriculture-.html> (“Puerto Rico already imports about 85 percent of its food, and now its food imports are certain to rise drastically as local products like coffee and plantains are added to the list of Maria’s staggering losses. Local staples that stocked supermarkets, school lunchrooms and even Walmart are gone.”).

<sup>13</sup> Puerto Rico Imports, <https://tradingeconomics.com/puerto-rico/imports>.

<sup>14</sup> The GAO, in particular, noted in its March 2013 report that any precise mathematical estimate of the benefits of an exemption for Puerto Rico would be very difficult to predict, because Congress has not signaled the precise way that the Jones Act would be modified. However, this abstract type of uncertainty—which is present in any kind of economic analysis—is no reason to discount the wide range of voices that have clearly explained that the Jones Act has had a substantial negative impact on Puerto Rico. *See* Section II, subsection a. Moreover, it appears that the GAO has modified its position in a May 9, 2018 report, in which it comments that the Jones Act “likely ha[s] a negative effect on Puerto Rico’s economy.” GAO, *Puerto Rico: Factors Contributing to the Debt Crisis and Potential Federal Actions to Address Them*, at 30 (“According to current and former Puerto Rico officials, and other experts on Puerto Rico’s economy, complying with this law raised the cost of goods and energy—given Puerto Rico’s reliance on importing oil to generate electricity—for businesses operating in Puerto Rico.”), <https://www.gao.gov/assets/700/691675.pdf>.

<sup>15</sup> Report on the Competitiveness of Puerto Rico’s Economy, <https://www.newyorkfed.org/medialibrary/media/regional/PuertoRico/report.pdf>. One lobby group for Jones Act carriers has disputed the Federal Reserve’s finding, but has not cited any support other than self-selected “anecdotal evidence.” American Maritime Partnership, <https://www.americanmaritimepartnership.com/puerto-rico-service/>. Because this anecdotal account from a lobby group is not independent, and has not cited any support for its position, we continue to rely on the Federal Reserve report, along with the numerous other studies cited in this letter.

<sup>16</sup> The Economic Effects of Significant U.S. Import Restraints, at 98, <https://www.usitc.gov/publications/332/pub3201.pdf>. Since the publication of this estimate, the ITC has clarified that it is unable to provide “an estimate of the welfare gains that would result from removing the [Jones Act]” because Congress has not yet clarified what additional laws it may seek to impose on foreign vessels operating in the Puerto Rico market. *See* The Jones Act in Perspective: A survey of the costs and effects of the 1920 Merchant Marine Act, <http://assets.grassrootinstitute.org/wp-content/uploads/2017/04/Jones-Act-Final-4-8-17.pdf>. However, a group of economists believes that, if anything, the ITC’s estimates are “conservative.” *Id.*

Rico has “import costs at least twice as high as in neighboring islands on account of the Jones Act,” and concluded as follows:

**Exempting Puerto Rico from the US Jones Act could significantly reduce transport costs and open up new sectors for future growth.** In no mainland state does the Jones Act have so profound an effect on the cost structure as in Puerto Rico. Furthermore, there are precedents for exempting islands, notably the US Virgin Islands....<sup>17</sup>

Other reports agree. In particular, two economists from Harvard and Brandeis have aggregated prior analyses, finding that the “Jones Act raises the cost of transporting goods between American ports,” acting as a “structural impediment” for Puerto Rico that has, for example, raised the price of liquefied natural gas “by as much as 30 percent.”<sup>18</sup>

A dramatic illustration of this impediment is found in a broad analysis undertaken by two economists who studied the effects of the Jones Act on Puerto Rico for each year between 1971 and 2010. By their estimates, the Jones Act has cost Puerto Rico billions of dollars in aggregate, imposing costs of more than \$537 million in the year 2010 alone.<sup>19</sup>

In short, the negative impacts of the Jones Act on Puerto Rico are undeniable.

**b. The Jones Act Has Also Imposed Costs on the Mainland United States By Decreasing Trade Between the Mainland and Puerto Rico**

Even though it was not the law’s original intention, the Jones Act has had the undeniable effect of discouraging trade between the mainland United States and Puerto Rico. As the United States Government Accountability Office (“GAO”) has acknowledged, “[f]oreign-flag carriers serving Puerto Rico from foreign ports . . . generally have *lower costs to operate than Jones Act carriers* have.”<sup>20</sup> These lower costs “lead companies to source products from foreign countries rather than the United States” and, as a result, “Puerto Rico imports more by volume from foreign countries than from the United States.”<sup>21</sup>

The Jones Act has depressed trade between the mainland United States and Puerto Rico, particularly in the “bulk shipping market,” because foreign imports are simply more cost-effective. This is the case even when the goods come “from more distant foreign locations,” and

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<sup>17</sup> Puerto Rico – A Way Forward, at 8, <http://www.gdb.pr.gov/documents/PuertoRicoAWayForward.pdf>.

<sup>18</sup> The Jones Act and the Cost of Shipping Between U.S. Ports, <http://econofact.org/the-jones-act-and-the-cost-of-shipping-between-u-s-ports>.

<sup>19</sup> Economic Impact of Jones Act on Puerto Rico’s Economy, <https://www.mercatus.org/system/files/mercatus-grennes-jones-act-v1.pdf>.

<sup>20</sup> *Supra* note 10.

<sup>21</sup> *Supra* note 10, at 4.

even when the mainland United States might otherwise be able to offer similar goods and services at a lower price. A few examples from the GAO report help to illustrate the point, showing that everything from animal feed to jet fuel is affected by this law:

- **Animal Feed.** “[A]ccording to representatives of the Puerto Rico Farm Bureau, the rate difference between Jones Act carriers and foreign carriers has led farmers and ranchers on the island to more often source animal feed and crop fertilizers from foreign sources than from U.S. domestic sources, even though commodity prices were stated to be similar. They provided an example that shipping feed from New Jersey by Jones Act carriers costs more per ton than shipping from Saint John, Canada, by a foreign carrier—even though Saint John is 500 miles further away. According to the representatives, this cost differential is significant enough that it has led to a shift in sourcing these goods from Canada.”
- **Corn and Potatoes.** For other companies, “corn and potatoes [were] being sourced from foreign countries rather than the United States,” due to “the lower cost of foreign shipping.”
- **Jet Fuel.** “[R]epresentatives of airlines purchasing jet fuel for use in Puerto Rico told us that they typically import fuel to the island from foreign countries, such as Venezuela, rather than from Gulf Coast refineries. They do so because of difficulty in finding available Jones Act vessels to transport jet fuel and, when vessels are available, the high cost of such shipments compared to shipping the product from foreign countries.”
- **Petroleum.** “An oil and gas importer in Puerto Rico told us that the company makes purchasing decisions based on the total price of oil or gas—including any applicable duties or other charges—plus transportation costs. The company looks at total prices from numerous suppliers around the world—including U.S. suppliers—but generally does not purchase from U.S. suppliers because the total cost is higher as a result of the differential in transportation costs.”

This is just a small sampling of the costs imposed by the Jones Act and the impact on businesses operating within the mainland United States.

The costs described above are important, because they tell us that exempting Puerto Rico from the Jones Act’s requirements would be beneficial to American businesses and to the United States as a whole. It is important to emphasize that repealing the Jones Act’s restrictions on Puerto Rico would “not cost *anything* for U.S. taxpayers.” To the contrary, it would “*increase*[] imports from the U.S.” to Puerto Rico, directing approximately \$341 million towards U.S. companies annually, and would therefore generate approximately \$13.5 million in tax revenues as estimated by Empresarios Por Puerto Rico.<sup>22</sup>

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<sup>22</sup> Empresarios Por Puerto Rico to The Congressional Task Force on Puerto Rico, Oct. 7, 2016, <https://www.finance.senate.gov/imo/media/doc/Entrepreneurs%20for%20Puerto%20Rico.pdf>.

### c. The Jones Act Leads to Inefficiencies and Distorted Trade Routes

The requirements of the Jones Act result in costly market distortions. For instance, a foreign-flagged vessel might deliver goods from the Mexican port of Veracruz to the Texas port of Houston. That is perfectly legal under the law. That same vessel might unload its cargo in Houston, and then pick up American-made goods to ship back to Veracruz. That is also perfectly legal. However, the vessel in question is legally prohibited from shipping those same American-made goods from Houston, Texas, to San Juan, Puerto Rico. The Jones Act does not allow it, and anyone who seeks to do so would face substantial fines and regulatory action. This result seems unjust and inefficient.<sup>23</sup>

### d. The Jones Act Shipping Restrictions Have Been Abused

In addition to reaping the *legal* benefits of the Jones Act, shipping companies that are meant to serve the people of Puerto Rico have also resorted to *illegal* antitrust conspiracies to further take advantage of their captive market. By granting monopoly powers to such a small group of shipping companies, the Jones Act made it possible for these entities to engage in illegal price fixing.

During the period from 2011 to 2013, most of the cargo shipped between the mainland United States and Puerto Rico was carried by four Jones Act carriers. By 2013, all four of those major carriers had either pled guilty to, been found guilty of, and/or settled claims related to antitrust conspiracies or allegations of antitrust conspiracies against the people of Puerto Rico.<sup>24</sup> *See, e.g., U.S. v. Peake*, No. 14-1088 (1st Cir. Oct. 14, 2015) (affirming the conviction and five-year sentence of former Sea Star LLC president Frank Peake “for participating in one of the largest antitrust conspiracies in the history of the United States”); *U.S. v. Crowley Liner Services, Inc.*, 12-CR-590 (D.P.R. July 31, 2012) (plea agreement where Crowley Liner Services admitted to a conspiracy between Crowley executives and other providers of Puerto Rico freight services, to illegally fix prices for Puerto Rico freight services; jointly recommending a criminal fine of \$17 million”); *In re Puerto Rican Cabotage Antitrust Litigation*, 815 F.Supp.2d 448, 453 & n. 1 (D.P.R. 2011) (Horizon Lines, LLC plead guilty to one count of price fixing in violation of the Sherman Act and five guilty pleas from former employees of the Horizon and Sea Star Defendants); *United States v. Horizon Lines, LLC*, No. 3:11-CR-0071, Second Amended

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<sup>23</sup> It is also worth noting that American-made goods from Texas could be transported to other mainland United States destinations by land on railcars and trucks. The island of Puerto Rico does not have similar access.

<sup>24</sup> Those four carriers were Crowley Puerto Rico Services, Inc.; Horizon Lines, Inc.; Sea Star Line, LLC; and Trailer Bridge, Inc. As the GAO noted in 2013, an antitrust investigation “led to, among other things, the imposition of about \$46 million in criminal fines and guilty pleas in 2011 and 2012 by *three of the four major Jones Act carriers*.” *See also* “Florida-Based Crowley Liner Services Inc. Pleads Guilty to Price Fixing on Freight Services Between U.S. and Puerto Rico,” <https://www.justice.gov/opa/pr/florida-based-crowley-liner-services-inc-pleads-guilty-price-fixing-freight-services-between>. “Florida-Based Sea Star Line LLC Agrees to Plead Guilty to and Its Former President is Indicted for Price Fixing on Coastal Freight Services Between the Continental United States and Puerto Rico,” <https://www.justice.gov/opa/pr/florida-based-sea-star-line-llc-agrees-plead-guilty-and-its-former-president-indicted-price>. Trailer Bridge filed for bankruptcy, where it “agreed to allow \$275,000 of unsecured claims against it arising out of potential antitrust allegations.” Zimmerman, Alan, *Trailer Bridge settles antitrust claims, clearing confirmation path*, S&P Global Market Intelligence, Feb. 10, 2012, <https://www.lcdcomps.com/lcd/f/article.html?rid=800&aid=12336051>.



Judgment, 2011 WL 1587062 (D.P.R., Apr. 28, 2011); *Rivera-Muñiz v. Horizon Lines*, 737 F.Supp.2d 57, 60 (D.P.R.2010); *United States v. Chisholm*, No. 08–cr–00353, Plea Agreement (M.D.Fla., Oct. 20, 2008); *United States v. Serra*, No. 08–cr–00349, Plea Agreement (M.D.Fla., Oct. 20, 2008); *United States v. Glova*, No. 08–cr–00352, Plea Agreement (M.D.Fla., Oct. 20, 2008); *United States v. Gill*, No. 08–cr–00351, Plea Agreement (M.D.Fla., Oct. 20, 2008); and *United States v. Baci*, No. 08–cr–00350, Plea Agreement (M.D.Fla., Oct. 20, 2008).

In addition to the criminal and regulatory actions discussed above, there have also been civil lawsuits and penalties. A group impacted by the restrictions of the Jones Act in the United States and Puerto Rico brought a class action suit for antitrust violations against a group of defendants controlling 86% of the Puerto Rico cabotage market, including Horizon Lines, Inc., Crowley Maritime Corp. and affiliates and Sea Star Line, L.L.C., and their affiliates. The case was settled in 2010 without going to trial, after the defendants agreed to pay over fifty million dollars. *In re Puerto Rican Cabotage Antitrust Litigation*, 815 F.Supp.2d 448, 454 (D.P.R. 2011).

People trying to operate competitive businesses in Puerto Rico have not been pleased with these developments. The Puerto Rico Food Marketing, Industry and Distribution Chamber, which represents the chain of food distribution and retail in Puerto Rico, noted that the “cost of maritime transportation is vital for the price and availability of food in the Island.”<sup>25</sup> Therefore, this group expressed special concern with the added “indirect costs caused by the lack of competition and the abuse of market power of the two main carriers.”

As long as the Jones Act remains in place, there will be a risk of further antitrust conspiracies. Although this conspiracy was discovered by law enforcement, the next one may not be.<sup>26</sup>

### **III. THE JUSTIFICATIONS FOR IMPOSING THE JONES ACT RESTRICTIONS ON PUERTO RICO DO NOT OUTWEIGH THE SUBSTANTIAL COSTS**

Although we do not purport to analyze the full scope and utility of the Jones Act writ large, it may be worth noting the widely-held understanding that the Jones Act remains law because a group of commercial interests have engaged in an extensive lobbying effort to support the law. The editorial board at *Bloomberg* summarized the issue as follows:

*In truth, the Jones Act survives because narrow commercial interests want it to. A protectionist thicket has long surrounded U.S. commercial shipping and shipbuilding. It has gradually hardened into a political wall impervious to economic reason.*

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<sup>25</sup> Puerto Rico Food Marketing, Industry and Distribution Chamber to The Congressional Task Force on Economic Growth in Puerto Rico, Sept. 1, 2016, [https://www.finance.senate.gov/imo/media/doc/Puerto%20Rico%20Food%20Marketing,%20Industry%20and%20Distribution%20Chamber%20\(MIDA\).pdf](https://www.finance.senate.gov/imo/media/doc/Puerto%20Rico%20Food%20Marketing,%20Industry%20and%20Distribution%20Chamber%20(MIDA).pdf).

<sup>26</sup> In order to guard against anticompetitive behavior in Puerto Rico, we urge you to work with the Federal Maritime Commission, the federal agency that is charged to “protect the shipping public from unlawful, unfair and deceptive ocean transportation practices.” Federal Maritime Commission, 53<sup>rd</sup> Annual Report for Fiscal Year 2014, at 3-4, <https://www.fmc.gov/assets/1/Page/53rdAnnualReport.pdf>.

...  
Those people are backed by a flotilla of senators and representatives who are failing to put the broader interests of voters first. They include the 60-odd members of the Congressional Shipbuilding Caucus, one of the bigger and more active of such legislative groups. Filling their coffers and bending their ears are the American Maritime Partnership; the Shipbuilders Council of America; other like-minded industry groups; and scores of individual shipbuilders, shipping lines and labor unions. In 2016, donors associated with sea transport coughed up more than \$10 million in campaign contributions -- the most since at least 1990 -- and spent almost \$25 million on lobbying.<sup>27</sup>

The President himself has taken notice that “the shipping industry doesn’t want the Jones Act lifted for Puerto Rico.”<sup>28</sup> These same forces have not been open to any attempt to amend the Jones Act, even when faced with reasonably modest requests—like ours—to exempt only Puerto Rico from the requirements of the law.

To be clear, we do not wish the hard-working men and women of the maritime industry any harm, and believe that amending the Jones Act to exempt Puerto Rico—a territory that is roughly the size of Connecticut—will not cause the industry to suffer in any substantial way. Nonetheless, we analyze below the two primary justifications that we have seen these groups offer in the past when defending the application of the Jones Act more generally, and our reasoning for why an exemption for Puerto Rico would not adversely affect those goals.

First, these groups have defended the Jones Act more broadly on the premise that it is necessary for protecting national security. These groups, which include the United States Navy, believe that the Jones Act is necessary to ensure a viable merchant fleet ready to be called upon in times of war or natural disaster. Notably, however, we are not proposing a wholesale repeal of the Jones Act. Rather, we are merely proposing that the island of Puerto Rico be exempted from that law’s requirements.

To date, we have not seen any independent study indicating that an exemption that applies to Puerto Rico would be harmful. To the contrary, in light of the relatively small number of Jones Act shippers that service Puerto Rico compared to the total number of Jones Act vessels that would be available, we believe that limiting the Jones Act exemption to Puerto Rico would not harm national security. Moreover, as the GAO has found, the Jones Act ships currently carrying goods back and forth from Puerto Rico “are less useful for military purposes,” and “are

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<sup>27</sup> The Editorial Board, *Still Playing Politics With U.S. Ports: The Jones Act survives only because of narrow commercial interests*, Bloomberg, Dec. 19, 2017, <https://www.bloomberg.com/view/articles/2017-12-19/still-playing-politics-with-u-s-ports/>.

<sup>28</sup> Siegel, Josh, *Trump: Shipping Industry Doesn’t Want Jones Act Lifted for Puerto Rico*, The Washington Examiner, Sept. 27, 2017, <https://www.washingtonexaminer.com/trump-shipping-industry-doesnt-want-jones-act-lifted-for-puerto-rico/article/2635827>.

generally considered of lesser military value because of their slow speed.” Exempting Puerto Rico from the Jones Act will not realistically affect our military readiness.<sup>29</sup>

Second, these groups have defended the Jones Act more broadly on the premise that it promotes American jobs. Again, however, we do not believe that exempting Puerto Rico—and only Puerto Rico—from the requirements of the Jones Act would be harmful in this respect. Although the GAO noted that the impact of exempting Puerto Rico from the Jones Act would be “uncertain,” and could lead to a significant reduction in the U.S.-flagged vessels that serve this trade between the mainland United States and Puerto Rico,<sup>30</sup> we are unaware of any estimates of how exempting Puerto Rico from the Jones Act would impact the shipbuilding industry. Nonetheless, we do expect that an exemption for Puerto Rico could mean that some crew members who currently serve this route would have to find new routes to serve. Any potential loss of jobs is unfortunate; although, as noted above (Section II(b), *supra*), any such losses would likely be more than offset by exponential gains to U.S. businesses on the mainland. In any event, it is our strong position that the uncertainty and potential adverse effect on a small segment of the shipping industry is absolutely necessary to provide relief—including American jobs—to the people of Puerto Rico who have been suffering through a prolonged recession over the past decade, a bankruptcy proceeding that has caused economic uncertainty, and an unprecedented Category 5 hurricane that has exacerbated all of these substantial difficulties. Moreover, we strongly believe that the maritime industry will survive this limited exemption, just as it has survived the fact that the U.S. Virgin Islands and American Samoa are exempt from the law’s requirements.

The Jones Act’s application to Puerto Rico seems to persist mainly because it spreads its costs out among weaker and less organized groups, while localizing the gains among certain commercial interests within the shipping industry that *Bloomberg* and President Trump have already noted. The economic analysis of the Jones Act that was performed by George Mason University summarizes the dilemma well:

The Jones Act is an example of a policy that persists even though it is wasteful for the nation as a whole. Total costs exceed total benefits, but the benefits are concentrated and the losses are diffuse. Beneficiaries are shipbuilders and their employees, members of seafarer unions, and carriers that are protected from

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<sup>29</sup> If Congress determines that exempting Puerto Rico would be harmful in any way, we respectfully suggest that the Navy work with Congress to recommend targeted appropriations as a remedy, rather than continuing to impose the Jones Act restrictions on Puerto Rico. An approach of targeted subsidies has been adopted in the past through the use of Operating Differential Subsidies (ODS) and Construction Differential Subsidies (CDS) as well as the current Maritime Security Program (MSP). *See, e.g.*, MARAD: Maritime Security Program, <https://www.marad.dot.gov/ships-and-shipping/strategic-sealift/maritime-security-program-msp/>. We believe that if a limited Puerto Rico exemption were to be found harmful—despite no current evidence indicating that this would be the case—then a series of targeted subsidies selected by the Navy would be preferable to the current system that disproportionately burdens the people of Puerto Rico to create vessels of “lesser military value.”

<sup>30</sup> It should also be noted that, since the GAO report was issued several years ago, the shipping industry has touted the introduction of several new Jones Act vessels. If these ships are capable of providing competitive service to Puerto Rico, then they will be able to compete more effectively in an open marketplace when Congress grants Puerto Rico an exemption from the Jones Act.



competition. Carriers like Matson are in a complex situation in which they lose from paying more for American-built ships but they gain from being protected from foreign competitors. *These groups know how they are affected by the law, and it is easy for them to organize and lobby for continued protection.*

Conversely, the costs of the Jones Act are spread across millions of Americans, most of whom have never heard of the act. The annual cost per person is small, even though the total cost summed over millions of consumers is large. The additional cost of transportation is not very visible to consumers because it is shifted forward at every link in the supply chain; for example, the additional transportation costs of energy are one reason why electricity costs in Hawaii are the highest among the 50 states. Hence, individual consumers have little incentive to learn about the Jones Act and to lobby in favor of its repeal. Consequently, *Congress has been more responsive to the well-organized beneficiaries than to the diffuse and poorly organized losers.*

It is ultimately not necessary to determine whether this is a fair assessment of the costs and effects of the Jones Act generally, or whether the Jones Act is justified entirely by the backstop military capability asserted to result from it. In either event, Puerto Rico's contributions toward the goals of the Jones Act are minimal in relation to the entire scope of subsidies generated by the law for upkeep of the merchant marine, while release of Puerto Rico's residents from the special burdens they shoulder to support the Jones Act's purposes would provide much-needed incremental relief to the people of Puerto Rico. We respectfully urge that this burden be removed from Puerto Rico in order to boost its efforts to rebuild its economy and infrastructure.

#### **IV. THE BRIEF TEN-DAY WAIVER OF THE JONES ACT WAS INSUFFICIENT**

On September 27, 2017, we wrote a letter to the U.S. Department of Homeland Security, urging the agency to issue a one-year waiver of the Jones Act in light of Hurricane Maria.<sup>31</sup> They ultimately imposed a ten-day waiver.<sup>32</sup> With due respect, this was simply not sufficient. As the Niskanen Center astutely observed, that was “a window that was too short to organize effective transportation of relief supplies by non-American ships.”<sup>33</sup> What's more, this ten day waiver took effect at a time when only a few of the island's 22 ports were usable, with literally “thousands of shipping containers” held up at San Juan due to the “heavy damage to roads, computer systems and other critical infrastructure” necessary to distribute goods from the ports

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<sup>31</sup> See [http://s3.amazonaws.com/documents.nycbar.org/files/Jones\\_Act\\_Puerto\\_Rico\\_TASK\\_FORCE\\_9.27.17.pdf](http://s3.amazonaws.com/documents.nycbar.org/files/Jones_Act_Puerto_Rico_TASK_FORCE_9.27.17.pdf).

<sup>32</sup> Department of Homeland Security Waiver of Compliance with Navigation Laws, [https://www.dhs.gov/sites/default/files/publications/17\\_0928\\_AS1\\_Jones-Act-Waiver.pdf](https://www.dhs.gov/sites/default/files/publications/17_0928_AS1_Jones-Act-Waiver.pdf).

<sup>33</sup> Nolan, Ed, *It's Time to Do Something About the Jones Act*, Niskanen Center, Dec. 22, 2017, <https://niskanencenter.org/blog/notes/time-something-jones-act/>; see also Shackford, Scott, *Trump Waives Jones Act for Puerto Rico for Ten Days. That's Good, but it's Not Enough*, Reason, Sept. 28, 2017, <http://reason.com/blog/2017/09/28/trump-waives-jones-act-for-puerto-rico-f>.

to their ultimate destinations.<sup>34</sup> Nonetheless, even with this narrow window and these substantial obstacles, eleven international vessels were able to come to Puerto Rico.<sup>35</sup> That is quite a feat, in light of the limited time they had to organize effective transportation.

Ultimately, however, granting a permanent exemption for Puerto Rico is a matter that must be decided by legislators, not by a federal agency that has limited powers in this regard. The impact of this narrow exemption is not the deciding factor.

## V. A DIVERSE RANGE OF VOICES HAS CLEARLY CALLED FOR EXEMPTING PUERTO RICO

A diverse group of economists, Puerto Rican business organizations, human rights groups, political commentators, and consumer rights advocates have all called for exempting Puerto Rico from the restrictions on the Jones Act. We have compiled a representative list, attached as Exhibit 1 to this letter, but below is a small sample of the voices on this issue:

- **CATO Institute.** The Jones Act “reduces choice and competition among shipping providers, driving transportation costs higher” for the people of Puerto Rico, who “needlessly pay higher prices for the many goods and products they import from the rest of U.S., driving up their cost of living for the sake of protecting” the law’s beneficiaries.<sup>36</sup>
- **The Economist.** The Jones Act “inflated transportation costs for imports [to Puerto Rico] to twice the level of nearby islands.” This is because territories “[l]acking overland routes such as Alaska, Guam, Hawaii and Puerto Rico are hardest hit” by the law’s requirements.<sup>37</sup>
- **National Review:** “On the merits, the Jones Act is a bad law. It cost Puerto Rico \$17 billion in economic growth between 1990 and 2010.”<sup>38</sup>

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<sup>34</sup> Page, Paul, and Hughes, Siobhan, *Puerto Rico Port Reopens But Relief Distribution Remains Slow*, Wall Street Journal, Sept. 26, 2017, <https://www.wsj.com/articles/puerto-rico-port-reopens-but-relief-distribution-remains-slow-1506446137>.

<sup>35</sup> MAREX, *Foreign Flag Ship Carries American Aid to Puerto Rico*, The Maritime Executive, Oct. 22, 2017, <https://www.maritime-executive.com/article/foreign-flag-ship-carries-american-aid-to-puerto-rico#gs.HZAKNnk>.

<sup>36</sup> Grabow, Colin, *Jones Act Swamp Creature That’s Strangling Puerto Rico*, Cato Institute, Oct. 1, 2017, [https://www.cato.org/publications/commentary/jones-act-swamp-creature-thats-strangling-puerto-rico?utm\\_source=Cato+Institute+Emails&utm\\_campaign=038226d358-Cato+Today&utm\\_medium=email&utm\\_term=0\\_395878584c-038226d358-144885949&mc\\_cid=038226d358&mc\\_eid=0c5288ec7c](https://www.cato.org/publications/commentary/jones-act-swamp-creature-thats-strangling-puerto-rico?utm_source=Cato+Institute+Emails&utm_campaign=038226d358-Cato+Today&utm_medium=email&utm_term=0_395878584c-038226d358-144885949&mc_cid=038226d358&mc_eid=0c5288ec7c).

<sup>37</sup> *How Protectionism Sank America’s Entire Merchant Fleet*, The Economist, Oct. 5, 2017, <https://www.economist.com/news/finance-and-economics/21730034-jones-act-hurts-american-consumers-and-destroyed-countrys-shipping>.

<sup>38</sup> Kupfer, Theodore, *Waiving the Jones Act for Puerto Rico is the Right Step*, National Review, Oct. 5, 2017, <https://www.nationalreview.com/2017/10/waive-jones-act-help-puerto-rico-ending-it-totally-would-be-better/>.

- **The New York Times.** “This is a shakedown, a mob protection racket, with Puerto Rico a captive market. . . . If the United States has any interest in the hurricane-battered people of Puerto Rico, it needs to take the law off their necks — and now.”<sup>39</sup>
- **The Washington Monthly.** “[T]he Jones Act is Robin Hood in reverse,” imposing “rent-seeking” on the people of Puerto Rico, and is only tolerated because “the people who benefit from the regulation have big economic stakes on the line, while those who pay the costs may not even notice the effect on their individual well-being.”<sup>40</sup>

In addition, citizens and voters concerned with the fate of Puerto Rico have been closely watching this issue. For instance, one petition “to waive the Jones Act for Puerto Rico” gathered half a million signatures *in just five days*.<sup>41</sup> We sincerely hope that DHS and Congress will listen to these voices.

## VI. CONCLUSION

Exempting Puerto Rico from the Jones Act, much like the U.S. Virgin Islands, would be a way for Congress to help Puerto Rico’s economy at no additional cost to American citizens. The New York City Bar urges a permanent exemption to allow the global markets to help Puerto Rico and remove impediments to its economic growth. There is broad bi-partisan support for this exemption from the Jones Act.<sup>42</sup> The time to take action to help those in Puerto Rico is now.

John S. Kiernan  
President, New York City Bar Association

Roger Juan Maldonado  
Chair, New York City Bar Association  
Task Force on Puerto Rico

Reissued May 21, 2018<sup>43</sup>

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<sup>39</sup> Denis, Nelson A., *The Jones Act: The Law Strangling Puerto Rico*, The New York Times, Sept. 25, 2017, <https://www.nytimes.com/2017/09/25/opinion/hurricane-puerto-rico-jones-act.html>.

<sup>40</sup> Lindsey, Brink and Teles, Steven, *Why the Jones Act is Robin Hood in Reverse*, The Washington Monthly, Oct. 2, 2017, <https://washingtonmonthly.com/2017/10/02/why-the-jones-act-is-robin-hood-in-reverse/>.

<sup>41</sup> P. Jessica, *Waive the Jones Act for Puerto Rico to Help Rebuild its Infrastructure and Economy*, Change.org, <https://www.change.org/p/departament-of-homeland-security-waive-the-jones-act-for-all-cargo-at-ports-in-puerto-rico-to-aid-hurricane-maria-relief>.

<sup>42</sup> Gardner, Timothy, *McCain Introduces Bill to Kill Puerto Rico Shipping Restriction*, Reuters, Sept. 28, 2017, <https://www.reuters.com/article/us-usa-puertorico-shipping-mccain/mccain-introduces-bill-to-kill-puerto-rico-shipping-restrictions-idUSKCN1C32ZL>.

<sup>43</sup> This report was originally issued on May 11, 2018. It has been reissued in order to clarify that in 2012 the Jones Act carrier, Trailer Bridge, settled civil antitrust claims against it in connection with its bankruptcy proceeding. Trailer Bridge was not found guilty of, nor did it plead guilty to, criminal antitrust charges. See p. 7, *supra*.

## EXHIBIT 1

*List of Organizations That Have Supported Exempting Puerto Rico from the Requirements of the Jones Act in Whole or in Part (as of June 22, 2018)*

1. Alliance for Free Association (ALAS)
2. Amistad Long Island Black Bar Association
3. Arab American Bar Association
4. Asian American Bar Association of New York
5. Asociación de Detallistas de Gasolina de Puerto Rico, Inc. (Puerto Rico Gasoline Detailers Association, Inc.)
6. Asociación Nacional de Tiendas de Autoservicio y Departamentales (ANTAD)
7. Association of Black Women Attorneys
8. American Enterprise Institute
9. Bronx County Bar Association
10. Cámara de Mercadeo, Industria y Distribucion de Alimentos (Puerto Rico Food Marketing, Industry and Distribution Chamber)
11. Campbell Soup Company
12. CATO Institute
13. Climate Justice Alliance
14. College of Certified Public Accountants of Puerto Rico
15. Defense Association of New York
16. Dominican Bar Association
17. El Colegio de Abogados y Abogadas de Puerto Rico
18. Empresarios Por Puerto Rico (Entrepreneurs of Puerto Rico)
19. Empire Gas Company, Inc.
20. Federal Reserve Bank of New York
21. Fundación Libertad Puerto Rico
22. Grassroots Institute of Hawaii
23. Haitian American Lawyers Association of New York
24. Hawaii Shippers Council
25. Heritage Foundation
26. Hispanic Federation
27. Hispanic National Bar Association
28. Iranian American Bar Association – New York Chapter
29. Jewish Lawyers Guild
30. Korean American Lawyers Association of Greater New York
31. LatinoJustice
32. Latino Lawyers of Queens County
33. LGBT Bar Association of Greater New York
34. Long Island Hispanic Bar Association
35. Metropolitan Black Bar Association
36. Muslim Bar Association of New York
37. National Grocers Association
38. National Lawyers Guild
39. Network of Bar Leaders\*

40. New York County Lawyers Association
41. New York State Bar Association
42. Pan American Grain
43. PathStone Corporation
44. Puerto Rican Bar Association
45. Puerto Rico Chamber of Commerce
46. Puerto Rico Community Pharmacy Association
47. Puerto Rico Electric Power Authority (PREPA)
48. Puerto Rico Small Business Owners
49. Puerto Rico Society of CPAs
50. Puerto Rico United Retailers Association
51. Puma Energy Caribe, LLC

\* Consensus resolution - reflects a consensus of the designated bar leaders present and voting.

## EXHIBIT 2

### *Members of Congress That Have Supported Exempting Puerto Rico from the Requirements of the Jones Act in Whole or in Part*

1. Rep. Andy Biggs (R-AZ)
2. Rep. Mike Bishop (R-MI)
3. Rep. Dave Brat (R-VA)
4. Rep. Mo Brooks (R-AL)
5. Rep. Ken Buck (R-CO)
6. Rep. Mike Coffman (R-CO)
7. Rep. Warren Davidson (R-OH)
8. Rep. Luis Gutiérrez (D-IL)
9. Rep. Karen Handel (R-GA)
10. Rep. Barry Loudermilk (R-GA)
11. Rep. Grace Meng (D-NY)
12. Rep. Gary Palmer (R-AL)
13. Rep. Bill Posey (R-IN)
14. Rep. Dana Rohrabacher (R-CA)
15. Rep. Mark Sanford (R-SC)
16. Rep. José Serrano (D-NY)
17. Rep. Darren Soto (D-FL)
18. Rep. Nydia Velázquez (D-NY)
19. Rep. Roger Williams (R-TX)
20. Sen. Jeff Flake (R-AZ)
21. Sen. James Lankford (R-OK)
22. Sen. Mike Lee (R-UT)
23. Sen. John McCain (R-AZ)
24. Sen. Marco Rubio (R-FL)

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