MOVING BEYOND THE FIRST FIVE YEARS: ENSURING SUCCESSFUL IMPLEMENTATION OF THE WESTERN HEMISPHERE TRAVEL INITIATIVE

HEARING

BEFORE THE

SUBCOMMITTEE ON BORDER, MARITIME, AND GLOBAL COUNTERTERRORISM

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

APRIL 16, 2008

Serial No. 110–106

Printed for the use of the Committee on Homeland Security

Available via the World Wide Web: http://www.gpoaccess.gov/congress/index.html

U.S. GOVERNMENT PRINTING OFFICE

43–253 PDF WASHINGTON : 2008

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON HOMELAND SECURITY

BENNIE G. THOMPSON, Mississippi, *Chairman*

LORETTA SANCHEZ, California
EDWARD J. MARKEY, Massachusetts
NORMAN D. DICKS, Washington
JANE HARMAN, California
PETER A. DEFAZIO, Oregon
NITA M. LOWEY, New York
ELEANOR HOLMES NORTON, District of Columbia
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
DONNA M. CHRISTENSEN, U.S. Virgin Islands
BOB ETHERIDGE, North Carolina
JAMES R. LANGEVIN, Rhode Island
HENRY CUELLAR, Texas
CHRISTOPHER P. CARNEY, Pennsylvania
YVETTE D. CLARKE, New York
AL GREEN, Texas
ED PERLMUTTER, Colorado
BILL PASCRELL, JR., New Jersey

PETER T. KING, New York
LAMAR SMITH, Texas
CHRISTOPHER SHAYS, Connecticut
MARK E. SOUDER, Indiana
TOM DAVIS, Virginia
DANIEL E. LUNGREN, California
MIKE ROGERS, Alabama
DAVID G. REICHERT, Washington
MICHAEL T. MCCAUL, Texas
CHARLES W. DENT, Pennsylvania
GINNY BROWN-WAITE, Florida
GUS M. BILIRAKIS, Florida
DAVID DAVIS, Tennessee
PAUL C. BROUN, Georgia
CANDICE S. MILLER, Michigan

JESSICA HERRERA-FLANIGAN, *Staff Director & General Counsel*
ROSALINE COHEN, *Chief Counsel*
MICHAEL TWINCHEK, *Chief Clerk*
ROBERT O'CONNOR, *Minority Staff Director*

SUBCOMMITTEE ON BORDER, MARITIME, AND GLOBAL COUNTERTERRORISM

LORETTA SANCHEZ, California, *Chairwoman*

JANE HARMAN, California
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
JAMES R. LANGEVIN, Rhode Island
HENRY CUELLAR, Texas
AL GREEN, Texas
BENNIE G. THOMPSON, Mississippi *(Ex Officio)*

MARK E. SOUDER, Indiana
DAVID G. REICHERT, Washington
MICHAEL T. MCCAUL, Texas
GUS M. BILIRAKIS, Florida
MIKE ROGERS, Alabama
PETER T. KING, NEW YORK *(Ex Officio)*

ALISON ROSSO, *Director*
DENISE KREPP, *Counsel*
CARLA ZAMUDIO-DOLAN, *Clerk*
MANDY BOWERS, *Minority Senior Professional Staff Member*

CONTENTS

Page

STATEMENTS

The Honorable Loretta Sanchez, a Representative in Congress From the State of California, and Chairwoman, Subcommittee on Border, Maritime, and Global Counterterrorism 1
The Honorable Mark E. Souder, a Representative in Congress From the State of Indiana, and Ranking Member, Subcommittee on Border, Maritime, and Global Counterterrorism 19
The Honorable Gus M. Bilirakis, a Representative in Congress From the State of Florida 2
The Honorable Louise M. Slaughter, a Representative in Congress From the State of New York:
Prepared Statement 27
The Honorable Bart Stupak, a Representative in Congress From the State of Michigan:
Prepared Statement 28

WITNESSES

Ms. Kathleen Kraninger, Deputy Assistant Secretary for Policy, Screening Coordination Office, Department of Homeland Security:
Oral Statement 3
Prepared Statement 5
Mr. Robert Jacksta, Executive Director, Traveler Security and Facilitation, U.S. Customs and Border Protection, Department of Homeland Security:
Oral Statement 10
Prepared Statement 5
Mr. Derwood K. Staeben, Senior Advisor, Western Hemisphere Travel Initiative, Department of State:
Oral Statement 12
Prepared Statement 14
Ms. Elizabeth Luce, Director, Washington State Department of Licensing:
Oral Statement 31
Prepared Statement 32
Mr. James D. Phillips, President and Chief Executive Officer, CAN/AM Border Trade Alliance:
Oral Statement 34
Prepared Statement 36
Ms. Janice L. Kephart, President, 9/11 Security Solutions:
Oral Statement 38
Prepared Statement 40

APPENDIX

Questions From Chairwoman Loretta Sanchez 67

MOVING BEYOND THE FIRST FIVE YEARS: ENSURING SUCCESSFUL IMPLEMENTATION OF THE WESTERN HEMISPHERE TRAVEL INITIATIVE

Wednesday, April 16, 2008

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON BORDER, MARITIME, AND GLOBAL COUNTERTERRORISM,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:06 p.m., in Room 311, Cannon House Office Building, Hon. Loretta Sanchez [chairwoman of the subcommittee] presiding.

Present: Representatives Sanchez, Cuellar, Green, Souder, and Bilirakis.

Also present: Representative Christensen.

Ms. SANCHEZ [presiding]. The Subcommittee on Border, Maritime and Global Counterterrorism will now come to order.

The subcommittee is meeting today to receive testimony on "Moving Beyond the First 5 Years: Ensuring Successful Implementation of the Western Hemisphere Travel Initiative."

I would like to thank our witnesses for being here today to talk about the current status of the Western Hemisphere Travel Initiative, or WHTI, and the future of this important border security program.

The program was developed in response to congressionally passed legislation to require U.S. citizens and foreign nationals to present documents verifying their citizenship and identity before arriving into the United States.

The program addresses a concerning security gap and implements a key recommendation of the 9/11 Commission. The challenge with WHTI has been and continues to be how to roll out the program in a way that minimizes the inconvenience to and the financial impact on Americans and border communities.

When WHTI went into effect at airports on January 23, 2007, millions of Americans were impacted by the new requirement that they must have a passport to travel to Canada and Caribbean nations.

As we all know, the spike in passport applications in 2007 led to an incredible backlog in passport processing and, as a result, many Americans had to delay or had to cancel their travel plans.

The situation was very concerning, especially considering the Department of Homeland Security's plan to implement the program at land and sea borders on March 27, 2008.

As a result, my colleagues and I voted, a large majority of us, to delay the implementation at land and sea ports until June 1, 2009.

I know that there are some people who have said that a delay in implementing the program is unacceptable, but I believe it is important to ensure that WHTI is implemented correctly, so we minimize the negative economic impact on our individuals and our communities.

I am pleased with the progress that the Departments of Homeland Security and State have made on their plans for the continued implementation of the program. I hope this rollout continues smoothly and that we do get it done under the new deadline.

Moreover, I urge that both departments continue to work diligently to ensure that acceptable documents and the trusted traveler programs are streamlined so that the public and border officers alike have a clear understanding of the requirements and are able to travel efficiently.

I look forward to hearing more about the current status of the program and in light of the fact that the program will only be fully implemented until the next administration, I would like to hear about the plans for the continuity of the initiative with all relevant offices and agencies.

Thanks again to our witnesses for being here today to share their insights.

I would like to now give some time to Mr. Bilirakis of Florida as our ranking member. Mr. Souder isn't here. He will be reading Mr. Souder's statement.

Mr. Bilirakis.

Mr. BILIRAKIS. Thank you, Madam Chairwoman.

Actually, this is my statement.

Ms. SANCHEZ. Good. Thanks.

Mr. BILIRAKIS. I appreciate your willingness to hear and examine the implementation of the Western Hemisphere Travel Initiative.

This is an especially important issue for my constituents and the economic prosperity of my congressional district, which relies heavily on tourism and the economic contributions made by the Canadian citizens who reside in my district during the winter months.

As a result, I am very interested to hear from DHS and the State Department officials on implementation of WHTI and efforts to balance the need for security, which is of paramount importance, with promoting trade and travel.

I also am looking forward to hearing what steps are being taken now by Federal officials to prevent passport issuance, as the chairwoman said, the delays similar to what we saw when this was implemented for air travel.

I agree with many of my constituents that I heard from at the time that these problems simply cannot be repeated.

I also hope that the majority will move forward on an authorization bill for the Department of Homeland Security so that members of this committee can weigh in on what we believe its priorities should be in this area and other important issues under our committee's jurisdiction.

Thank you again for calling this hearing, Madam Chairwoman, appreciate it.

Ms. SANCHEZ. The Chair acknowledges the presence of Representative Donna Christensen and the possibility that Ms. Miller, Candice Miller, of Michigan may also join us.

They are not members of this subcommittee, but they have a great interest in the issue before us today and have asked to participate.

Consistent with the rules and the practices of the committee, we are pleased to honor their request, and I would ask for unanimous consent to allow Representative Christensen and Ms. Miller to sit and question the witnesses at today's hearing.

Without objection, it is so ordered.

The other members of the subcommittee are reminded that under committee rules, opening statements may be submitted for the record.

I am going to welcome our first panel of witnesses and I have some lengthy bios on all of you, but in the interest of time, because I hear that there will be some votes coming up on the floor, I would love to at least get all of your opening statements on the record.

Our first witness will be Ms. Kathleen Kraninger. Is that correct? She is the Deputy Assistant Secretary for policy at the Department of Homeland Security, managing the screening coordination office.

Our second witness is Mr. Robert Jacksta, Executive Director for Traveler Security and Facilitation at Customs and Border Protection's office of Field Operations.

Our final witness on the first panel is Mr. Derwood "Woody" Staeben, Senior Advisor on the Western Hemisphere Travel Initiative for the Office of Passport Services at the State Department.

Without objection, your full statements will be inserted into the record and I now will ask each witness to please summarize his or her statement for 5 minutes or less, beginning with Ms. Kraninger.

STATEMENT OF KATHLEEN KRANINGER, DEPUTY ASSISTANT SECRETARY FOR POLICY, SCREENING COORDINATION OFFICE, DEPARTMENT OF HOMELAND SECURITY

Ms. KRANINGER. Chairwoman Sanchez and other distinguished members of the committee, I am pleased to appear before you today to discuss the Department's approach to the Western Hemisphere Travel Initiative implementation.

As recommended by the 9/11 Commission, Congress moved in 2004 to statutorily close the critical vulnerabilities that existed far too long, the fact that a significant number of individuals presenting themselves for entry into the United States were not required to present proof of their identity and citizenship.

Recognizing this vulnerability, consider for a moment the position of the Customs and Border Protection officer who has an average of 45 seconds to process each individual at the land port.

Without reliable, secure documentation, that officer is charged with making an informed decision about the risk posed by this individual and their admissibility.

We train our officers to make that choice with respect to the approximately 800,000 people who enter by land every day. But we

need to do more to arm them with the right tools to make the best decision possible with timely, accurate information.

As we deploy better tools to help our officers increase our Nation's security, we also serve to continue facilitating legitimate trade and travel across the border.

Implementation of WHTI is about security and facilitation. It will provide the CBP officers with a limited set of acceptable documents that are more secure, machine readable, and include facilitative technology.

DHS has done a number of tests demonstrating that use of facilitative technology and standardizing documents will speed processing time.

How do we get to WHTI land implementation? Since 2004, Congress and the administration have recognized that requiring documents of identity and citizenship, particularly at our land and sea ports of entry, is a cultural change that needs to be implemented in a practical, flexible and deliberate fashion, and, given the security imperative, as expeditiously as possible.

In partnership with the Department of State, the governments of Canada and Mexico, the trade community and other stakeholders, our strategy includes several prongs in a phased, flexible implementation.

No. 1, clear, consistent communications and education of the traveling public; No. 2, availability of a range of acceptable documents that are convenient and will expedite land border crossing; No. 3, deployment of radio frequency identification, or RFID, readers to speed that processing; and, No. 4, continued training of our officers.

I will touch on communications and document availability at this time.

Our communications efforts began in 2004 and a few months ago, we kicked off an even more robust campaign that will continue over the next 14 months and beyond June 2009.

The WHTI land and sea final rule reflected extensive consultation with our stakeholders, including border communities and officials.

The final rule provides special provisions for children and that children under 16 need only have copies of their birth certificates and accommodations are made for those aged 16 to 18 traveling in official groups.

We also outlined a path to work with States, Canadian provinces, and Native American communities to develop WHTI-compliant enhanced driver's licenses and tribal documents.

It is incumbent on DHS to ensure that we offer document options that best meet the needs of the traveling public.

U.S. citizens are able to present a passport, a passport card, a State-issued DHS-approved enhanced driver's license, a trusted traveler card under our NEXUS, SENTRI and FAST programs, a merchant mariner document, a U.S. military ID with travel orders, or a WHTI-compliant enhanced tribal card.

It is also a clear responsibility of the U.S. government to ensure that we can produce these documents in a timely manner.

DHS and the Department of State are continually monitoring our resources, infrastructure and ability to produce these documents

and have put in place practices and plans to manage the expected increase of applications as we continue to move toward June 2009.

On January 31, we began our transition to a more secure border. U.S. and Canadian citizens are now presenting the requested documents to demonstrate identity and citizenship at our borders and, in fact, many U.S. citizens are surprised to learn that documents have not been required before now.

Compliance rates have steadily increased. More than 90 percent of U.S. and Canadian citizens queried have the appropriate documents today, and this is all part of our plan to move in a direction where people have more secure documents and we can even better facilitate cross-border travel.

I have outlined, in a very broad way, our plan to WHTI implementation, but I am happy to take any questions that you have and elaborate further.

[The joint statement of Ms. Kraninger and Mr. Jacksta follows:]

PREPARED STATEMENT OF KATHLEEN KRANINGER AND ROBERT JACKSTA

APRIL 16, 2008

Chairwoman Sanchez, Ranking Member Souder, and other distinguished Members of the committee. We are pleased to appear before you today to discuss how we plan to implement the Western Hemisphere Travel Initiative (WHTI), which is both a statutory mandate of the Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004 and 9/11 Commission recommendation, to designate specific identity and citizenship documents that can be used to gain entry at our land, sea, and air ports of entry. The Department of Homeland Security (DHS), in partnership with the Department of State (DOS), is working to secure our homeland by strengthening our ability to accurately identify all persons—U.S. citizens and visitors alike—before they enter the United States. We are accomplishing this through the implementation of secure document requirements at all ports of entry in the United States. Our approach to implementing WHTI has been, and will continue to be, both practical and flexible, as we work to achieve the goal of increased security while significantly facilitating the flow of legitimate trade and travel. We would like to assure you that we are taking the appropriate and necessary steps to ensure that both travelers and the U.S. Government are prepared to successfully and efficiently implement the second phase of WHTI at land and sea ports on June 1, 2009.

Access to our Nation is critical for a terrorist to plan and carry out attacks on our homeland. As the 9/11 Commission's Final Report states, "For terrorists, travel documents are as important as weapons. Terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack. To them, international travel presents great danger, because they must surface to pass through regulated channels to present themselves to border security officials, or attempt to circumvent inspection points."

Preventing easy access to our homeland by requiring secure identity and citizenship documents at all ports of entry for both U.S. citizens and non-citizens will help keep those hoping to do us harm from entering the country. In order to begin closing a critical vulnerability that had existed for far too long, on January 31, 2008, the practice of accepting oral declarations alone at our land and sea ports of entry ended. Since fiscal year 2005, U.S. Customs and Border Protection (CBP) has identified over 33,000 individuals who attempted to enter our country at our air, land, and sea ports of entry with a false oral claim of U.S. citizenship—drug and human traffickers, homicide suspects, and potential terrorists could show up at our borders, and attempt to enter by telling us they were U.S. or Canadian citizens when they were not. For example, in December 2007, at the San Ysidro port of entry, a traveler presented a State of California identification card and claimed erroneously to be a U.S. citizen. An electronic check of his fingerprints revealed that the man was actually wanted for two counts of murder in San Diego County. This case demonstrates the importance of this change in policy and the move toward WHTI secure documents.

On January 31, 2008, we began our transition to a more secure border—a border that will welcome legitimate travelers and facilitate their entry into the country efficiently. It will also be a border that inhibits entry of individuals who cannot confirm

their identity and citizenship. We implemented these most recent changes in travel document requirements without causing discernable increases in wait times at the border. Compliance rates are high and continue to increase. United States and Canadian citizens are presenting the requested documents when crossing the border.

The institution of a travel document requirement and the standardization of travel documents are critical steps to securing our Nation's borders and facilitating legitimate travel. In fiscal year 2007 alone, more than 30,000 individuals were apprehended at ports of entry trying to cross the border with false documents.

Our layered security strategy involves identifying and interdicting individuals attempting to harm or illegally enter the country as early as possible—if not before they enter our country, then at our ports of entry. DHS must be able to capitalize on our border inspection process. We must be able to inspect or examine those who seek to enter. Through its requirement that individuals carry a passport or other limited set of acceptable documents, WHTI will greatly reduce the opportunities for identity fraud or misrepresentation. Advanced technology embedded in these travel documents, with the appropriate privacy protections and infrastructure, will allow DHS the ability to verify an individual's identity and perform real-time queries against lookout databases even before our officers begin to question them. Implementation of WHTI will allow our officers to focus more time and greater attention on each individual traveler. WHTI provides the platform to implement an integrated secure land border system, and we are taking every step to take full advantage of that opportunity.

The initial phase of WHTI went into effect January 23, 2007. The WHTI Air Final Rule requires all arriving air travelers, regardless of age, to present a passport or other acceptable secure document for entry into the United States. In the last 7 months, CBP has reported a compliance rate of 99 percent for citizens of the United States, Canada, and Bermuda, and there has been no interruption to air transportation attributable to WHTI implementation. The high level of compliance shows that Americans and foreign nationals alike are willing and able to obtain the necessary documents to enter or re-enter the United States once the requirements are known and enforced. This compliance is the result of the collaborative planning process on behalf of DHS and DOS, working closely with the airline industry, travel industry and the public, well in advance of implementation.

INTELLIGENT IMPLEMENTATION OF THE WHTI

The WHTI Land and Sea Final Rule, published on April 3, 2008, in the Federal Register, was developed after extensive consultation and constructive dialog with various stakeholders, including border communities and officials, and after carefully considering the more than 1,300 comments received during the public comment period for the Notice of Proposed Rulemaking. The policy decisions in this Final Rule, such as the development of special provisions for children and DHS's approach to working with Native American communities on the development of a WHTI-compliant enhanced tribal document, reflect the valuable input we received from the public and stakeholders.

Based on the successful strategy surrounding the implementation of the WHTI Air Final Rule, DHS published the WHTI Land and Sea Final Rule a full 14 months prior to implementation to ensure adequate time for planning, education, and communication. During the next 14 months, DHS and DOS will work diligently so that travelers will know what documents will be needed, how to obtain these documents, and when they will need them.

DHS is confident that all the integrated components are in place to ensure successful implementation of the WHTI land and sea requirements and infrastructure by June 2009. In preparation for full implementation, DHS awarded a contract on January 10, 2008, to begin the process of deploying vicinity radio frequency identification (RFID) facilitative technology and infrastructure to 354 vehicle primary lanes at 39 high-volume land ports, which process 95 percent of land border traveler crossings. Currently, we are conducting site surveys to identify construction requirements needed to support RFID technology installation. Site surveys will be completed by the end of May 2008. This summer, we will begin the actual construction at land border locations and the installation of the integrated solution will commence shortly thereafter. However, until that time, we have the optical character reader technology in place at virtually all air, land, and sea ports of entry. This technology will read any travel document with a machine-readable zone (MRZ), including passports, border crossing cards, trusted traveler cards, and the new passport card. All CBP officers are currently trained in the use of this technology. This means that right now, our ports of entry can accept all WHTI-complaint documents.

On February 12, 2008, we deployed the new vehicle primary client software application to the ports of Blaine, Washington, and Nogales, Arizona, in anticipation of implementing the vicinity RFID primary lane solution. This critical software deployment quickly and effectively provides officers with vital information on border crossers. The training and tools necessary for the successful transition from the current antiquated, text-based system, to a modern, graphical user interface was successfully delivered to 254 CBP officers ahead of the critical deployment. We will be deploying this new 21st century tool to the ports of Buffalo, New York; Detroit, Michigan; and El Paso, Texas, by the end of June 2008. Deployment will continue to most land border locations, with completion scheduled for fall 2008.

On February 4, 2008, DHS awarded a public relations contract to develop a proactive campaign to the traveling public. This campaign will increase traveler awareness by emphasizing document requirements and soliciting traveler compliance through education, while facilitating a smooth transition to WHTI implementation on June 1, 2009.

Nearly 200 new CBP officers are being added to critical land border locations in fiscal year 2008. In addition, we are adding 15 positions at the Williston, Vermont, Trusted Traveler Vetting Center. Officer deployment is focused on current and proposed enrollment centers and land border secondary locations, where an initial increase in secondary referrals is expected upon WHTI implementation. As of April 10, 2008, 126 of these 205 CBP officers have come onboard.

ALTERNATIVE DOCUMENTS

It is incumbent on DHS and CBP to ensure that we offer document options that best meet the needs of the traveling public. In addition to a U.S. passport, U.S. citizens will be able to present a passport card, a State-issued, DHS-approved enhanced driver's license, a trusted traveler program card, a merchant mariner document, a U.S. military ID with travel orders, or a WHTI-compliant enhanced tribal card. It is also a clear responsibility of the U.S. Government to ensure that we can produce these documents in a timely manner. DHS and DOS are continually monitoring our resources, infrastructure, and ability to do so, and have put in place practices and plans to manage the expected increase of applications for all our travel document programs.

Let me illustrate our progress toward ensuring that we can provide sufficient WHTI-compliant documents for United States citizens by June 1, 2009. Currently, many cross border travelers already have WHTI-compliant documents such as passports, trusted traveler cards, or enhanced driver's licenses (EDL). Over 88 million U.S. citizens have passports. Our partners at DOS started taking applications for the new passport card in February 2008 and have received over 143,000 applications for the passport card that will begin to be issued in June. States and Canadian provinces will be issuing EDLs in the next several months—additional options for United States and Canadian citizens.

The flexibility of the number of WHTI-compliant documents addresses the needs of each type of traveler, while providing CBP officers with secure documents to review. Some citizens who travel frequently both within and outside the Western Hemisphere may benefit from getting a passport card in conjunction with their U.S. passport. Individuals that frequently cross the Southern border may be best served by obtaining a Secure Electronic Network for Travelers Rapid Inspection (SENTRI) card. Less frequent border crossers might choose an enhanced driver's license that offers the benefits of a license but also serves as a limited use travel document. Low-risk business travelers who fly between New York and Toronto for work might choose a NEXUS card.

Our trusted traveler programs, NEXUS, SENTRI, and Free and Secure Trade (FAST), have a total of 436,000 members and we expect as many as 1.6 million participants by the end of fiscal year 2009. For frequent crossers, the ability to use dedicated NEXUS or SENTRI lanes at the border for expedited processing is a very clear benefit sought by the traveling public—the processing time for border crossers presenting trusted traveler cards is often less than half that for other travelers. By the end of 2008, we expect to open five additional NEXUS enrollment centers in Sweetgrass, Montana; International Falls, Minnesota; Niagara Falls and Alexandria Bay, New York; and Calais, Maine. To increase traveler awareness of NEXUS, we are investing in mobile enrollment centers, which will give us the flexibility to enroll travelers in remote parts of Alaska, Washington, Montana, and Minnesota.

CBP and Canada Border Services Agency (CBSA) have worked diligently to develop and implement a plan to handle the potential surge in NEXUS applications as a result of WHTI. On a daily basis, we monitor application intake, vetting, and the number of interviews conducted so that we can be proactive in reallocating re-

sources where demand has increased. From March 31, 2007, to March 31, 2008, membership in NEXUS has increased by over 50 percent with the vast majority of applications being approved within 6 to 8 weeks, while membership in SENTRI has increased by 35 percent.

DHS has entered into memoranda of agreement with the States of Washington, Vermont, Arizona, and New York to develop and produce WHTI-compliant EDLs, which will be acceptable travel documents at all land and sea ports of entry. Traveler demand for the enhanced driver's license has exceeded expectations in Washington State. As of April 10, 2008, Washington State has scheduled more than 21,000 appointments and has issued more than 8,500 EDLs. The States of New York, Arizona, and Vermont remain on track to issue EDLs in 2008. The Canadian province of British Columbia began issuing EDLs to Canadian citizens this month, and we expect Ontario and Quebec to follow by the end of the year. We continue to work with other States, including Michigan, which has recently passed legislation supporting the development of an EDL. We believe that with the success of EDLs other States may also wish to produce the documents for the convenience and benefits they offer to their resident citizens.

We have sent out over 600 letters to all the federally recognized Native American tribes and offered to work with them toward developing a WHTI-compliant enhanced tribal document. This partnership is critical to the success of WHTI and demonstrates our commitment to listening to the concerns and ideas expressed by the Native American community.

POTENTIAL IMPACT OF WHTI

Concerns have been expressed about the potential impact of the WHTI documentation requirements on traveler wait times at our land ports of entry. The risk that document requirements will negatively impact ports of entry in June 2009 is minimal, as the majority of travelers will have been presenting documents for inspection at the border for over 16 months. Many U.S. citizens are surprised to learn that documents have not been mandatory before now. Since January 31, 2008, compliance rates have steadily improved—more than 90 percent of U.S. and Canadian citizens queried while crossing the land border are in compliance with document requirements. Most travelers want to comply with January 31, 2008 change in document procedures and will want to comply with WHTI requirements in June 2009. At the Blaine, Washington, port of entry, approximately 85 percent of U.S. and Canadian citizens queried are already presenting WHTI-compliant documents.

DHS recognizes our responsibility to educate the public on what the new travel document requirements are and provide ample opportunity for individuals to become acclimated to traveling with and presenting required documents.

A traveler is easily verifiable if a passport or other acceptable document with an MRZ or appropriate RFID technology that can be queried automatically is presented. Processing times are considerably longer for a vehicle with passengers presenting documents that cannot be verified by the inspecting officer. Often, a CBP officer will need to manually enter an individual's identifying information into the computer if the documentation presented does not have a machine readable zone. The additional time it takes to process these individuals contributes to delays.

Our decision to adopt vicinity RFID technology for the land border was based on the need to process legitimate travelers as speedily as possible without impacting security. After extensive review of available and even possible technologies, DHS selected vicinity RFID as the best technology for our land border management system—and the standard to which all future land border travel documents will comply. Vicinity RFID technology affords the most benefits for the facilitated movement of travelers. Facilitation requires the ability to read a travel document in advance, verify identity, pre-position information, and, most importantly, perform automated watch list queries without impeding the flow of traffic. Our research and testing indicates that RFID technology is able to accomplish each of these requirements.

DHS and CBP have instituted best practices for the collection, protection, and use of personal information for WHTI. No personal identifying information is stored on the RFID tag and all data is stored at remote locations on secure storage devices that can only be accessed via DHS's secure, encrypted networks. Issuance of an attenuating sleeve by DOS for the passport card and the States for the EDL will protect the tags from unauthorized reads when not in use at the border. Implementation of a card specific tag identifier number will ensure that a card cannot be cloned or duplicated. On January 22, 2008, DHS published a Privacy Impact Assessment for the use of vicinity RFID technology for border crossings.

Time and motion studies are in progress at 16 of the busiest land border ports. These studies examine all aspects of vehicle primary processing and time each indi-

vidual inspection activity. A series of computer models were developed to look at cause and effect of the introduction of RFID-enabled documents and their increased use. At every port for which a model was developed, the introduction of RFID-enabled documents significantly reduced primary processing time. For example, at San Ysidro, California, use of an RFID-enabled document reduces vehicle primary processing time by an average of 27 percent. At the Bridge of the Americas in El Paso, Texas, the reduction is an average of 32 percent per vehicle. Both of these estimates are based on actual observations and computer modeling. Although we expect to quickly process the documents of most travelers, we will not focus on speed as the singular measure of success. Speeding up the document querying and authentication process gives more time for our CBP officers to ask questions and conduct inspections of those who require additional scrutiny. Time now spent examining a document will, instead, be used to probe those seeking to enter the United States who may present a higher risk.

While the new document requirements and the implementation of WHTI are anticipated to have minimal negative impact on current wait times, other factors such as port design, infrastructure, traffic volume, and vehicle mix greatly affect border wait times. DHS and CBP are taking advantage of WHTI implementation to improve port infrastructure, but some challenges such as physical limitations will not be resolved. As we undertake necessary construction and technology installations at individual ports of entry, it is possible that wait times may temporarily be impacted. Wait times are monitored on an hourly basis and proactive measures are taken to reduce wait times to the greatest extent possible using a variety of mitigation strategies and staff and lane utilization.

Both DHS and DOS have worked closely with the Canadian and Mexican governments on numerous fronts, including the Smart Border Declaration and the Shared Border Accord. The objectives of these initiatives are to establish a common security approach to protecting North America from external threats, and to streamline the secure and efficient movement of travel and trade. We remain committed to such consultations that have fostered WHTI accomplishments and progress to date. In particular, DHS has been involved in extensive discussions with our Canadian counterparts regarding secure alternative documents that can be made available to Canadian citizens for WHTI purposes, including the development of EDLs for Canadian citizens.

We recognize that concerns remain about the impact of WHTI on border communities. We acknowledge that WHTI represents a social and cultural change, but assure the American people and Congress that WHTI will provide substantive enhancements to border security. The significant investments being made at the ports of entry and to the CBP systems will provide significant benefits to communities on both sides of the border and facilitate the legitimate flow of people and trade. WHTI is a key step in creating an effective and more efficient 21st century border. Our experience, to date, with both WHTI air implementation and the January 31, 2008, transition has been positive with no discernable negative impacts to the borders. We are confident that the deliberate, practical approach we are taking for the next phase of WHTI implementation will afford us the same results.

DHS and DOS are committed to implementing this change in a practical way, and we want to foster an open and productive dialog. Both CBP and DOS have retained public relations firms to ensure consistent and complementary messaging. We have engaged at the local, national, and international levels. We will continue to partner with border communities, the travel industry (including cruise lines), and non-traditional stakeholders. We are coordinating with our Canadian counterparts as well as our State partners to get the maximum benefit for our efforts and taxpayer dollars.

CONCLUSION

Chairwoman Sanchez, Ranking Member Souder and Members of the committee, we have outlined our WHTI implementation plan that, with your assistance, will help DHS continue to protect America. We continue to move in the right direction of increasing identity document security, increasing information sharing among partners, and deploying the necessary resources to protect the border. Strong borders are a pillar of national security and WHTI is a key cornerstone supporting that pillar.

Thank you again for this opportunity to testify, we will be happy to answer any of your questions.

Ms. SANCHEZ. Thank you. I appreciate your conciseness.

Thank you for the testimony.

Mr. JACKSTA. for 5 minutes or less.

STATEMENT OF ROBERT JACKSTA, EXECUTIVE DIRECTOR, TRAVELER SECURITY AND FACILITATION, U.S. CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY

Mr. JACKSTA. Good afternoon, Chairman Sanchez and other distinguished members.

I am pleased also to be here today to discuss how we plan to move forward with the implementation of the Western Hemisphere Travel Initiative, which, as you know, is both a statutory mandate and a 9/11 Commission recommendation.

The Department of Homeland Security, in partnership with the Department of State, is working to secure our homeland by strengthening our ability to accurately identify all persons, U.S. citizens and visitors alike, before they enter the United States.

We are accomplishing this through the implementation of secure document requirements at all ports of entry in the United States. Our approach to implementing WHTI has been and will continue to be both practical and flexible.

Our goal is to increase security, while significantly facilitating the flow of legitimate trade and travel.

Access to our country is critical for a terrorist to plan and carry out attacks on our homeland. To them, international travel presents great dangers because they must surface to pass through the regulated channels to present themselves to border security officials or attempt to circumvent inspection points.

Preventing easy access to our homeland by requiring secure identity and citizenship documents at all ports of entry for both U.S. citizens and non-U.S. citizens will keep those hoping to do us harm from entering our country.

In the past, drug and human traffickers, homicide suspects, and potential terrorists could show up at our borders and attempt to enter by telling us they were a U.S. or Canadian citizen when they were not.

Since fiscal year 2005, U.S. Customs and Border Protection has identified over 33,000 individuals who attempted to enter our country at our land and sea ports of entry with a false oral claim of U.S. citizenship.

In fiscal year 2007 alone, more than 30,000 individuals were apprehended at ports of entry trying to cross our border with false documents.

We must be able to inspect or examine those who seek to enter the United States. Through its requirements that individuals carry a passport or other limited set of acceptable documents, WHTI will greatly reduce the opportunities for identity fraud or misrepresentation.

Advanced technology embedded in these travel documents, with the appropriate privacy protections, and infrastructure will allow DHS the ability to verify an individual's identity and perform real-time queries against lookout databases.

Implementation of WHTI will allow our officers to focus more time and greater attention on each individual traveler.

Based on the successful strategy surrounding the implementation of the WHTI air final rule, DHS published a WHTI land and sea final rule on April 3, a full 14 months prior to implementation, to

ensure adequate time for planning, education and communication to the travelers and the communities along the border.

During the next 14 months, DHS and DOS will work diligently so that travelers will know what documents will be required, how to obtain these documents, and when they will need them.

Some key points to our WHTI effort to date are all CBP officers are currently trained in the use of machine-readable zone technology. This means that right now our ports of entry can accept all WHTI-compliant documents.

On February 4, 2008, DHS awarded a public relations contract to develop a proactive approach to the WHTI information campaign to the traveling public.

Nearly 522 new CBP officers are being added to critical land border locations in fiscal year 2008.

Our land border trusted traveler programs, NEXUS, SENTRI and FAST, have a total of 436,000 members.

DHS has entered into a memorandum of agreement with the States of Washington, Vermont, Arizona and New York to develop and produce WHTI-compliant enhanced driver's licenses, which will be acceptable travel documents at all land and sea ports of entry.

On the second panel, you will hear today how the traveler demand for enhanced driver's license has exceeded expectations in the State of Washington.

The Canadian province of British Columbia began issuing EDLs to Canadian citizens this month and we expect Ontario and Quebec to follow by the end of the year.

We have sent over 600 letters to all federally recognized Native American tribes and offered to work with them toward developing a WHTI-compliant enhanced tribal document.

Time and motion studies are being conducted at our ports of entry today.

Finally, both DHS and Department of State have worked closely with the Canadian and Mexican governments on numerous fronts, including the smart border declaration, the security and prosperity partnership agreement, and the shared border accord.

DHS and Department of State are committed to implementing WHTI in a practical way and we want to foster an open and productive dialog.

We continue to move in the right direction of increasing identity security, increasing information sharing among partners and deploying the necessary resources to protect the border.

Chairman Sanchez, distinguished members, we have outlined our WHTI implementation plan and we hope that it addresses your concerns today, and we are ready to address any type of questions you may have.

Ms. SANCHEZ. Thank you, Mr. Jacksta.

We have some votes on the floor. I am told they are going to be 50 or 60 minutes' worth.

So, I would like to get Mr. Staeben's words in. We will break to vote. We have got about 6 minutes left on the floor.

Then we will ask you to go get lunch or something, and we will be back in about an hour's time.

Mr. Staeben, please, summarize your statement in 5 minutes or less. We would appreciate it.

STATEMENT OF DERWOOD K. STAEBEN, SENIOR ADVISOR, WESTERN HEMISPHERE TRAVEL INITIATIVE, DEPARTMENT OF STATE

Mr. STAEBEN. Thank you. Chairman Sanchez and other distinguished members, thank you for this opportunity to discuss the role of the Department of State in implementing the Western Hemisphere Travel Initiative to enhance the security of our borders and facilitate legitimate trade, travel and tourism.

Our primary role is to provide American citizens with passports and soon passport cards that they can comply with the new travel document requirements that take effect June 1, 2009.

Our increased workload indicates that Americans are already aware of the new requirements. In fiscal year 2007, we issued 18.4 million passports, a 50 percent increase over fiscal year 2006 and an 80 percent increase over fiscal year 2005.

Currently, more than 88 million Americans have passports or about 28 percent of our population.

Thus far in fiscal year 2008, we are seeing a 7 percent increase in receipts over the same time period last year and our processing time is well within the standard 4 weeks for routine service and 2 weeks for expedited service.

As of last week, we issued 9.1 million passports.

Our initial workload projections indicate the demand for U.S. passports could reach as high as 26 to 29 million this year, 30 million in fiscal year 2009 and 36 million in fiscal year 2010.

Although we continue to prepare for a possible 26 to 29 million this year, our current workload indicates that it may be more, in the range of 20 to 21 million.

We attribute this lower demand due to recent legislation extending the implementation date, but we expect to see an increase in demand in the months leading up to June 1, 2009.

Our long-term strategy is to provide the staffing levels and infrastructure necessary to meet the increased demand generated by WHTI. To that end, we have hired hundreds of new passport adjudicators and support staff since spring 2007 and are continuing our recruiting efforts into 2008.

We opened a mega passport center in Hot Springs, Arkansas 1 year ago to process 10 million documents per year, and we are opening a second printing and shipping facility in Tucson this month with the same capacity.

We are also opening three new passport agencies in Detroit, Dallas and Minneapolis to better service border communities. We are extending our agencies in Seattle, Miami and Chicago and are doubling the size and adjudicative capacity of the national passport center in Portsmouth, New Hampshire.

We have also established a reserve corps of passport adjudicators to supplement our full-time passport services staff during demand surges.

One of the key objectives of the Department is to ensure that the passport application process be as convenient as possible.

The most convenient way to apply for a passport is at an acceptance facility. Currently, there are more than 9,400 sites at post offices, clerks of court and other government offices nationwide where citizens can apply for a passport.

Since April 2005, when WHTI was announced, the Department has added more than 2,400 facilities, many of which are located along the borders.

In fact, there are currently 301 acceptance facilities located within 25 miles of the U.S.-Canada border and 128 acceptance facilities located within 25 miles of the U.S.-Mexico border.

In response to the needs of border resident communities for more affordable and lower cost alternative to the traditional passport book, the Department began issuing passport cards this June.

The passport card will have the same validity period as a passport book, 10 years for an adult, 5 for children 15 and younger.

The passport card, designed to meet the operational needs of the Customs and Border Protection Agency, will use a vicinity read technology to facilitate entry and expedite document processing at U.S. land and sea ports of entry.

The card is not a globally interoperable travel document and may not be used to travel by air.

This card is the result of an interagency effort to produce the most durable, secure and tamper-resistant card possible to the American public using state-of-the-art laser engraving and security features.

The Department has benefited from the collaborative efforts, among others, of the National Institute of Standards and Technology, Sandia National Labs, the DHS forensics document lab, and, of course, our colleagues at Customs and Border Protection Agency.

In consultation with DHS' forensics document lab, the card is designed with multiple layers of overt, covert and forensic security features to guard against tampering and counterfeiting to provide easy visual and tactile verification to Customs and Border Protection officers.

It is important to note that there is no personal identity information on the RFI chip itself, only a unique number that points to the bearer's file in a secure government database.

To mitigate the risk of tracking, a card will be issued with a protective sleeve to prevent unauthorized reading of the chip.

To encourage Americans to apply for passports and card and to level demand during our traditional peak season, we began accepting applications for the card on February 1.

As of this morning, we have received 162,300 card applications.

Public outreach, of course, is a key to successful implementation of WHTI. The Department awarded a contract to a marketing firm on March 3 to help us inform Americans about WHTI requirements, the new passport card, and the differences between the card and the traditional book, and to encourage Americans to apply for their documents early.

As we move toward full implementation of WHTI, we and our colleagues at DHS will continue public outreach efforts, particularly in border resident communities, and we will continue our outreach to business associations and stakeholder organizations.

We, like our colleagues at DHS, are committed to implementing WHTI in a rational and intelligent manner, one that facilitates trade, travel and tourism, while enhancing our national security.

Thank you very much, and I look forward to your questions.

[The statement of Mr. Staeben follows:]

PREPARED STATEMENT OF DERWOOD K. STAEBEN

APRIL 16, 2008

Chairwoman Sanchez, Ranking Member Souder, Distinguished Members, thank you for this opportunity to discuss the Western Hemisphere Travel Initiative (WHTI) and the role of the State Department in providing American citizens with reliable, secure passports and soon passport cards so that American citizens can comply with the new travel document requirements under WHTI.

In passing the Intelligence Reform and Terrorism Prevention Act of 2004, Congress required the Departments of Homeland Security and State to develop and implement a plan to require all travelers, U.S. citizens and foreign nationals alike, to present a passport or other secure document to denote identity and citizenship when entering the United States. The goal of the program is to strengthen border security and facilitate entry into the United States for U.S. citizens and legitimate foreign travelers.

To meet this mandate, the State Department is adjudicating and issuing passports to eligible U.S. citizens in record numbers; we have also begun to accept passport card applications and will begin issuing the cards in June. Our workload indicates that Americans are aware of the new document requirements under WHTI and are coming into compliance with them. In fiscal year 2007, the Department issued 18.4 million passports—a 50 percent increase over fiscal year 2006 and an 80 percent increase over fiscal year 2005. Thus far in fiscal year 2008, there is a 7 percent increase in passport demand over the same time period in fiscal year 2007. We are meeting this demand by processing routine passport applications well within our 4-week service standards for routine applications and 2 weeks for expedited applications.

INCREASING PASSPORT PRODUCTION CAPACITY

Today's record-breaking demand is not an anomaly. Implementation of WHTI has created a permanent increase in passport demand, and we believe it will continue to grow. More than 88 million Americans currently have passports—about 28 percent of all citizens. Our initial workload projections for fiscal year 2008 indicated demand for U.S. passports could reach as high as 26–29 million in 2008, 30 million in fiscal year 2009, 36 million in fiscal year 2010. Although we continue to prepare for that possibility, our current workload indicates that fiscal year 2008 demand may be more in the range of 20–21 million passports. We attribute this decline to the recent congressional action mandating implementation of the final phase of the land and sea rule of WHTI to no earlier than June 1, 2009. This legislation passed subsequent to our demand study, and we fully expect demand to increase as we approach the June 1, 2009 implementation date.

The Department is implementing a long-term strategy to provide the staffing levels and infrastructure necessary to meet the increased passport demand generated by WHTI. To that end, the Department has hired hundreds of additional passport adjudicators and support staff and continues to recruit aggressively. The Department has also established a reserve corps of passport adjudicators to supplement our full-time Passport Services staff, providing the ability to react quickly to demand surges.

To increase production capacity, we opened a mega-processing center in March 2007 in Hot Springs, Arkansas. The Arkansas Processing Center (APC) differs from our other passports centers in that it focuses solely on printing and mailing passports. It will have the capacity to produce 10 million travel documents per year. The centralization of passport printing and mailing frees up space and personnel at our existing passport agencies to focus on the critical areas of customer service and adjudication, and to process more passport applications. Using APC as a model, we expect to open a second printing and mailing facility in Tucson later this month. This facility, like the one in Arkansas, will have the capacity to produce over 10 million travel documents per year.

EXPANDING PASSPORT ACCEPTANCE FACILITIES

One of the key objectives of the Department is to ensure that passport services are provided in a secure, efficient and courteous manner. At the same time, we need to make our application process as convenient as possible for citizens. The most convenient and least expensive way to apply for a passport is at a passport acceptance facility or by mail for adult renewals. A full 90 percent of our passport applications

are submitted via an acceptance agency or mailed directly to us. We have significantly expanded our network of passport acceptance agents in the last several years. Currently, there are more than 9,400 sites at post offices, clerks of court and other government offices nationwide where citizens can apply for a passport.

We have heard the concern of border residents, and are aggressively recruiting acceptance facilities along the northern and southern border regions. Since the administration announced WHTI to the public in April 2005, the Department has increased its network of acceptance facilities by more than 2,400 facilities, many of which are located along the borders.

There are currently 301 acceptance facilities located within 25 miles of the U.S.-Canada border and 128 acceptance facilities located within 25 miles of the U.S.-Mexico border. In fact, since the end of the calendar year 2006, we increased the total number of facilities within 25 miles of the Northern border by 5 percent and the total number of facilities within 25 miles of the Southern border by 15 percent.

Our largest acceptance partner, the United States Postal Service (USPS) has held successful passport acceptance events in several border regions around the country. These "Passport Fairs" help meet high customer demand for passports in underserved areas. The USPS plans more of these passport acceptance events in the future, leading up to the June 1, 2009 implementation date.

We are continuing our recruitment efforts in the southern and northern border regions and continue to work with our acceptance agent partners to make the passport application process easily accessible to all Americans.

PASSPORT AGENCIES

In addition to our 18 passport facilities, the Department is also opening three new Passport Agencies in Detroit, Dallas, and Minneapolis in 2008 to serve border communities readying themselves for WHTI land and sea rule requirements. These agencies will provide personal, direct passport services to customers. Unlike our regional passport agencies and centers, these new agencies are primarily counter agencies designed to meet the urgent travel needs of citizens. These agencies will have the capability of serving 650 customers per day, issuing passport books and cards on-site to qualifying applicants.

The Department looked at several criteria to determine the location of these new passport agencies, including location, distance from an existing passport agency/center, volume of current passport applicants, service and volume of international and domestic departures, and an upward trend in population growth.

Along the northern border, we are expanding our agencies in Seattle and Chicago, and are doubling the size and adjudicative capacity of the National Passport Center in Portsmouth, New Hampshire. Along the southern border, we are expanding our facilities in Houston, Miami, and New Orleans.

PASSPORT CARD

In response to the expressed desire for a more portable and less expensive document than the traditional passport book on the part of American citizens who live in border communities, we will begin issuing a wallet-sized passport card in June with full production beginning in July. The passport card will facilitate entry and expedite document processing at U.S. land and sea ports-of-entry when arriving from Canada, Mexico, the Caribbean region and Bermuda. The card may not be used to travel by air. It will otherwise carry the rights and privileges of the U.S. passport book and will be adjudicated to the exact same standards. The passport card is designed for the specific needs of border resident communities and is not a globally interoperable travel document as is the traditional passport book.

The card will have the same validity period as a passport book: 10 years for an adult; 5 years for children 15 and younger. For adults who already have a passport book, they may apply for the card as a passport renewal and pay only $20. First-time applicants pay $45 for adult cards and $35 for children.

To meet the operational needs of Customs and Border Protection (CBP) and to facilitate document processing at U.S. ports-of-entry, the Department of Homeland Security selected vicinity-read radio frequency identification technology (RFID) for use in the passport card as well as their Trusted Traveler Card program and for use in the Enhanced Driver's License (EDL). The passport card will therefore contain a vicinity-read (RFID) chip which will link the card to a stored record in a secure DHS database. There will be no identifying information on the RFID chip; only a number will be read at a distance by an authorized CBP reader mounted alongside the traffic lane at ports of entry. The reader will automatically retrieve the personal data from the secure database and populate the officers' screens as the vehicle ap-

proaches. To mitigate the risk of tracking, the card will be issued with a protective "attenuation" sleeve to prevent unauthorized reading of the chip.

This card is the result of an inter-agency effort to produce for the American public the most durable, secure and tamper-resistant card possible, using state of the art laser engraving and security features. To ensure the durability for the 10-year validity period, we have chosen to make the card of a durable polycarbonate composite material rather than the standard plastic used for ID and credit cards. The Department has benefited from the collaborative efforts of the National Institute of Standards and Technology (NIST), Sandia National Labs, the DHS Forensics Document Lab (FDL), and, of course, colleagues at CBP. To ensure the durability and integrity of the card, the Department subjected the test cards to a full battery of durability and chemical testing at Sandia National Labs in accordance with guidance from NIST. In consultation with the DHS/FDL, the card is designed with multiple layers of overt, covert, and forensic security features to guard against tampering and counterfeiting and to provide easy visual verification to CBP officers.

To encourage Americans to apply for passports and cards and to level demand during our traditional peak season, we began accepting applications for the passport card on February 1, 2008. Given the volume of applications to date, particularly from the southern border states, there is clearly a demand for the card. As of April 9, the Department has received more than 143,000 applications for the card. These applications have been adjudicated and are awaiting production. As noted above, the Department expects to begin issuing these cards in June and to be in full production by July.

PUBLIC OUTREACH

Public outreach is the key to successful implementation of WHTI. The Department awarded a contract to a marketing firm on March 3 to help inform Americans about WHTI requirements, the new passport card, and the differences between the card and the traditional book, and to encourage them to apply for their documents early—well in advance of their planned trips and certainly well in advance of June 1, 2009.

As we move toward full WHTI implementation, the Department of State, working with our colleagues at DHS, will continue public education efforts which will include greater advertising with local media in areas that specifically target those persons who use the land borders. We will also continue sponsoring information sessions with business associations and civil organizations.

The frontline of our outreach efforts will be the more than 10,000 passport acceptance agents in every corner of the United States, especially along our border, who will continue to reach out to their customers and neighbors with passport fairs, press releases, and visits to their post offices, town halls and libraries.

CONCLUSION

We understand that our national security is dependent on our economic well being and that of our neighbors to the north and south. We also understand that the economic well being of the border communities depends on the free flow of people and goods.

As we have stated since we announced WHTI 3 years ago this month, we are committed to implementing the WHTI in a rational and intelligent manner, one that facilitates trade, travel, and tourism while enhancing our national security.

Thank you and I look forward to your questions.

Ms. SANCHEZ. You read it quite fast.

We will be back in about 50 to 60 minutes.

We are in recess.

[Recess.]

Ms. SANCHEZ. The committee will now come back to order. Hello, again.

So just to recap for the members, before we left for the votes, we heard from the three members of the panel and it is now time to ask questions.

I will remind each member that he or she will have 5 minutes to question the panel.

Now I will recognize myself for questions.

In July 2007, our subcommittee held a hearing on the Department's frequent traveler programs, NEXUS, SENTRI and FAST, and several members, including myself and the Ranking Member, expressed concern that enrollees in the NEXUS program are not subject to as many security checks and are charged $79 less than enrollees in the SENTRI program, and, in addition, NEXUS cards were not being accepted on the southern border.

Your testimony highlights the advantages of having trusted travel cards be WHTI-accepted documents.

So my question for you: are all trusted traveler program cards accepted at borders and have the security checks, fees and technology been standardized among the different programs?

Mr. JACKSTA. I will address that question by, first of all, stating that over the last couple of months, we have been moving forward to take a look at utilizing our automation system so that cards, the NEXUS cards can be used on the southern border, as well as the SENTRI card being used up on the northern border.

We are currently working on that automation enhancement and, as of today, I can tell you that it is not in place, but it is something that we feel is extremely important to make sure that individuals who are registered in our trusted traveler programs will be identified either if they arrive on the northern border or southern border.

Regarding the issue of trying to bring consistency across the board, we have implemented our global enrollment system, where all individuals who want to enroll in one of our trusted traveler programs can apply online, send the application in.

It goes to our central vetting center, where all applications are treated the same way, go through the same screening process, and then the issuance of the card actually takes place at the ports of entry.

So we have uniformity in that process. We have uniformity on how we notify the travelers whether they have been accepted to the programs or not.

We still maintain the fee differences between the southern border and the northern border. We did reduce the southern border fee to $122, but it is still higher than the fee for the northern border.

Ms. SANCHEZ. Why is that?

Mr. JACKSTA. Once again, we believe that because of the fact that we have the responsibility on the southern border to review and to actually inspect the vehicles that are—for individuals who are accepted into the SENTRI program, this creates additional costs for our employees and for our system to collect that information, to spend the time to do the inspection, to validate that the car is secure.

Ms. SANCHEZ. Your testimony states that since January 31, 2008, when the practice of accepting oral declarations of citizenship ended, the compliance rate has been 90 percent for U.S. and Canadian citizens.

We have heard this policy change has caused no significant delays, because there is less stringent enforcement.

So my questions are: are Customs and Border Protection officers requesting further identification and proof of citizenship from each and every traveler who present themselves at a port of entry and what type of enforcement are you conducting when a person does

not possess the required documents and how many people have been turned away at the border due to the lack of the necessary documents since January 31 of this year?

Mr. JACKSTA. Well, one of the ways forward, when we implemented the requirement for no longer accepting oral declarations, was that we had to make sure that we were able to measure it.

Today, our officers, when an individual arrives at the port of entry and they are not in compliance with the oral declaration requirement, they are basically advised—first of all, the officer makes a decision on whether the person is admissible or not, whether they can ascertain whether the person is a U.S. citizen.

They remind them of the responsibility and we give them what we call a tear sheet, which outlines exactly what type of documents are required.

We let the officer make the decision based on his experience and knowledge of the traveler, the travel routes, the traveler's history, and he, through that interview process, makes a decision.

What we do on a regular basis is that when a person is not in compliance and does not have a photo ID or the birth certificate, we will refer them to the secondary area.

We will record that we have an individual who was not in compliance and we keep track of that record. That is how we can tell that we have basically over a 90 percent compliance rate.

What we planned to do, when we went forward back in January, we said we would do a phased approach, taking a look at what are the next steps. Over the next couple of weeks, we hope to decide on exactly what would be the next phase.

I think one of the things that we are looking at is when individuals arrive and they do not have the proper documentation, we can, first of all, make sure that they get a passport card application. We can also work with the States and make sure that they receive an enhanced driver's license application, to advise them that, once again, they are required to be in compliance with the laws of the United States, that they should make every effort to get it.

As we move forward, going forward to June 1, 2009, we will step up the enforcement and send those individuals back into the secondary area and, once again, ascertain whether they have all the proper documentation and then we can feel comfortable that they are admissible into the United States.

Ms. SANCHEZ. So, Mr. Jacksta, you believe that by the July date, that when somebody comes to the border, then they will—if they don't have the correct documents, will we just turn them back?

Will you do the same process you are doing where you ascertain where do you live, what is the grocery store down from your street, things that you might be able to pick up that, in fact, they are a U.S. citizen, but they just——

Mr. JACKSTA. That is correct. First of all, if they are a U.S. citizen, we can't refuse them entry into the United States once we determine that they are a U.S. citizen.

So we want to make sure that people get into compliance and what we are going to do is make sure that they are a U.S. citizen by asking them the specific questions, making sure that we know their identity.

Our officers are very well-trained in this area and over the last couple of months, we have stopped a number of individuals at our ports of entry that have claimed that they were a U.S. citizen, presented maybe a driver's license and when our officers sent them back and started questioning them, they determined that the person was, in fact, a fraudulent individual with fraudulent documents and that they were actually, in certain cases—I have an example where we had an individual down in San Diego that was actually wanted for murder in San Diego County.

These are the types of things that our officers are seeing on a regular basis.

As we get closer to June 1, 2009, we are going to see more and more of these individuals having a difficult time crossing our border, because our officers are going to be able to validate the documentation.

If they don't have the proper ID and citizenship documentation, we are going to send them back to the secondary area.

Ms. SANCHEZ. Thank you.

I will now recognize my ranking member, Mr. Souder of Indiana for 5 minutes.

Mr. SOUDER. Thank you.

I want to, again, apologize for missing the testimony. I was trying to catch up, but we had markups in two other committees and they are continuing later on.

I have one very specific question that somewhat relates to my district and one broader.

In trying to develop the travel documents, there is something in your testimony about the Native American tribes and particularly some of them like Tohono O'odham, where they are cross-border, and the challenges that you face there.

I have a different type of challenge and that is with the Amish. We have been working with your Department. Ironically, this particular group believes that it is immoral, based on the scriptural verse, "graven image, or the likeness thereof," to have their picture taken.

Because we have a large Canadian community just east of Windsor, over by Kitchener and Waterloo, also up in the western provinces, we have a lot of back-and-forth.

I have met with the bishops a number of time. The Department gave us all sorts of different types of answers. They are willing to do 10 fingerprints, which is absolutely secure, but everything else is less than secure.

They are willing to do 10 fingerprints. My understanding is we have the ability to read that. They have said that they would find their way to a center where they can do the 10 fingerprints.

The idea that they have been told at the Port Huron and Detroit crossings, in particular, is that, "Well, we will see how we enforce this" and the Department's official position has been, "We will work with them," and they should trust.

But they have been told by different Inspectors, and it depends on who is there on a given day, that they may not be able to get back. When their father and mother visit or they go to visit them and you don't own your own car. You are often contracting it out.

Being told that maybe I will get through, maybe I won't get through, is not an acceptable final answer. There needs to be some sort of accommodation to a group of people who are not against secure IDs. They are willing to go more secure than what the government is asking.

I have not understood the resistance of the Department to be willing to go to 10 fingerprints, which is where we are likely headed anyway, if you look at this 10–20 years from now, because of the next question I am going to ask you.

I would like to kind of get your feeling on that and why this is so hard to do the fingerprint document, which would be the most secure document you could possibly have.

Mr. JACKSTA. Well, first of all, let me begin by saying that when individuals arrive at our ports of entry, our officers are responsible for interviewing the individual.

If there is a question where they don't have the proper documentation, in this case, a photo ID, they would most likely be referred to a secondary area if the officer does not feel comfortable that they are U.S. citizens, and that normal process takes 5 to 10 minutes to do.

I don't know what type of information has been relayed, but clearly people who arrive at our ports of entry, our officers are going to ask them their citizenship and where they are going and the reason why they are visiting the United States or coming back.

That questioning normally will allow the officer to make a decision on whether they are admissible.

It would help, and I understand the religious reasons, but it would help if they had a picture ID. That is consistent with what we are putting out there with the REAL ID and our effort with WHTI.

So I think we are willing to look at the possibility that we can expedite them through the secondary area, but the bottom line is that they would be processed in an easy fashion if they were able to present the proper documentation at the primary booth.

Mr. SOUDER. That is not possible. It is under the religious freedom amendment and that is not a possible alternative.

The alternative is not to travel, and it is unfair of the U.S. Government to expect them to change their religion.

Now, at the same time, they have to understand we have national security concerns. Quite frankly, if we do officer discretion, let me say this just in general, I am worried, because people can fake being Amish. It is not hard to fake it. This isn't a viable option that is currently on the table from the administration.

It is complicated by the fact that some Muslim groups also don't believe in photographs. But you have an alternative.

It may require a scanner or to go to secondary, but there is an alternative for people who have a religious objection, and, that is, then they have to do 10 fingerprints.

It isn't as though we don't know who they are. It isn't as though they are not planning to cooperate.

What I don't understand is why the administration is opposed, given the fact that we have the ability to read this at the major entries and the Amish are even willing to negotiate even if it is just a few entries; they won't cross at the small border entries.

What they are looking for is some clarity, because they understand our goals, but we are asking them to give up their religious beliefs if they want to go visit their relatives.

Mr. JACKSTA. Sir, I just want to let you know that we have a process in place when those travelers come across the border today.

Mr. SOUDER. Why aren't fingerprints acceptable?

Mr. JACKSTA. I would say that, down the road, that might be an option to look at.

Mr. SOUDER. Why isn't it acceptable, now, given the fact you have the ability to read it?

Mr. JACKSTA. We will take it under consideration.

Mr. SOUDER. Okay. Well, I would like to continue. There are a number of us who are very concerned, and a group of very innocent, scared people right now who are trying their best and are willing to go farther than we are willing to, and it just seems like we ought to follow up.

I know I am over. I want to put this question on the table. I have concerns. I want to compliment you on working with British Columbia, with Washington State and others, but we are seeing the proliferation of the secondary documents being copied, whether it is birth certificates and other types of things that lead to these documents.

I have a concern that we are now going to set up a second tier to try to get around that, and I would like to continue to talk with the Department about how you are going to address that challenge.

We had one county in Ohio, near Fort Wayne, that had their entire birth certificates stolen out of their county courthouse. Actually, a birth certificate is easier to reproduce than a driver's license.

In looking at these four documents, that is why I personally believe that we are moving to fingerprints, because every other document is so easily copied.

I yield back.

Ms. SANCHEZ. I thank the gentleman from Indiana. Many of us have concern for different groups, as you say. So I think we do need to find a solution on that.

I would like to recognize, for 5 minutes, for her questions at this time, Mrs. Christensen.

Mrs. CHRISTENSEN. Thank you, Madam Chairwoman.

Welcome to the panelists.

Ms. Kraninger, you said that you had met with border groups and officials as you have prepared to implement this.

Did you meet with people from our third border, officials from the Caribbean Basin?

Ms. KRANINGER. Yes, actually, we have. Personally, I have had meetings with Caribbean representatives in Washington, DC prior to the air implementation.

I do know, however, that Customs and Border Protection have been meeting them, along with the cruise lines, in moving to sea implementation.

Bob, if you want to add anything.

Mr. JACKSTA. I think that we have had a number of trips down to the Caribbean area, meeting with various groups, the cruise line industry, the private boats, the small charter groups.

Mrs. CHRISTENSEN. Oh, really.

Mr. JACKSTA. And making sure that they were aware of the requirements for, first of all, the air requirements that went into effect last year and then now as we move forward to the time of the oral declaration and, finally, the WHTI, that they are fully aware of it.

I will tell you that they have been very supportive and there has been very high compliance.

Mrs. CHRISTENSEN. Thanks.

I want to try to get in as many questions as possible.

Thank you.

How will U.S. lawful permanent residents be affected by the passport requirements? Is their alien resident card sufficient ID for purposes of travel by air, land and sea?

Ms. KRANINGER. Yes, it is.

Mrs. CHRISTENSEN. I have one of these cards. It has got my eye iris, my 10 fingerprints.

Mr. JACKSTA. Is this the NEXUS?

Mrs. CHRISTENSEN. No. This is a clear card.

Ms. KRANINGER. Clear.

Mr. JACKSTA. A clear card, okay. That is not an acceptable card. That is a card that is issued by TSA—well, not by TSA, but it is not an acceptable card on WHTI.

Mrs. CHRISTENSEN. Okay. The State Department Web site says that NEXUS, SENTRI and FAST cards are successful cards in implementation using the RFID.

How quickly does DHS and State plan—how quickly do they plan to deploy radio frequency identification readers at the 39 land ports of entry?

Mr. JACKSTA. Actually, we have a contract with Unisys that we are moving forward on. The company right now is doing surveys at the 39 locations.

We are going to start the construction this summer and then we are going to start implementing, putting the equipment out. The first location is Nogales.

Mrs. CHRISTENSEN. Five to 10 years? That is what I am hearing.

Mr. JACKSTA. No. Under the contract, it is less than 1 year.

Mrs. CHRISTENSEN. Even though you are just at the survey point now.

Mr. JACKSTA. Right. But we plan to have the surveys done by May. We have the construction being done this summer at various locations and then we are going to be, wont for a better term, hanging the equipment that is going to be needed to be able to read the cards.

Mrs. CHRISTENSEN. I also have a concern about counterfeiting.

Isn't it true that the NEXUS, SENTRI and FAST cards are being counterfeited at an alarming rate and, also, that most features, such as holograms, chronograms and others are generally counterfeited easily so that the FAST card may be vulnerable to counterfeiting, as well?

Mr. STAEBEN. Thank you. We are designing the passport card with multiple layers of covert, overt and forensic security features in order to mitigate the possibility of tampering.

We are using a polycarbonate substance in order to make it more durable to last for 10 years and it will allow us to use laser engrav-

ing, which is much more difficult to duplicate than other processes used in other types of IDs.

Mrs. CHRISTENSEN. Is all of that on the Web site? Because I understand that the artwork and specifications for the pass card are on the State Department Web site.

Mr. STAEBEN. The only information that is on the State Department Web site is a very low resolution photograph, which is for standard public release purposes.

It is not actually the final artwork itself and there is no information about the security features, except that we say that it will use state-of-the-art laser engraving and security features. That is all we say.

Mrs. CHRISTENSEN. So a person can't go to the Web site and get enough information to create a card.

Mr. STAEBEN. Absolutely not.

Mrs. CHRISTENSEN. Okay. We have also heard that DHS did not test some of the cards that were submitted, including one with an optical stripe.

Could you provide the committee or can you answer today about the evaluation process and adversarial testing and the procurement process?

Mr. STAEBEN. We are familiar with that technology, but none of the final offers included an optical memory strip for testing.

We submitted all the test cards to a full battery of tests at Sandia National Labs, to include chemical durability, electromagnetic testing, and all of the tests were conducted in accordance with the certification requirements that were given to us or mandated by the National Institute of Standards and Technology.

Mrs. CHRISTENSEN. So an optical stripe was not required.

Mr. STAEBEN. It was not offered and it was not required. The request for proposal stated that the vendors, at a minimum, had to submit a tactile feature and a hologram, but they also had the option of offering additional security features of their choice.

Mrs. CHRISTENSEN. I think my time is up. Thank you, Madam Chair.

Ms. SANCHEZ. I thank the gentlelady.

Now to my good friend, Mr. Bilirakis of Florida for 15 minutes.

Mr. BILIRAKIS. Thank you, Madam Chairwoman, appreciate it very much.

This question is for Mr. Staeben.

What lessons have been learned about passport processing times and public outreach in the air environment and how are you applying that knowledge to prevent potential problems with the land and sea rollout?

Mr. STAEBEN. Thank you for that question.

We have reviewed every aspect of passport services in order to determine how best we can meet the projected demand as a result of WHTI, as well as the possibility of reacting very quickly to any surges.

We have looked at personnel. We have looked at IT systems. We have looked at infrastructure and we have looked at passport facilities.

As I mentioned briefly in my opening remarks, we are increasing our personnel. We hired, in the last couple months of the last fiscal

year, upwards of 400 people. We intend to hire approximately 650 people this year. We are going to hire additional personnel next year.

The goal is to have the adjudicative capacity to meet 36 million applications by the year 2010.

We are doubling our production capacity when we open the Tucson printing facility this month, which will have another 10 million capacity on top of the 10 million that we can get out of the Arkansas facility, which we opened 1 year ago.

In order to meet surges, we have created a reserve corps of people that we can draw on very quickly. We also have remote adjudication capability so that we can draw on the expertise of consular officers serving abroad as yet one more layer if we reach another tripwire.

So we have learned many lessons that we are implementing now, but the basic goal is to have the infrastructure and the adjudicative capacity to meet whatever comes our way as a result of WHTI.

Mr. BILIRAKIS. Thank you.

This question is for the DHS panel.

My district and the entire State of Florida relies heavily, as you know, on the cruise industry for much of its economic vitality.

Do you foresee any particular infrastructure limitations or challenges that need to be addressed regarding implementation in this environment?

Mr. JACKSTA. We have a working group that has been working with the cruise line industry down in Florida, in the Tampa area, the Port Canaveral area, to make sure that we address the issues that are going to go forward.

As you know, based on the comments received from the industry, we made some modifications to the final rule where individuals, U.S. citizens who are what we call a closed loop, leaving from Miami, going to visit the Caribbean, coming back to Miami, would not be required to have a pass card of a passport card.

They would just have to have an ID and their birth certification. So we have made that accommodation.

We are also working with the cruise industry down in those areas and also in the Puerto Rico area to make sure that we can expedite them through the process.

We now get advanced information both when the vessel leaves the United States, as well as when it arrives.

We also are working with them on the handling of the I–94 documentation for the visitors who go on cruise ships.

So I think that we have a very good working relationship with the various lines down there, trying to take a look at the limited facilities and making sure that we can get the travelers once they come back from a cruise through the process as quickly as possible.

Mr. BILIRAKIS. Thank you.

Back to the land border. I have one question for the panel.

Have you gotten any feedback from the Canadian counterparts regarding the ability of Canadian citizens to obtain WHTI-approved documents or their willingness to do so?

Ms. KRANINGER. We have had longstanding relationships with our Canadian counterparts. In the testimony, we mentioned Presidential level initiatives, like the security and prosperity partner-

ship, as well as DHS global initiatives, since the Department was created.

We started with the small border accord even just post-9/11. So our partnership has been very robust. In fact, the Canadian government has been a strong partner, talking about WHTI implementation and potential impacts and certainly working through different issues.

They are encouraging their provinces and working closely with their provinces to go the enhanced driver's license route as an alternative to the passport, but they do have a very high passport-holder rate, which is something that means the Canadian citizens have the WHTI-compliant documents, for the large part, already.

Mr. BILIRAKIS. Anyone else wish to address it?

Mr. JACKSTA. I would just mention, consistent with what Kathy just mentioned, that we have a very good working relationship. We have been having a number of conversations with the Canadians on this.

We have had a number of conversations with the various groups representing the Canadians, Border Trade Alliance, the various groups, talking groups.

So we have a good relationship. They understand the requirements. One of the efforts that we have is that as we move forward with making sure everyone gets into compliance with the final rule, that we have to work with the Canadians and the Canadian groups to make sure the message is sent out for the travelers.

Mr. BILIRAKIS. Very good. Thank you very much, Madam Chairwoman, appreciate it.

Ms. SANCHEZ. You are welcome.

Now we will go to Mr. Green of Texas for 5 minutes.

Mr. GREEN. Thank you, Madam Chair.

I thank the ranking member for his comments that were made earlier and would look forward to working with you on the finger identification.

Mr. Jacksta, let's talk for just a moment about the vicinity radio frequency identification.

It is my belief that this is entirely doable, and I admire the notion that you are convinced that it will be done, but I have to be mindful of P–28, part of SBInet, and I have to be mindful of the fact that we have a TWIC card, but no card reader for the TWIC card, and the TWIC card is now being deployed.

So the question becomes if we do not meet the deadline and we have this card, but we don't have the reader, because the reader is the key to the success of the vicinity screening, what will we do?

Mr. JACKSTA. First of all, sir, let me put on that we plan to meet the June 1, make sure that we have the equipment out there.

Mr. GREEN. Okay. Let me just intercede and say this. I have been here through other hearings—and this is not to demean you and, by the way, I have great admiration for Secretary Chertoff.

We are just being factual now. I have been at other hearings. I was the guy who questioned on P–28 and was given assurances about when it would be deployed.

Now, it is, shall we say, indefinitely suspended.

Mr. JACKSTA. So let me go to the point that you want me to address, and that is the issue of that on June 1, 2009, if the equipment is not out there, we have the ability to have the pass cards.

We have the responsibility to use the other types of cards that are going to be machine readable, but they are going to show the identity and the citizenship of the individuals.

So even though the RFID may not be read, the ability for our CBP officers to have a single document that does show the identity and the citizenship are going to be extremely important.

As Department of State indicated, these documents that we are putting out there, in addition to making them more enhanced so that they could not be used for fraudulent reasons, we are also enhancing our trusted traveler cards.

We are enhancing other types of documents that we are going to accept. So on June 1, 2009, we are going to have better cards in the hands of travelers coming across the border.

The enhanced driver's license that the States are putting out there are also going to have a machine readable zone. They are going to have the biographic information. They are going to have the security features.

So it is a success story even if the RFID does not work.

Mr. GREEN. Are you allowed to buy members lunch?

Mr. JACKSTA. Yes, sir.

Mr. GREEN. If it is done, I will buy you lunch. If it is not done, will you buy me lunch?

Mr. JACKSTA. Yes, sir.

Mr. GREEN. Okay, all right.

Mr. JACKSTA. Appreciate that.

Mr. GREEN. I want to make sure we get information on you before you leave so that I can find you.

What is the value of this contract, please, sir?

Mr. JACKSTA. The contract is somewhere in the area of about $80 million for Unisys to deploy the equipment, do the site surveys.

I don't have the exact money value. We can give you that value.

The money that Congress has given to us has also enabled us to enhance and put additional positions out in the field, CBP officers. It also has enabled us to enhance our capabilities.

As you know, sir, I know you have been down on the border. You have seen the screens that we have. It is old technology.

This WHTI enhancement is going to change the whole way we do business down on the southern border and bring more information to that CBP officer so that, in the long run, it is going to help facilitate the travelers through the process.

So we are excited about taking a look at the land border locations for the first time in a number of years and making these important changes.

Mr. GREEN. One more quick question and then we will be off to vote.

You have talked a lot about coordinating your efforts with Canada and working with them to make sure that their concerns are met.

What about our southern neighbor, Mexico?

Mr. JACKSTA. Absolutely, sir. We have had a number of conversations. I have been personally down to Mexico City, down to other places in Mexico along the southern border.

Once again, we are meeting with the officials from the Mexican government. We are working with the BTA on the southern border with the various local chapters on the southern border.

So every effort is being made to make sure that the message is getting out, that they understand.

For this WHTI, it is really not going to affect Mexican citizens, since they still are going to be required and are currently required to have a passport or a border crossing card when they come and cross.

Mr. GREEN. I yield back, Madam Chair. Thank you.

Ms. SANCHEZ. Thank you.

We have some votes on the floor.

First, let me say that the chair has received a written statement on the subject of today's hearing from Representative Louise Slaughter and from Representative Stupak, and I ask unanimous consent to insert the statements in the record.

Without objection, so ordered.

[The statements of Ms. Slaughter and Mr. Stupak follow:]

PREPARED STATEMENT OF HON. LOUISE M. SLAUGHTER

APRIL 16, 2008

Mr. Chairman and Members of the committee, I would like to thank you for taking the time to hold this hearing on this important subject, as well as giving me the opportunity to submit my remarks for the record. The committee has been incredibly supportive in its efforts to ensure that the Western Hemisphere Travel Initiative (WHTI) is properly implemented; even holding a field hearing on the subject up in Buffalo, NY last year. As you know, given that nearly my entire district runs along the Canadian border, I am particularly concerned about WHTI and the effects of its implementation on border community economies.

More than a relationship of shared proximity and principles, the Northern border represents a major component of our global economy. U.S.-Canada trade supports 7.1 million jobs and generates tens of billions of dollars in annual revenue. Each day, $1.5 billion in trade crosses our border; that is $1 million every minute. Canadians made more than 40 million visits to the United States in 2006, spending more than $13.5 billion. Just a 5 percent decline in Canadian visits to the United States could cost the American economy nearly $700 million.

Given that Canada is our largest trading partner and the intertwining economic relationship between border communities, I have long been concerned that WHTI could unintentionally close the U.S.-Canada border and create an economic disaster for both countries. While I support the intent of WHTI and recognize the need to improve the physical security of the documents presented for entrance into the United States, we must not let WHTI freeze cross-border travel. I believe that there are ways to implement WHTI that are smart and secure, and make certain that our border remains open for business.

DHS insisted on implementing the WHTI air requirements in January 2007, despite concerns in the travel community that the agency had not properly notified the public or prepared for a smooth execution. The travel community's concerns were borne out when DHS was forced to postpone the air regulations for 3 months after thousands of travelers were unable to receive passports in a timely manner. The challenges for the effective implementation for land and sea are far greater than for air as DHS must install the ports-of-entry (POE) with new card-readers, test and develop the technology for the proposed passport card, and start the driver's license pilot program in several States. As the January, 2008 deadline for implementing the full WHTI requirements approached, it became increasingly unlikely that any of these tasks could be achieved.

Recognizing this, last year I led the charge in Congress to delay the implementation of WHTI from January, 2008 until June, 2009. Language mandating this delay was successfully included in the fiscal year 2008 omnibus appropriations bill which

was signed into law in December. This action was necessary in order to make sure that we do not rush this proposal that currently has many flaws, and it was incorporated into the final rule on the land and sea portion of WHTI which was released by DHS on March 27, 2008.

This delay, however, is only that: a delay. DHS still must address the primary concerns that are shared by people in border communities throughout the United States and Canada.

According to the State Department, nearly 50 percent of the annual Northern border crossings are made by just 400,000 people. These are the frequent travelers who rely on cross-border travel and trade in their every day lives. In order to ensure that WHTI implementation does not hamper the regular trade and travel, DHS must implement and actively promote efficient trusted-traveler programs such as NEXUS and FAST for frequent travelers. The 9/11 Commission found that NEXUS and FAST are critical to improving the security of our borders. The programs are a joint venture between the United States and Canadian governments, and are designed to simplify border crossings for pre-approved, low-risk travelers and commercial drivers. Carefully screened applicants get access to expedited border crossing lanes, and do not have to stop to be inspected. Not only is the NEXUS card less expensive than a passport, it also allows our border inspectors to use their limited resources to better inspect high-risk travelers.

Yet despite the high percentage of frequent travelers crossing the border, NEXUS enrollment currently stands at just 75,000. Even worse, CBP expects to enroll only 50,000 more individuals in the NEXUS program through 2011. Now that DHS has declared in their final rule that Trusted Traveler Cards such as NEXUS, SENTRI and FAST will be WHTI compliant, it is even more imperative that we make serious investments in these Trusted Traveler Programs. While I am encouraged that construction on an enrollment center at Whirlpool Bridge in Niagara Falls is set to begin next month, DHS must create more enrollment centers all along the border.

Additionally, there must be aggressive outreach effort by DHS to educate people about the new border rules. DHS and the State Department must engage in a public relations campaign to educate border communities and Americans seeking to cross the border on the new requirements and encourage continued cross-border travel and commerce. DHS should ensure that the public is well aware of what documentation will be accepted under the new requirements, as well as how individuals can obtain the new alternatives to a passport. People need to know that they will not be forced to suffer through long delays when crossing the border, and that they will not be hassled with unreasonable identification requirements.

An efficient, cost-effective Trusted Traveler Program, as well as a robust public outreach plan are measures that will help alleviate congestion at the border while increasing security, and will free critical Customs resources for more pressing security concerns. However, it is clear that we all still have a lot of work to do to ensure that we have a smooth transition to the new documentation security measures, and that WHTI requirements do not unnecessarily hamper tourism and trade across the border. We must find an appropriate balance between ensuring our country's security, and protecting the economic health of our border communities.

Mr. Chairman, thank you again for the opportunity to submit my remarks for the record, and I look forward to working together as WHTI moves forward.

PREPARED STATEMENT OF HON. BART STUPAK

APRIL 16, 2008

Thank you, Chairwoman Sanchez and Ranking Member Souder, for allowing me to submit testimony to the subcommittee on the Western Hemisphere Travel Initiative.

As co-chair of the Northern Border Caucus, I would like to share my concerns about the final rule for the Western Hemisphere Travel Initiative (WHTI), especially the impacts it could have on cross border travel and trade between the United States and Canada.

On March 27, 2008, the Departments of Homeland Security and State issued a final rule on the land and sea portion of WHTI. While I pleased that the departments have listened to Congress and will not implement WHTI until June 2009, I remain concerned whether the departments will be ready to properly implement WHTI in this time frame.

The stakes for northern border communities are extremely high, with so many communities and businesses dependent upon the ease of travel between the United States and Canada. In my Northern Michigan district, like many northern border

areas, smooth, reliable, and efficient movement between the two countries is essential to the economy. Commerce and trade between Canada and the United States supports more than 220,000 Michigan jobs and more than $71.3 billion in trade for the State. In addition, $489 billion in merchandise trade passes between the United States and Canada via Michigan annually. The International Bridge in my district is one of the 10 largest crossing points on the northern border, and the only vehicular crossing between Ontario and Michigan for 300 miles. More than 2.5 million vehicles cross the bridge annually, making a significant contribution to northern Michigan's economy.

In documents released with the final rule, the Department of Homeland Security states it "has determined that the benefits—facilitation of travel and increased security that would reduce the probability of a terrorist attack—are greater than the potential costs." Ironically, just days before the final rule was published, an independent study released by the Brookings Institution found that new border crossing requirements impede economic growth in the Great Lakes region, and one of the report's chief authors expressed "alarm" with the speed at which new rules—like WHTI—are being implemented. The study found that border crossing requirements put in place since 2001 are already impeding economic growth in the Great Lakes region, and implementing WHTI without the proper infrastructure in place will only make this problem worse.

The Department of State began accepting applications from individuals for the Passcard on February 1, 2008; however, the Passcard does not exist, has not been properly tested, and critical infrastructure has not been installed at ports of entry.

The Passcard should not be made available to U.S. citizens until it is proven effective. It is imperative that the Departments of State and Homeland Security test the Passcard technology at land and sea ports of entry to ensure that the necessary infrastructure is in place before making Passcard applications available to U.S. citizens. Without providing the required report to Congress on the effectiveness of the Passcard, DHS is in direct violation of the provisions included in the fiscal year 2008 Omnibus Appropriations Act.

A December 20, 2007 Government Accountability Office (GAO) report conducted for Chairwoman Sanchez, Congressman John McHugh, and Congresswoman Louise Slaughter indicates that DHS has "outlined a general strategy for the upgrades at the 39 highest volume land ports, beginning in January 2008 and continuing over roughly the next 2 years." This means that the technology needed to read the Passcard will not be in place at all ports of entry when the Department of State begins accepting applications for the Passcards, nor when the Department of Homeland Security intends to fully implement WHTI in 2009. It is simply irresponsible for the departments to move forward with WHTI when the pilot testing has not been completed and will not be completed in time.

The GAO report also explains that Customs and Border Protection "would like to complete the upgrades at least at the first 10 ports before the documentation requirements are implemented." WHTI should not be fully implemented until all land and sea ports of entry are outfitted with the Passcard technology, and all Customs and Border Protection staff has received the proper training. It does our constituents no good when they have a Passcard that doesn't work!

In addition, it remains unclear to me what is required for boaters who travel on the Great Lakes and enter Canadian waters. The Great Lakes are a vital fishing and recreational resource for northern Michigan.

The Department of Homeland Security had indicated that trips into international waters are treated like a domestic trip unless the individual drops anchor in international waters, land on or call to port in another country, or come in contact with another boat while on the water. Should these incidents occur, then the boat captain and passengers must check in with Customs and Border Protection. However, recent news reports have indicated that the Department will not require fishers and divers to provide WHTI compliant documents for merely entering Canadian waters in the Great Lakes. These requirements further confuse recreational boaters, charter boat captains, and tourists traveling to the Great Lakes. It is important that the Department of Homeland Security clearly lay out requirements for sea travel.

Any economic or bureaucratic impediments to trade and travel could jeopardize thousands of local jobs in border districts like mine. Enhancing safety on the border must be balanced with the need to efficiently transport people and goods.

As the subcommittee continues to evaluate the progress made by the Departments of Homeland Security and State in implementing the land and sea travel requirements, it is important that the departments meet critical benchmarks prior to full implementation. If the departments have not deployed equipment, tested the Passcard, and clearly informed constituents of the new requirements, then it should not move forward with full implementation of WHTI even if June 1, 2009 arrives.

Ms. SANCHEZ. We have a vote on the floor and, actually, it is a strange series of votes that are going on on the floor.

So we will dismiss this panel.

I am going to ask my Ranking Member for unanimous consent to be allowed, when we finish the votes, to come back and start up with the second panel without a quorum here, as I believe that you also are going to be going in and out of the markup, Mr. Souder.

So what we will do is we will recess, we will go for these series of votes, which is probably about a half an hour's worth, and we will come back for the second panel, and you will probably just see me, but I am hoping that my Ranking Member gets back at some point.

So if I could ask for unanimous consent to start up without a quorum when we come back.

Mr. SOUDER. Yes.

Ms. SANCHEZ. Yes. Okay. We are in recess. I thank the panel and the witnesses.

[Recess.]

Ms. SANCHEZ. I would like to thank the witnesses so much for staying to give your testimony.

I am sorry, but the rest of the members, there is so much going on today, including an enormous amount of markups, and I know that some of them will try to get back.

But since we do have unanimous consent to be able to take your testimony, and I, of course, will have some questions for you, I would like to welcome you.

Our first witness is Ms. Liz Luce, director of the Washington State Department of Licensing, appointed in 2005 by Governor Chris Gregoire. Ms. Luce oversees the licensing of over 19,000 vehicles and 4,000 drivers in the State of Washington each day.

In that capacity, she has played an integral role in implementing the State's new enhanced driver's license program.

Our second witness is Jim Phillips, president and CEO of the Canadian-American Border Trade Alliance, CANAMBTA, formed in 1992. This transcontinental, bi-national organization includes members from producers, shippers and bridge and tunnel operators, chambers of commerce, business and trade corridor associations, and economic development and government agencies. Welcome.

Our final witness is Ms. Janice Kephart, president of 9/11 Security Solutions. She is recognized as a border security expert, specializing in the nexus between immigration and counterterrorism issues. She served as a counsel to the 9/11 Commission and helped develop recommendations on border security that appear in the Commission's final report.

Without objection, your full testimony will be inserted in the record.

I will now ask Ms. Luce to summarize her statement for 5 minutes.

STATEMENT OF ELIZABETH LUCE, DIRECTOR, WASHINGTON STATE DEPARTMENT OF LICENSING

Ms. LUCE. Good afternoon, Chairwoman Sanchez.

My name is Liz Luce. I am the director of the Washington State Department of Licensing.

Border security is a big deal, but the State of Washington has brought it down to size. Through the leadership of Governor Chris Gregoire and Premier Gordon Campbell, we started our journey to create the country's first enhanced driver's license and identification card, a viable solution for all States in response to the challenges posed by the implementation of the WHTI land and sea rules.

I have been asked to describe the Washington enhanced driver's license or, as we like to call it, the EDL, and address four main points—relationship, security, costs and challenges.

Currently, we are the only State in the Nation issuing EDLs. An enhanced driver's license is a driver's license that has been approved by Homeland Security as an alternative WHTI travel document.

Not only is it a convenient, low-cost alternative to a passport, it also provides more protection against identity theft than the conventional driver's license.

A Washington citizen can choose to obtain an EDL for only $15. Applicants must demonstrate their identity, prove U.S. citizenship and reside in the State of Washington.

The EDL program is based on security standards set by Homeland Security and the industry's best practices.

It includes 20 state-of-the-art security features, including a radio frequency identifier and a machine-readable zone, which are both currently used in new passport cards and facilitates border management.

To ensure we have one record and one record only, for each driver, we use a facial recognition biometric. We also verify online Social Security numbers. We use state-of-the-art equipment that can detect fraudulent documents.

EDL employees have undergone fraud document training and Federal background checks. Data to and from Homeland Security is encrypted and a sleeve is provided to protect against reading the RFID chip.

Finally, our legislature passed a law prohibiting unauthorized use of the RFID number.

I would like to thank the Department of Homeland Security for their unwavering support and partnership. Members of the WHTI program office came to Washington State to meet with us early in the process.

They looked at our procedures firsthand and work in partnerships with us to ensure our mutual success.

As to the cost of the program, the process of producing a new travel document is not for the fiscally faint of heart. To date, the State of Washington has invested over $12 million.

The public response has been extremely positive. As of February, over 25,000 appointments have been made through May and June is filling quickly.

Other States, such as Oregon, Montana, Alaska, California, Utah, Texas, New Mexico, Idaho and Michigan, have approached us about producing EDLs. However, we have been told that until the EDL is recognized as REAL ID compliant, they are hesitant to make the investment.

We believe the EDL satisfies both the WHTI and REAL ID requirements.

At the REAL ID press conference, Secretary Chertoff was quoted as saying, "The enhanced driver's license will automatically be compliant with REAL ID, but they will have some additional features that are relevant for crossing the border that are not relevant for REAL ID. So you might describe the enhanced driver's license as REAL ID plus."

WHTI rules state, "EDLs are being developed consistent with the requirements of the REAL ID and, as such, can be used for official purposes, such as accessing Federal facilities, boarding federally regulated commercial aircraft, and entering nuclear power plants."

The benefits of recognizing the EDL as REAL ID compliant are significant not only for States, but also for the Federal Government.

Driver's licenses will become more secure nationwide and identity theft would be reduced.

As we near the 2010 Olympics, citizens will be confronted by what travel document they will need, how long will it take them to get across the border.

The EDL can solve this dilemma if it is also recognized as a REAL ID document.

After all, how many documents does one person have to have to prove who they are?

Border management can be facilitated by more States producing EDLs.

So in conclusion, to make an EDL a nationwide program, we need the EDL to be declared REAL ID compliant and eligible for the REAL ID grant.

I thank you for your support and the chance to have the opportunity to discuss it.

Thank you.

[The statement of Ms. Luce follows:]

PREPARED STATEMENT OF ELIZABETH LUCE

APRIL 16, 2008

Chairwoman Sanchez, Ranking Member Souder, and Members of the committee, my name is Liz Luce, I am the Director of the Washington State Department of Licensing. We license approximately 5 million drivers, almost 7 million vehicles, and over 30 professions. I am pleased to be here to share information about our Enhanced Driver License.

Border security is a big deal, and the State of Washington has brought it down to size.

In June 2006, Washington State Governor Chris Gregoire met with Canada's British Columbia Premier Gordon Campbell to discuss challenges posed by implementation of the Western Hemisphere Travel Initiative (WHTI) to both the State of Washington and British Columbia. Washington State shares more than a border with British Columbia, we also share significant cultural ties and a mutual reliance on trade and tourism. It was at this meeting that Governor Gregoire wrote a note directing me to, "Look into creating a driver license that could also work as a travel document for border crossing."

It was through Governor Gregoire's leadership and vision that we started on our journey to create the country's first Enhanced Driver License and Identification Card—a viable solution for all States in response to the challenges posed by the implementation of WHTI land and sea rules. We have developed a realistic solution that addresses the concerns about security, cost, privacy and ease of travel for Washington State citizens.

I would like to thank the Department of Homeland Security for their unwavering support and partnership throughout our development of the Enhanced Driver License and ID Card program. Members of the WHTI Program Office came to Washington to meet with us in person early in the process, look at our procedures first hand, and work collaboratively with us to ensure our mutual success. We consider our Enhanced Driver License to be a national model for how Federal agencies can work with States to bring about solutions that minimize impacts to a State's economy. We value these relationships and look to the future to accomplish mutually beneficial programs.

Ours was not an easy task. We worked closely with the Department of Homeland Security and the Department of State to evaluate and ultimately meet standards for a secure travel document. We conducted an extensive gap analysis of our current systems and procedures, developed an infrastructure within our field offices and management, provided extensive training to our employees and spent over 33,000 technology hours on various applications that had to be altered to implement the Enhanced Driver License and ID elements.

The card itself has 20 state-of-the-art security features. As required by Homeland Security it also contains a Radio Frequency Identifier (RFID), and a machine readable zone which are both currently used by the Department of State in the issuance of our country's new Passports. The application cost to our customer is $15.

An Enhanced Driver License is voluntary. Privacy concerns for those who wish to participate in the Enhanced Driver License program have been addressed by the security added to the process as well as encrypting data to and from Homeland Security. We also provide citizen education and a sleeve to protect against unauthorized reading of the RFID number. In addition, our Legislature passed a law this past session that makes it a class C felony for a person to intentionally possess, read, or capture information on another person's Enhanced Driver License without that person's knowledge and consent.

Applicants for the Enhanced Driver License must prove their identity and U.S. citizenship, and show that they have resided in the State of Washington for more than 30 days. This secure card application approval and issuance process requires that the licensee's picture is taken and run through a facial recognition biometric to ensure we have one record, and one record only, for each driver. We also verify his or her Social Security number.

The response from our staff has been extremely positive. We had 24 EDL licensing positions available and over 100 of our staff applied. Our licensing staff has received extensive training. Staff is required to pass a Federal background check, be trained in detecting fraudulent documents and go through interview technique training.

The process of producing a new travel document is not for the "fiscally faint of heart." This effort required significant resources from our State in both staff and dollars. The State of Washington has invested over $12 million to equip 14 offices to address a consistent demand. We, in concert with the Department of Homeland Security and British Columbia, have demonstrated that it can be done, and now other States are interested in our experience and in offering an EDL to their residents. We are proud of our accomplishment and the precedent we established working collaboratively with DHS.

At this time we have Enhanced Driver License capacity available in only 14 of our 63 licensing locations throughout the State. We would like to offer it in more locations, but are fiscally constrained. Our legislature has been generous, but to expand to other areas of the State and to realize the full potential and demand for the EDL, we will require external funding.

The public's early response to the Enhanced Driver License has been positive and supportive. This is evident by the fact that we already have booked over 25,000 appointments. In our border communities and the Seattle metropolitan area, we are booked through May, and June is filling quickly.

In an effort to manage the demand we have suspended all paid advertising throughout the State. However, we continue to streamline our processes and enhance our capacity while still maintaining the integrity of this very secure and voluntary program. But the demand remains steady as we speak.

Our citizens are responding because they recognize the value and benefits of the Enhanced Driver License, and the benefits are significant. According to Washington

State Attorney General Rob McKenna, "Washington State's Enhanced Driver License and Identification Card program provides citizens with a convenient, low-cost alternative to a passport that provides more protection against identity theft than a conventional license."

Another benefit of Enhanced Driver License that cannot be overlooked is how it can fulfill the intent of the REAL ID Act. The intent to create one secure document that would satisfy both WHTI and REAL ID requirements appears to be supported by Secretary Chertoff. At the REAL ID Press Conference, Secretary Chertoff was quoted as saying "enhanced driver's licenses will automatically be compliant with REAL ID. But they will have some additional features that are relevant for crossing the border that are not relevant for REAL ID. So you might describe the enhanced driver's license as 'REAL ID plus.'"

In addition, the recently published WHTI rules state, "EDLs are being developed consistent with the requirements of the REAL ID and, as such, can be used for official purposes such as accessing a Federal facility, boarding federally regulated commercial aircraft, and entering nuclear power plants."

Also, in WHTI's Privacy Impact Assessment, January 11, 2008, page 7, it states, "In addition to implementation of REAL ID, DHS is encouraging States to enter into voluntary agreements to produce enhanced driver's licenses (EDLs) that would serve as alternative documents to passports under the Western Hemisphere Travel Initiative (WHTI). These State-issued EDLs, intended to also meet REAL ID requirements, would be available only to U.S. citizens who voluntarily apply.

We believe that our Enhanced Driver License and Identification Cards are REAL ID compliant and as stated by Secretary Chertoff, we believe they are "REAL ID plus," and should be recognized accordingly within the REAL ID rules framework.

We also would like our Federal partners to consider expanding the use of Enhanced Driver Licenses and ID Cards for air travel to countries identified by WHTI. It would make the development of an Enhanced Driver License more attractive to more States and make travel easier and less costly for citizens across the country. I realize this option would require a significant investment on the part of the Federal Government, but I urge you to keep it in mind as more States choose to offer this type of document to their citizens.

In summary, some of our existing challenges of the program include Federal funding for the full expansion of Enhanced Driver License capability in all of our offices throughout the State. Another challenge is the recognition of the Enhanced Driver License as a Real ID materially compliant document as suggested by Homeland Security Secretary Michael Chertoff. We have also requested approval for a priority lane for enhanced card holders at the Blaine Border Crossing. In addition, we ask to gain recognition of the Enhanced Driver License as an alternative document for air travel within the United States. Funding is a large challenge and will be a particularly critical concern as the time nears for the 2010 Olympic events and if the REAL ID Act is implemented and demand for the EDL increases.

There is a lot of confusion out there about how many documents or which documents are needed to cross the border these days. But I can tell you with certainty that at least by land or by sea, you can use Enhanced ID.

Thank you.

Ms. SANCHEZ. Ms. Luce, I thank you for your testimony.

I now recognize Mr. Phillips to summarize his statement in 5 minutes.

STATEMENT OF JAMES D. PHILLIPS, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CAN/AM BORDER TRADE ALLIANCE

Mr. PHILLIPS. Chairwoman Sanchez, it is an honor to be here to talk about common sense border security.

They key is to achieve national security for our country and the public, while simultaneously increasing our economic, trade and travel activity, on which our quality of life depends.

To achieve success, one must have a vision of the final objective, the end state. To deliver seamless movement of legitimate people to ensure economic security requires that we know who is low-risk before they get to our border, give them a special ID and a streamed access to and through primary inspection to encourage and, in fact, achieve increased tourism and legal visitation.

People's incomes, not to mention infrastructure financing, depends on it.

Collectively, we must ensure common sense prevails while achieving both essential objectives with proper levels of security to deter, detect and prevent threats to the public, while making cross-broader travel for known low-risk individuals, the overwhelming majority, seamless as never before reached.

Unfortunately, from the outset of the initial Western Hemisphere Travel Initiative, WHTI, announcement in April 2005, the initiative was misunderstood as to require a passport to catch the bad guy.

In reality, WHTI was and is an initiative to provide secure documentation for border crossing into the United States. WHTI will substantially improve the ability of CBP officers at border primary lanes to facilitate the entry of low-risk individuals, thus providing increased time and attention for unknown and high-risk.

Today, WHTI has settled on the selection of acceptable documents that utilize the proven and long in use technology of NEXUS, FAST, SENTRI, known low-risk programs and the US–VISIT program.

The RFID technology utilized in NEXUS, FAST and US–VISIT has been mandated the additional WHTI acceptable documents, i.e., the passport card from the State Department and enhanced driver's license to be issued by participating States and Canadian provinces, an excellent addition.

Controlled contrails at the busy Peace Arch land border port, entering the United States from British Columbia, resulted in the time to process an equal group of passenger vehicles as follows.

Current documents and declarations, 65 minutes; when all used proximity RFID passports, 25 minutes; when all used vicinity RFID documents, NEXUS, FAST, US–VISIT, pass card, enhanced driver's license technology, 8 minutes; and, if a dedicated NEXUS lane was open, as well, 5 minutes.

With the expected mix of passports and vicinity RFID documents, after June 1, 2009, a reduction of wait time from 65 minutes to approximately 15 to 20 minutes should occur, thus actually achieving the two objectives of facilitating low-risk for vicinity of 65 minutes to 8 minutes, while enhancing public security, as everybody will have a more secure document.

A like time trial performed in the Nogales-DeConcini land border port entering from Mexico resulted in the following time trials.

Current documents, 123 minutes; when all used proximity RFID passports, 90 minutes; when all used vicinity RFID documents, such as SENTRI, FAST, US–VISIT, pass card, enhanced driver's license from Texas, 32 minutes; and, if a dedicated SENTRI lane was open, 19 minutes.

The results of the time trials indicate that WHTI is a commonsense solution when implemented properly.

It is a complementary process to the already proven known low-risk vicinity RFID programs of the low-risk programs already in place, providing officers with the identity of individuals and their status prior to them entering the primary booth.

WHTI-approved documentation is a foundation introduced subsequent to known low-risk programs, such as the planned CBP global entry pilot program encompassing international trusted travelers.

I have three suggested further steps. DHS should consolidate all pre-enrolled low-risk travelers in one designated authority. That is NEXUS, FAST, SENTRI, TWIC, all the TSA programs, and other CBP programs, including HAZMAT, from transport, so that one card, one ID, after the appropriate background checks, would be utilized, i.e., a known low-risk truck driver with FAST, TWIC, HAZMAT and NEXUS, for his vacation, all on one card, with required different biometrics.

Maximize enrollment in known low-risk programs by outreach by the public and the next and final major improvement is to fully implement offshore, at point of departure for international visitors, a check of their documents to identify inadmissible individuals before they board transportation, prohibiting them from physically reaching our soil. That would also secure the air and sea travel lanes.

I have provided you with a coordinated clearance point of departure strategy PowerPoint that specifically describes what needs to be done.

Currently, Canada does this at 39 locations and DHS is doing it at seven, and we recommend that we do it at all locations.

Thank you again for the opportunity to testify today.

[The statement of Mr. Phillips follows:]

PREPARED STATEMENT OF JAMES D. PHILLIPS

APRIL 16, 2008

INTRODUCTION

Chairwoman Sanchez, Ranking Member Souder, distinguished Members of the subcommittee, it is a privilege and an honor to appear before you today to discuss Common Sense Border Security. The key is to achieve national security for our country and the public while simultaneously increasing our economic trade and travel activity upon which our quality of life depends.

To achieve success one must have a vision of the final objective, the "End State." To deliver seamless movement of legitimate people to ensure economic security requires that we know "who is low-risk" before they get to our border, give them a special ID and a streamed access to and thru primary inspection to encourage and in fact achieve increased tourism and legal visitation. People's income not to mention infrastructure financing depend on it.

Passport, passport card, REAL ID, drivers license, birth certificate, etc. provide only ID and nationality or just ID but regardless the essence is none of these allow passage without query since they do not identify low-risk people for facilitated access and processing at this time. This is our one chance to achieve facilitated seamless processing for the vast majority to protect economic benefits by delivering a degree of seamless travel never before achieved at the U.S./Canada shared border while satisfying public security requirements.

Collectively we must ensure that common sense prevails while achieving both essential objectives of proper levels of security to deter, detect and prevent threats to the public while making cross-border travel for known low-risk individuals (the overwhelming majority) seamless as never before reached.

Unfortunately, from the outset of the initial Western Hemisphere Travel Initiative (WHTI) announcement in April 2005, the initiative was "misunderstood" as to require a passport to assist "to catch the bad guy." In reality WHTI was and is an initiative to provide secure documentation for border crossing into the United States. WHTI would substantially improve the ability of CBP officers at border primary lanes to facilitate the entry of low-risk individuals thus provide increased time and attention for unknown or non-low-risk individuals.

Today WHTI has settled on the selection of acceptable documents that utilize the proven and long in use technology of the NEXUS, FAST, SENTRI (known low-risk programs) and the US–VISIT program for foreign visitors.

Vicinity RFID technology, utilized in NEXUS, FAST and US–VISIT, has been mandated for the additional WHTI acceptable documents i.e. PASS CARD from the State Department and the Enhanced Drivers Licenses to be issued by participating States and Canadian Provinces.

Controlled time-trials at the busy Peace Arch Land Border Port entering the United States from British Columbia resulted in the time to process an equal group of passenger vehicles as follows: current documents and declarations, 65 minutes; when all used Proximity RFID Passports, 25 minutes; when all used Vicinity RFID documents (NEXUS, FAST, US–VISIT, PASS CARD, Enhanced Drivers License technology), 8 minutes; and, if a dedicated NEXUS lane was open as well, 5 minutes. With the expected mix of Passports and Vicinity RFID WHTI documents (after June 1, 2009), a reduction of wait time from 65 minutes to approximately 15–20 minutes should occur thus actually achieving the two objectives of facilitating low-risk while enhancing Public Security.

A like time-trial was performed at the Nogales East—Desconcini Land Border Port entering the United States from Mexico resulting in the time to process an equal group of passenger vehicles as follows: current documents, 123 minutes; when all used Proximity RFID Passports, 90 minutes; when all used Vicinity RFID documents (SENTRI, FAST, US–VISIT, PASS CARD, Enhanced Drivers License), 32 minutes; and if a dedicated SENTRI lane was open as well, 19 minutes.

The results of the time-trials indicate that "WHTI is a common sense solution when implemented properly." It is the complementary process to the already proven known low-risk Vicinity RFID programs of NEXUS, SENTRI, FAST and US–VISIT. The key is providing the Officer with the identity of individuals and their status "prior to them entering" the Primary Booth for assessment.

WHTI approved documentation is a foundation to introduce subsequent Known-Low Risk Programs such as the planned CBP Global Entry Pilot Program encompassing known International "Trusted" Travelers.

Suggested Further Steps

- DHS should consolidate "all pre-enrolled low-risk traveler and designated special categories" including US–VISIT in one responsibility. These should include NEXUS, FAST, SENTRI, TWIC & OTHER TRUSTED TRAVELER TSA & CBP PROGRAMS. I would hope HAZMAT and other Government specialties would also be included to allow an individual to use only one ID Card after appropriate background check etc. requirements with a menu option that activates all programs an individual is approved to utilize i.e. a known low-risk truck driver could be FAST, TWIC, HAZMAT AND NEXUS for his vacation travel (ALL ON ONE CARD) with required differing biometrics having been captured.
- Maximize enrollment in known low-risk Programs (NEXUS, SENTRI, FAST).
- The NEXT MAJOR IMPROVEMENT is to fully implement: offshore; (at point of departure); for International Visitors; a check of their documents to identify inadmissible individuals BEFORE they board transportation prohibiting them from physically reaching our soil that would also secure the air and sea travel lanes.

Thank you again for this opportunity to testify. I am pleased to answer any questions you may have.

Ms. SANCHEZ. Thank you, Mr. Phillips.

Let me ask you just a quick question, since I don't have any of my colleagues here.

Are you saying that you think that all of the NEXUS and other programs, that card should be equal to—in other words, the TWIC, the TSA cards, everything should all just use one card.

Mr. PHILLIPS. I am saying that the person should be able to apply to all the different programs the way they are and if they are approved, all their biometrics would be collected and they would get one card and that card would give me access.

If I was a truck driver, I could get into the ports to deliver materials. If I was carrying hazardous material, I could get cleared for that. Also, on my vacation, when I wouldn't be in my truck, but I am a low-risk individual, I can use NEXUS or SENTRI.

Ms. SANCHEZ. I am not sure if the background checks on the individual programs are all the same depth of background checks.

Mr. PHILLIPS. Well, you do the same background check for each. I am not suggesting that you make one background check for all. Obviously, certain cards have fingerprints, certain cards have a picture, certain cards have the iris.

I am just suggesting that all those programs, if they were unified, could be put together on a menu and if I applied and I was approved for five of them, that all those five things could be indicated on one card.

Ms. SANCHEZ. I see what you are saying. So each has a different level, but it could be a menu, basically. I could say I want to apply for three of the five, but it would be the same type of card.

Mr. PHILLIPS. Yes, ma'am.

Ms. SANCHEZ. Thank you. I appreciate that clarification.

Ms. Kephart, summarize your statement for 5 minutes.

STATEMENT OF JANICE L. KEPHART, PRESIDENT, 9/11 SECURITY SOLUTIONS

Ms. KEPHART. Thank you, Chairwoman Sanchez. I appreciate this committee's continued interest and effort in implementing in the 9/11 Commission recommendations.

Without assuring that people are who they say they are and the documents they present are legitimate at our borders and within our borders, we have done little to nothing to contain what we on the 9/11 Commission termed "terrorist travel."

WHTI fulfills a 9/11 Commission recommendation calling for a passport or equivalent for all persons seeking entry into the United States. Equivalent alternatives for entry that satisfy the Commission's recommendation are the trusted traveler program, such as NEXUS, SENTRI, FAST and the new global entry, alongside EDL and the pass cards.

All were designed to be vetted against derogatory information and adequately assure citizenship, while enhancing facilitation for low-risk travelers and permitting focus on high-risk travelers.

The slate of 9/11 hijackers, you might recall, had a 97 percent success rate at entering the United States by passing inspectors 34 of 35 times. After 9/11, from 2002 to 2006, the General Accounting Office had a 93 percent success rate in 45 attempts of entry at our land ports of entry with fake birth certificates and driver's licenses and other travel documents.

Containing terrorist travel is so pivotal to national security, because terrorists nearly always require travel across borders to conduct their operations.

Terrorists are trained in document forgery and travel techniques, exploiting any loophole in a border apparatus they can.

For decades, the Western hemisphere travel exception had been one extremely large loophole that permitted anyone claiming to be from the Western hemisphere to present easily forged documents, like birth certificates or driver's licenses, that couldn't be authenticated or nothing at all sometimes to enter the United States.

WHTI flips that, making it significantly harder to fake entry.

On our northern border, cross-border terrorist travel between Canada and the United States is well documented. With the To-

ronto–17 in June 2006, having received visits from two other terrorists via Greyhound bus across the border who were residing in Atlanta, Georgia.

In addition, Hezbollah trafficked illegal goods across our northern border for over a decade. Their cigarette scams in both Canada and the United States were worth multi-millions.

Money was used to buy dual use military equipment in both countries and then shipped to Lebanon.

In the Caribbean, Trinidad has produced a number of individuals who have come to the United States undetected until their terrorist plots became known to authorities, including the JFK Airport plot of last June.

Remember, too, that south of the border, Al Qaeda and Hezbollah have both sought to work with travel facilitators to move terrorists across the southwest ports of entry and the land border.

Now, let me turn to REAL ID for a moment, which I was asked to discuss.

REAL ID fulfills another 9/11 Commission recommendation that, "The Federal Government should set standards for sources of IDs, such as driver's licenses."

Today, REAL ID stands at the verge of implementation, with a final rule that most States agree is doable.

REAL ID and its final rule deal directly with the abuse of the State ID issuance system, enabling States to check other State and Federal Government databases about identity and license issuance through a private network during the application process, with no entity other than the State having access to an applicant's data.

These hardened issuance processes also make it difficult for fake breeder documents to receive a green light when entered into the system.

The ID cards themselves are also hardened against counterfeiting, simultaneously helping law enforcement protect against national security, prevents ID theft, combat drug trafficking, and address other important societal concerns affected by the multi-million dollar fake ID document industry.

Recall that the 9/11 hijackers assimilated into the United States by attaining 17 driver's licenses from Arizona, California and Florida, and 13 State-issued IDs, including the seven fraudulently acquired in Virginia.

At least six hijackers total presented State-issued IDs on the morning of 9/11 to help make sure they could board aircraft.

The pilot who flew into the Pentagon had IDs from four States. The Pennsylvania pilot had three IDs, and an unverifiable ID when stopped for speeding 2 days prior to 9/11.

Honorable Chairwoman, WHTI, EDL, trusted traveler programs, and REAL ID, taken as a whole, go a long way towards implementing key 9/11 Commission secure ID and border recommendations.

I urge you to continue to provide these programs with strong oversight and sound funding, and I will make a special plea for REAL ID, which is in a funding emergency at the moment.

When REAL ID is funded at adequate levels, I do believe EDL should be deemed an allowable use under REAL ID grant programs language.

Thank you so much for having me.
[The statement of Ms. Kephart follows:]

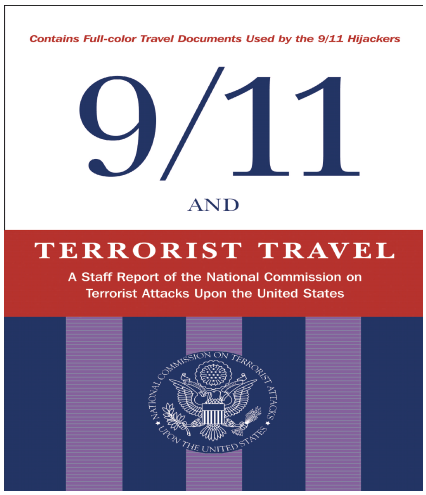
PREPARED STATEMENT OF JANICE L. KEPHART

APRIL 16, 2008

INTRODUCTION

Chairman Sanchez, Ranking Member Souder. Thank you for having me here today. It is an honor to be here. I appreciate very much this committee's continued interest and effort in the 9/11 Commission recommendations, including the issue of identity document security that the Western Hemisphere Travel Initiative, REAL ID and Enhanced Driver Licenses addresses head-on. Without assuring that people are who they say they are, and that the documents they present are legitimate at our borders and within our borders, we have done little to nothing to contain what me and my team mates on the 9/11 Commission termed "terrorist travel".

I am here in my own capacity today, but you should know that when the 9/11 Commission issued its final report card in December 2005, one of the highest marks it gave was to Congress for passing REAL ID legislation that set minimum standards for the issuance of State-issued driver licenses (DL) and IDs.[1] I am also happy to be one who speaks with the 70 percent of Americans who, in a Zogby/UPI poll from late last year, are in favor of secure driver licenses. Like REAL ID, the Western Hemisphere Travel Initiative (WHTI) fulfills a 9/11 recommendation that called for the presentation of a passport or equivalent for all persons seeking entry into the United States.



The Enhanced Driver License and State Department issued PASS Cards will assure citizenship while providing a cost-effective way to facilitate travel for those living and working on our land borders. These alternative forms of ID for the border satisfy the Commission's recommendation that other, "equivalent" documents, might be sufficient for border inspection. As long as these documents are able to be checked for fraud, citizenship, and against derogatory information to the extent passports are today, I can say with confidence that the Commission would consider them acceptable for entry today. Trusted traveler programs such as NEXUS,

[1] In addition, I have written three papers on the subject. The most recent was published in February 2008. *REAL ID: Final Rule Summary* takes the 280-page Final Rule and summarizes it in 9 pages. The second paper from April 2007, *Identity and Security: REAL ID in the States*, answers policy concerns being echoed in some States regarding REAL ID implementation. This paper remains salient, as criticisms of REAL ID implementation are answered, and some of these criticisms are still heard today. The third I published in February 2007 and sets out the policy backdrop for the REAL ID Act, explains its content, and discusses what is at risk if it fails. *Identity and Security: Moving Beyond the 9/11 Staff Report on Identity Document Security* emphasizes the need for security at the base of the Nation's identity document issuance processes.

SENTRI and the Global Entry programs are essential to such systems, to help assure high (not low) risks are the focus for border inspectors.

One crucial caveat remains: national standards for birth certificates—made a legal requirement in 2005—and digitization of birth (and death) records are pivotal to verifying identity for other government issued IDs, including REAL IDs and e-passports. While States are making progress in digitizing birth and death records, continual building of the Electronic Verification of Vital Events system needs to remain a priority. Where States are partnering with the Federal Government to digitize records, huge dividends are being found in the fraud fight in health care, but hooking this information in for DMVs and other legitimate uses will provide the essential foundation to the secure ID framework upon which all these programs ultimately rely.

TERRORIST TRAVEL AND PASSPORTS

Terrorists need to travel in a manner that shields them from detection or suspicion. In the Al Qaeda Afghan training camps, we know that terrorists were well trained in travel and travel document forgery. Terrorists were instructed in how to move into Afghanistan through Iran or Pakistan, and what travel facilitators to use for acquiring travel documents and travel. Digital copies of travel documents were kept in e-files in safehouses (we obtained a couple of 9/11 hijacker passports from such files), and Adobe Photoshop was a favorite tool for manipulating multiple forms of identifications, including passports. Upon leaving training camps, Khalid Sheikh Mohammed (mastermind of the 9/11 plot) would instruct new recruits on how to behave to pass into the West unsuspected.

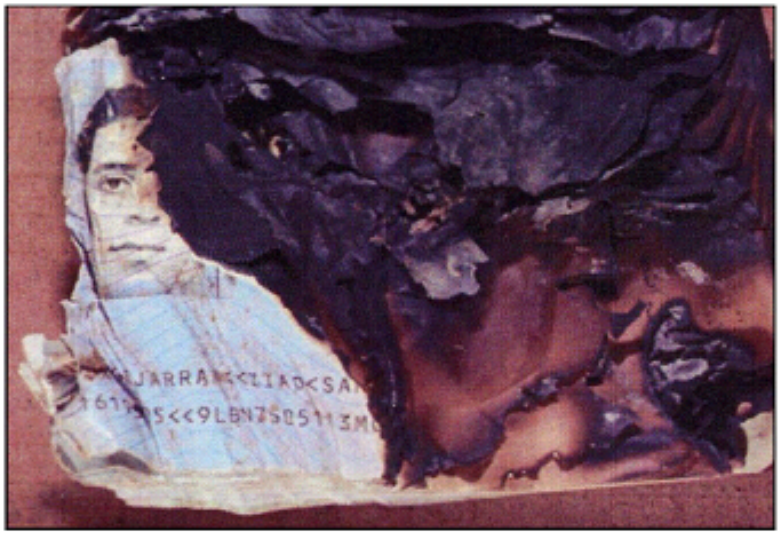


Photo Caption.—A partly-burned copy of Ziad Jarrah's U.S. visa recovered from the Flight 93 crash site in [sic].

We know 9/11 operational ringleader Mohammad Atta used his training as well to manipulate passports to hide travel and substitute information that would leave a fraudulent trail of less suspicious travel. We also know that the recently assassinated Mugniyah of Hezbollah supplied his members with travel documentation as needed.

For the terrorist, the underlying purpose of the travel will often determine how he decides to travel. For example, the 19 9/11 hijackers had a mission which required a relatively short time for legal admission into the United States, but also required that none of them be compromised for failure to obey immigration law. (Violations of law did exist; it was the Federal Government that failed to exercise its authority under the law.) Therefore, they needed to appear "clean" to immigration authorities.

They thus worked hard to appear to follow the rules. They all had passports. (Thirteen acquired new passports within 3 weeks prior to seeking U.S. visas. A number had indicators of extremism that remain classified today and still other passports contained fraudulent manipulations.) They all had visas (22 or 23 applications were approved). They all sought entry through immigration inspection kiosks at U.S. international airports (a total of 34 times over 21 months). In the five times 9/11 hijackers were pulled into secondary, only once did a hijacker resist questioning, and then quickly became cooperative once a new inspector was assigned to conduct the questioning. In two cases terror alerts or visa revocations were placed in the immigration system; but it was too late—in August 2001, subsequent to the last successful 9/11 hijacker entry in July 2001.

In other words, the 9/11 hijackers had been taught what to do to attain successful entry into the United States. The frustrating irony is that at least some of the hijackers could have been denied admission into the United States if critical information had been provided to border officers via lookouts or regarding the passports themselves. Today, we have the ability to provide that information to our border security personnel as long as a passport or verifiable biometric equivalent is required for admission. Our air ports of entry using US–VISIT have helped upgrade this process. However, where there is no passport or equivalent biometric travel document required for admission, our border personnel have little to no baseline upon which to make an initial judgment about whether a particular individual may pose a terrorist or public safety threat to the United States.

Until WHTI comes into full implementation at all U.S. border crossings, terrorists with Canadian, Caribbean or Mexican citizenship—or those that pose as such—can move in and out of the United States right virtually unconcerned about detection. There are legitimate concerns about both the northern, southern and sea borders. The Western Hemisphere Travel Initiative thus becomes an important first step in at least chilling terrorist travel between the United States and Canada/Mexico and the Caribbean. This includes any variety of terrorist, whether a Mexican Islamic convert (as sought out by Al Qaeda) or Canadian.[2] Terrorists do not like to be detected or detectable, nor do they want their identity "frozen". (We know, for example, from detainee reporting after 9/11, that the tightening of immigration admission standards for persons traveling from countries of interest resulted in Al Qaeda leaders seeking out young recruits and others with easy access to the West—U.S. citizens, Canadians, Mexicans and those with access to Visa Waiver passports that would not be subject to biometric entry requirements.)

Even if terrorists choose to acquire a passport with a false identity and with false underlying support documents (as Millenium wannabe bomber Ahmed Ressam did) that identity is at least frozen and aliases to cross the border (as Ressam did use) are not possible. What would have caught Ressam was a biometric in that passport that then linked up to the watchlist Ressam was indeed listed on in Canada. Today, a hit on a terrorist such as Ressam would most likely occur through either a DHS TECS Lookout provided by U.S. or foreign law enforcement, a U.S. terror watchlist hit, an IDENT or FBI IAFIS hit, or through a biometric wanted notice now available to our border inspectors through Interpol.

The staff report I co-authored with my 9/11 Commission border teammates, *9/11 and Terrorist Travel*, details in even greater depth how the 9/11 hijackers exploited our vulnerabilities using our legal border system. Part of the everyday business of terrorist travel is the bustling black market in doctored and false passports. In addition, an estimated 10 million lost or stolen passports or national identification cards worldwide afford terrorists easier access to world travel.[3] This permits easy travel based on aliases, fake or stolen identities that, at a land border, may or may not be subject to a database check. Requiring U.S. citizens to carry a passport or biometric equivalent also means U.S. border inspectors no longer need to play a guessing game as to who is and who is not a U.S. citizen. On the Canadian and Mexican sides of the border, having a combination of the standard passport or equivalent and registered traveler programs that limit what a border officer must review gives border officers a better chance of snuffing out Canadian, Mexican or other Western Hemisphere passports or "equivalents" that might be fake or stolen.

---

[2] For more information about the threat of Canadian terrorist entry over the northern border, see my testimony of November 17, 2005 before the House Small Business Committee, "Building a Wall Between Friends: Passports to and from Canada?"

[3] Levine, Samantha. "Terror's Best Friend." *US News & World Report*. December 6, 2004.

TERRORIST TRAVEL BETWEEN THE UNITED STATES AND CANADA

Until WHTI is fully implemented, terrorists with Canadian citizenship can move in and out of the United States virtually unconcerned about detection. It has long been known—and I testified extensively to this fact in 2005 and 2006 before both Houses of Congress—that Al Qaeda recruiters targeted youths with U.S., Canadian or Western European passports, solid English language skills and an understanding of these cultures. A couple of years ago FBI reported these efforts were resurging. Plenty of examples of terrorists seeking or accessing the United States based on Canadian residency or citizenship, or illegally:

- Jabarah brothers who were recruited to blow up the Singapore harbor but were caught by authorities after swearing allegiance to bin Laden;
- 9/11 mastermind KSM's affiliate Abderraouf Jdey who was initially slated to take part in a second wave of attacks after 9/11;
- Ahmad Said Al-Khadr was bin Laden's highest ranking associate in Canada and raised a family sworn to allegiance to Al Qaeda; a high-ranking ranking Al Qaeda operative who had emigrated to Canada from Egypt in 1975;
- Mohammed Warsame attained U.S. residency after becoming a naturalized Canadian citizen and moved to Minneapolis in 2002. He was arrested in December 2003 as a material witness in the Zacarias Moussaoui case;
- Hizballah cigarette smuggling scam operated for over the U.S.-Canadian border for over a decade with single truckloads sometimes yielding $2 million. Profits were used to buy dual use military equipment and sent back to Hizballah high command in Lebanon. Credit card and banking scams in Canada provided funding, and the Canadian section reported directly to Hizballah's military procurement officer in Lebanon;
- Nabil Al-Marabh tried to illegally enter the United States near Niagara Falls by hiding in the back of a tractor-trailer in June 2001. He had a forged Canadian passport and fake social insurance card.[4] He later told authorities he had regularly traveled illegally between Canada and the United States.[5] Moreover, Michigan State records showed Al-Marabh receiving five driver's licenses there in 13 months; he had licenses for Massachusetts, Illinois, Ontario, and Florida,[6] and a commercial driver's license and a permit to haul hazardous materials,[7] including explosives and caustic chemicals.[8] In 2002, he pled guilty to conspiracy to smuggle an alien into the United States[9] and was ordered deported.[10] Prosecutors said the government had no evidence linking him to terrorism.[11] The judge questioned the government's previous documentation of Al-Marabh's ties to terror and also noted he was found with $22,000 in cash and $25,000 worth of amber jewels in his possession when he was arrested.[12] He was deported to Syria in January 2004 for his strong ties to the Jordanian Millenium plot.

Seventeen Canadian citizens and residents were arrested in Toronto on June 3, 2006 for terrorist conspiracies across southern Ontario, including subway systems and the Parliament Building in Ottawa. Found in their possession were three tons of ammonium nitrate, 1½ times that used in the 1995 Oklahoma City bombing responsible for 168 deaths. The arrests were only the second time Canada has used the Anti-Terror law passed after 9/11.

The LA Times reported that the FBI has been working closely with the Canadians on the case, and that the Canadian cell received visits from two terror suspects arrested in April 2006 from Georgia, Syed Haris Ahmed, a 21-year-old Georgia Tech student and naturalized U.S. citizen, and Ehsanul Islam Sadequee, a 19-year-old Fairfax, VA native. They had met at an Atlanta mosque. The men, according to U.S. court documents, had been in email communication with the Canadian cell and physically went to Canada to meet in early March via Greyhound bus from Atlanta to discuss U.S. attacks and receiving military training in Pakistan. (The two men

---

[4] Dimmock, Gary and Aaron Sands. "Toronto Shop Clerk Tied to World Terror." *The Ottawa Citizen*. Oct. 29, 2001.

[5] Ibid.

[6] Schiller, Bill. "Terrorism Suspect had Florida Link." *Toronto Star*. Oct. 26, 2001.

[7] Philip Shenon and Don Van Natta Jr., "U.S. Says 3 Detainees May Be Tied to Hijackings," *The New York Times*, November 1, 2001.

[8] Wilgoren, Jody and Judith Miller. "Trail of Man Sought in 2 Plots Leads to Chicago and Arrest." *The New York Times*. Sept. 21, 2001.

[9] *USA* v. *Al-Marabh*. WDNY 01–CR–244–A. Plea Agreement. July 8, 2002.

[10] Fainaru, Steve. "Sept. 11 Detainee is Ordered Deported." *The Washington Post*. Sept. 4, 2002.

[11] Ibid.

[12] Owens, Anne Marie. "Judge Gets No Answers on Syrian: Former Toronto Suspect Jailed in U.S. for Border Breach." *The National Post*. Sept. 4, 2002.

had already conducted surveillance, including in Washington, DC.)[13] Both the Canadian cell and the U.S. suspects were in internet communication with each other and suspected terrorists abroad, including a London cell arrested shortly thereafter. Over the internet, a variety of plots focusing on the U.S. Capitol, the World Bank, fuel storage facilities and aviation towers were discussed.[14]

The reporting on the Canadian plot does not mention whether there are any immigration records for the two Georgia men on their entry into Canada or their return into the United States.

Ahmed Ressam of the LAX Millenium Plot[15] used a false French passport to travel to Montreal where he lived for the next 4 years. In Canada he "became interested in going to bin Laden's camps for training" after "friends returned to Montreal with stories about Osama bin Laden's 'Jihad University' in Afghanistan."[16]

In April 1998, after meeting with Abu Zubaydah in Pakistan, Ressam was sent to the Khalden camp in Afghanistan where he spent the next 5 to 6 months. Khaldan had earned a reputation for its instruction in how to acquire, forge, and manufacture travel documents and credit cards, and Ressam learned well.[17] At Khaldan Ressam also learned the other tradecrafts of a terrorist, the use of weapons, bombmaking, and urban warfare.

Zubaydah himself was sufficiently impressed with Ressam's passport manipulation abilities to have apparently asked him to acquire additional Canadian passports for distribution to al Qaeda fighters.[18] And it was Ressam's deft handling of fake travel documents that brought him to the attention of Khalid Sheikh Mohammed during his final visit to Pakistan. He would soon return to Canada (in January 1999) to pursue the plot to blow up Los Angeles International Airport.

On December 14, 1999, a sweaty, nervous Ahmed Ressam was given a secondary inspection when he became reluctant to answer a basic question about his destination. He had just pulled off from a late-arriving ferry at Port Angeles, Washington. In answer to questions, Ressam pulled out fake documents—including a Canadian passport—in the name of Beni Antoine Noris. This was not the first time Ressam was asked questions. Ressam had already undergone a cursory examination by a U.S. immigration officer in Vancouver, who had been suspicious of Ressam as he was the last to board an already-late ferry. The examination included a cursory look in the trunk (but not the tire well where the explosives materials were hidden) as well as a run of the name on the passport (Noris) against the INS terrorist database without getting a hit. Although a subject by the name of Ressam was wanted in Canada, neither that name nor the alias Noris was in the INS database. Ressam was admitted for boarding.

Ressam's trial testimony provides valuable insight into one terrorist's ability to circumvent border security around the world. He described how al Qaeda supplemented its global terrorist network with operatives trained in Afghanistan and thereafter embedded in satellite locations. In France, Canada and elsewhere, Ressam operated in conjunction with fellow terrorists stationed in Europe. He traveled extensively using doctored travel documents that allowed him to take on a variety of identities, including the one he used in Canada—that of a refugee seeking asylum and a new home. In actuality, Ressam was a member of the Armed Islamic Group[19] (GIA, or Groupes Islamiques Armés).

Ressam testified that manufacturing and trafficking fraudulent travel documents served several functions, providing entrée to the target country, a means to make

---

[13] Jason Chow and Ricardo Alonso-Zaldivar, "Canada Arrest 17 in Alleged Terror Plot." *Los Angeles Times*, June 4, 2006.

[14] Ibid.

[15] Most of this section was attained while I was counsel on the 9/11 Commission, with supplemental research provided by Vinay Tripathi while I was a senior consultant for the Investigative Project on Terrorism on a to date unpublished report entitled "An In-Depth Analysis of the Structure of Al Qaeda and Militant Islamic Terrorist Groups in the United States: The Enterprise of Terror in the United States" (March 2005).

[16] "Trail of a Terrorist: Introduction." *PBS FRONTLINE.* Oct. 25, 2001 *http://www.pbs.org/wgbh/pages/frontline/shows/trail/inside/cron.html*.

[17] *USA* v. *Ressam, et al*. WDWA 99–CR–666. "Indictment." April 3, 2001. See also Zill, Oriana. "Crossing Borders: How Terrorists Use Fake Passports, Visas, and Other Identity Documents." *Frontline*. October 2001. *http://www.pbs.org/wgbh/pages/frontline/shows/trail/etc/fake.html*; and *USA* v. *MOKHTAR HAOUARI, et al.* SDNY S4 00 Cr. 15. Cross-examination of Ahmed Ressam, July 3, 2001 (transcript p. 549–551).

[18] Zill, Oriana. "Trail of a Terrorist: Crossing Borders: How Terrorists Use Fake Passports, Visas, and Other Identity Documents." *PBS FRONTLINE*. Oct. 25, 2001 *http://www.pbs.org/wgbh/pages/frontline/shows/trail/etc/fake.html*.

[19] Zill, Oriana. "Crossing Borders: How Terrorists Use Fake Passports, Visas, and Other Identity Documents." *Frontline*. October, 2001. *http://www.pbs.org/wgbh/pages/frontline/shows/trail/etc/fake.html*.

money, and a way to stay embedded in a given location. From 1994 to 1998, Ressam lived in Montreal, actively robbing tourists—some thirty to forty times, by his count—of money and travel documents. Ressam described his livelihood: "I used to take the money, keep the money, and if there [were] passports, I would sell them, and if there [were] Visa credit cards, I would use them up, and if there were any traveler's checks, I would use them or sell them."[20] Though Ressam was arrested four times for his thievery, he was convicted just once; and he was punished with a fine, not jail time.[21]

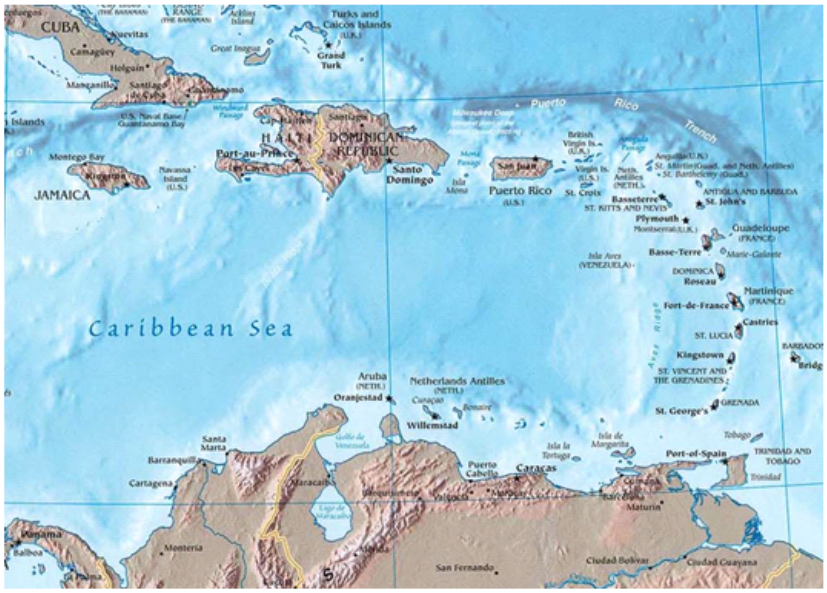


Photo Caption.—Trinidad and Tobago is on lower right. Below is Venezuela. Antigua and Barbuda is mid-right.

TERRORIST TRAVEL BETWEEN THE UNITED STATES AND THE CARIBBEAN

Trinidad and Tobago, a rich tourist island located off the northeast coast of Venezuela, had a failed attempted Islamic extremist coup in July 1990. Fifteen percent of the island is Muslim. The island is also to the immediate northeast of Venezuela, which has long flaunted its contempt of the United States and support for terrorist activity, including reported travel facilitation to terrorists.

In June 2007, four men, three from Guyana (sharing a southeast border with Venezuela) and one from Trinidad were arrested for their plot to destroy fuel lines that support JFK International Airport. One of the suspects reportedly said the airport was picked due to the esteem held in the United States for John F. Kennedy. The FBI was involved with the case since January 2006, when one of the four alleged plotters, Russell Defreitas, unknowingly attempted to recruit an FBI informant in an attack within the United States. Its goal was to be more spectacular than September 11. Defreitas had previously been a baggage handler at JFK airport and assured his co-conspirators that he knew the airport intimately.

"This was a very determined group that engaged in precise and extensive surveillance, surveillance that included physical surveillance, photograph surveillance, video surveillance, and even the use of the Internet to obtain satellite photographs of the JFK facility," according to FBI agent Mershon who had investigated the case.

Abu Bakr is a former policeman who founded the violent Jama'at al Muslimeen (commonly referred to simply as the Jamaat). A Trinidad native, he formed the group after studying in Canada where he converted to Islam while a student there. His group attempted a coup against the Trinidad government in 1990. The group, especially with Abu Bakr as leader, had a close relationship to Libyan leader Muam-

[20] *USA* v. *Ressam, et al*. WDWA 99–CR–666. "Indictment." April 3, 2001.
[21] Ibid.

mar al Qaddafi. Most recently, after threatening violence and extortion against fellow Muslims, he was convicted in March 2006 for attempted murder of former organization members. A search of his headquarters found a cache of weapons and equipment. He was long considered to be a crime kingpin in Trinidad, and his rivalries spun off a number of other radical Islamic groups.

Other groups active on the island are Waajihatul Islaamiyyah (The Islamic Front) and the Jamaat al Murabiteen. The Waajihatul Islaamiyyah group has links to al Qaeda, Hamas, Egyptian Islamic Jihad and Jemmah Islamiyyah, the organization behind the Bali beachfront bombing that killed close to 200 people. In December 2002, the FBI, CIA and British SAS agents were in Trinidad investigating separate reports about specific plans to attack local U.S. and British interests by the head of The Islamic Front, Umar Abdullah, who had reportedly been threatening U.S. and British interests on the island.

Abdullah publishes a monthly newsletter that pontificates on behalf of Osama Bin Laden, Al Qaeda, the Taliban, a "Jihad" (Holy War) against the United States and Britain and the setting up of an Islamic State here.

There were also reports prior and subsequent to 9/11 U.S.-sought Adnan El-Shukrijumah was living in Trinidad near schools that share his last name. (I had evidence while on the Commission that El-Shukrijumah may have tried to help 9/11 pilots Atta and Jarrah with an immigration matter at the Immigration offices in Miami in May 2001. See *9/11 and Terrorist Travel*, p. 30–31) In addition, two men with ties to Trinidad have been arrested in the United States. Keith Andre Gaude, a Jammat linked to bin Ladin, pled guilty on September 19, 2001 to unlawful possession of a machine gun. BATF officials stated he had come to Florida to "buy as many as 60 AK–47 assault rifles and 10 MAC–10 submachine guns with silencers."

In 2002, Trinidad native and U.S. naturalized citizen Shueyb Mossa Jokhan was sentenced to 58 months in Federal prison for a "jihad" mission that included bombing an electrical power station and a National Guard Armory. According to the FBI, "these attacks were then to be followed by a list of demands to be placed on the U.S. Government and other governments around the world. The defendants also sought to acquire AK–47 type assault weapons for their jihad training and operations, and sought to obtain the release from custody of an individual described as a 'mujahedin' fighter committed to jihad."

Since 9/11, there have been reports of Al Qaeda members setting up shop in Trinidad, smuggling weapons and organizing cells.

Antigua and Baruba were the home of John Lee Mohammed prior to his ten fatal shootings and three other near fatal shootings during a terrorist-style spree in the autumn of 2002. As a U.S. citizen, he had financially survived prior to coming to the United States by selling forged U.S.-accepted travel documents—driver's licenses and birth certificates.[22]

Muhammed brought Lee Boyd Malvo and his three children into the United States under false names, and in at least 20 incidents forged or stole identities for clients, secured air travel, and provided documents in order to secure their travel to the United States. In some cases, he charged as much as $3,000. Muhammed forged documents for Lee Boyd Malvo's mother when she deserted her son, but when he was not paid, Malvo essentially was kept as collateral.

With simply a birth certificate or baptismal record and a driver's license, Mohammed's clients, covered by the Western Hemisphere Exception for travelers from North, South or Central America or the Caribbean (but for Cuba), could easily pose as American citizens or citizens of one of the covered nations, and enter the United States.

After the Task Force created by the Attorney General of Antigua and Baruba released its Final Report in December 2002, the GAO released two 2003 studies about the ease of being admitted into the United States with counterfeit birth certificates and driver's licenses from Canada, Mexico, Jamaica and the Bahamas. According to the GAO, the ease of fraudulent entry using something other than U.S. passports for those claiming U.S. citizenship was not limited to Muhammed and his clients.

TERRORIST TRAVEL AND STATE-ISSUED DRIVER LICENSES AND IDS

The 9/11 hijackers assimilated into the United States by attaining 17 DLs from Arizona, California and Florida (four of which were duplicates) and 13 State-issued IDs from Florida, Maryland and Virginia. The hijackers then used those IDs for the purpose of renting cars, obtaining living quarters, opening bank accounts, and

[22] *Antigua and Barbuda Final Report of Task Force Investigation of John Allen Williams, a.k.a John Allen Mohammad.* (Dec. 2003).

boarding aircraft on the morning of 9/11. We know that at least six hijackers total presented State-issued IDs on the morning of 9/11. The pilot who flew into the Pentagon, Hani Hanjour, had ID cards from four States: Florida, Maryland and Virginia, and an Arizona driver's license. The Pennsylvania pilot, Ziad Jarrah, had three IDs and an unverifiable ID when stopped for speeding 2 days prior to 9/11. Both pilots had obtained a Virginia ID by fraud.

At the foundation of the 9/11 Commission "terrorist travel" recommendations on secure IDs was the basic understanding that terrorists will continue to easily assimilate within the United States as long as identity and identity document issuance processes are easily manipulated. The Commission stated:

> All but one of the 9/11 hijackers acquired some form of U.S. identification document, some by fraud. Acquisition of these forms of identifications would have assisted them in boarding commercial flights, renting cars, and other necessary activities.
>
> *Recommendation*.—Secure identification should begin in the United States. The Federal Government should set standards for . . . sources of identifications, such as DLs.
>
> *Recommendation*.—The President should direct the Department of Homeland Security to lead the effort to design a comprehensive screening system, addressing common problems and setting common standards with system wide goals in mind. (p. 390, 387).

Identification Documents of the 9/11 Hijackers

Mohamed Atta FL DL, 05/02/01	Marwan al Shehhi FL DL, 04/12/01 FL DL duplicate, 6/19/01
Khalid al Mihdhar CA DL, 04/05/00 USA ID card, 07/10/01 VA ID card, 08/01/01	Nawaf al Hazmi CA DL, 04/05/00 FL DL, 06/25/01 USA ID card, 07/10/01 VA ID card, 08/02/01
Hani Hanjour AZ DL, 11/29/91 FL ID card, 04/15/96 VA ID card, 08/01/01 Failed VA DL test, 08/02/01 MD ID card, 09/05/01	Ziad Jarrah FL DL, 05/02/01 FL DL duplicate 5/24/01 VA ID card, 08/29/01
Satam al Suqami No DL or ID card	Waleed al Shehri FL DL, 05/04/01 (duplicate issued with different address, 05/05/01)
Ahmed al Ghamdi USA ID card, 07/2001 VA ID card, 08/02/2001	Majed Moqed USA ID card, 07/2001 VA ID card, 08/02/2001
Hamza al Ghamdi FL ID card, 06/26/01 FL DL, 07/02/01 (duplicate issued 08/27/01)	Mohand al Shehri FL ID card, 07/02/01
Ahmed al Nami FL DL, 06/29/01	Wail al Shehri FL DL, 07/03/01
Ahmed al Haznawi FL DL, 07/10/00 (duplicate issued 09/07/01)	Fayez Banihammad FL ID, 07/10/01
Saeed al Ghamdi FL ID card, 07/10/01	Salem al Hazmi USA ID card, 07/01/01[197] VA ID card, 08/02/01
Abdul Aziz al Omari USA ID card, 07/10/2001 VA ID card, 08/02/2001	

Photo Caption.—State-issued IDs acquired by 9/11 hijackers, "9/11 and Terrorist Travel", p. 44.

As the 9/11 Commission noted, there was only one 9/11 hijacker who did not obtain some form of U.S. identification, whether a State-issued DL, personal ID or both. Three of the five hijackers who crashed a plane into the Pentagon used fraudulently obtained licenses to board. The pilot of that plane had four IDs, all from different States, with at least one obtained by fraud. If REAL ID had been in effect in 2001, the 9/11 operational ringleader and pilot that conducted the first World Trade Center suicide, Mohamed Atta, would only have been 4 days from having had an expired license when he was pulled over for speeding violation on July 5, 2001.

The 9/11 hijackers could have done the same today. It is still possible to obtain multiple licenses and IDs because identities are not verified. It's not only possible to game the system; it's likely, because States still don't exchange information with each other regarding those holding legitimate IDs. Police officers' hands are tied when they can't cross-check the ID they've been handed against any other information.

The 9/11 hijackers are not the only terrorists we know of who have taken advantage of blind spots and weaknesses in ID issuance standards. One terrorist caught in 2001 on the northern border, Nabil al Marabh, had five DLs and a hazardous materials permit. He told authorities he frequently crossed the U.S.-Canadian border illegally. Mir Aimal Kansi, who killed two people outside CIA headquarters in 1993, got a Virginia DL despite being in the U.S. illegally. These same problems exist in many States today. As long as they do, terrorists will continue to take advantage of them.

In addition to terrorists, criminals of all ilks—identity thieves, counterfeiters, deadbeat—and even underage teens seeking IDs to drive and drive, also use multiple IDs to hide their true identity from the law. In 2005 identity theft costs were at a staggering $64 billion, with $18.1 billion of that cost involving theft of a DL or ID. Individual consumers spend an average of 330 hours trying to undo identity theft and suffer $15,000 on average in losses. With REAL ID, identity theft will be much more difficult due to more robust, secure ID verification systems will protect consumers from identity thieves both during the application process and once the DL or ID is issued.

The cards themselves will also be less susceptible to alteration, with three levels of security making the cards more tamper-resistant and easier for law enforcement to determine fakes. Counterfeiting remains alive and well. The accompanying photo is from a November 2007 New York press conference whereby State and Federal authorities from seven different law enforcement agencies shut down six ID document mills in New York and made at least 128 arrests. The bust covered two criminal enterprises that together took in more than $1.5 million annually. Typical street price was $40–$60. The ring supplied fraudulent government identity document such as DLs, Social Security cards and resident alien cards. Suppliers were located in California and New York and forged documents from many States, Central America and Mexico.

Photo Caption.—Nov. 2007: New York State investigators alongside Federal authorities make arrests pending a 2-year investigation of two criminal counterfeiting enterprises spanning California to New York. Annual income was more than $1.5 million.

Of particular note was the 2006 bust of the Castorena Family organization, which beginning in the 1980's operated a Mexico-based counterfeiting operation with cells in every major U.S. city. Annual sales in Chicago alone were $2.5 million. According to informants, they could make IDs "as good as any we carry in our pockets."

The major source for the case, the stepdaughter of the organization's leader, asked her grandfather whether the organization sold to terrorists. She was told: "We do this for business, for money. So it doesn't really count whether you're a Mohammed or a Julio or somebody else, as long as you have the money to pay for it. Terrorism is not our problem."

WESTERN HEMISPHERE TRAVEL INITIATIVE

The tenets of WHTI were recommended by the 9/11 Commission to both tighten border security and streamline the inspection process, especially at our land ports of entry. We cannot afford our borders be bifurcated from the discussion of national security. Our economic strength as a Nation is only as strong as our national security. We must continue to work alongside our friends in the trade and tourism industries to achieve both security and facilitation.

Assuring our border inspection process is fast, fair and complete is essential. It is also doable. We can do so if we prioritize how personnel, budgets and technologies are allotted and deployed with precision. The focus must be on how to properly train and equip our border inspectors so that procedures assure security of our borders are the most effective and least intrusive manner possible. I applaud DHS for not waiting despite continual efforts by special interests to delay implementation indefinitely, even if border inspection has waited for over 7 years for the significant upgrades in procedures and processes that should have been in place before 9/11 and forthcoming after 9/11. The new rules set in place for WHTI implements policy that shores up significant, large and sweeping holes in our border security so that all persons seeking entry into the United States show standardized travel documents or equivalents that can be vetted in a manner that assures identity and maximizes facilitation simultaneously.

Remember where we are without WHTI: terrorists, drug dealers and those who abuse our lax security will continue to easily move through our border system with fake documents or no documents at all. The policy which has been in effect for years at our ports of entry, the Western Hemisphere Travel Exception, actually encouraging fraudulent entry by permitting any traveler claiming to be a U.S. citizen to talk their way into the United States or show any variety of identity document and claim to be from the Western Hemisphere. At least on the Canadian border, surveys from even a couple of years ago showed that 40 percent of Canadians state they have not been asked to show any identification when seeking entry into the United States. In a 2006 GAO report, GAO proved the point when in 42 of 45 instances between 2003 and 2006 GAO agents with counterfeit documents were able to flash false papers, or in a few instances, no papers at all, and enter the United States. Consider that number transferred over to attempted terrorist entries, and we have much to be concerned about until WHTI is fully rolled out.

The only way to secure our borders is to make the terrorists choose between using a passport, and enhanced DL (where available), applying to a trusted traveler program, or enter illegally. As long as a terrorist can pose as a U.S. citizen or traveler from the Western Hemisphere by producing a birth certificate, fake DL that can't be verified, or other forms of identification that can be neither verified for identity, checked against a watchlist, or authenticated as a legitimate document, the Western Hemisphere Travel Exception is an open invitation to enter and embed in the United States with little disincentive not to try.

We can argue all we want about how to achieve the balance between actual secure borders and facilitation of trade and commerce, but we cannot ever afford to say it is not important or there is a segment of our border apparatus to which security does not apply. Nor can we afford to unravel well-based recommendations of the 9/11 Commission and passed into law by this body. Lest we forget that September 11 has taught us that secure borders are a matter of national security, and to secure them we must remember that terrorists will use any means to enter and embed into the United States.

We must treat our borders as they truly are: as a marker of U.S. sovereign rights to assure that people who seek to come here are who they say they are, and will not cause a public safety or terrorist threat to American citizens. At the border, the passport or equivalent is the manner in which we as a Nation can better assure that the people who seek to come here do so for legitimate reasons. A top priority in all we do in border security must then be to assure practical, on the ground, security measures at our ports of entry and physical borders. However, let me be clear:

we need not give up privacy nor hinder commerce to attain border security. In fact, with efficient and streamlined security, privacy and commerce are both enhanced. People and goods that should make it through the system in an efficient manner are more likely to be when the acceptable forms of travel documents go from dozens to a few known and easily authenticated, and trusted or registered traveler/commercial programs augment the system as an alternate to a federally issued travel document.

REAL ID

REAL ID is one of the only 9/11 Commission recommendations that relies heavily on the States for implementation. REAL ID might have curtailed 9/11. REAL ID can make a difference to our national security, our economic security and our public safety—but only if fully implemented and adequately funded. To make REAL ID a reality, however, requires more than either the Federal Government or the States can do on their own. It requires a partnership. It also requires an acknowledgement that securing our Nation's physical and economic integrity is not just a Federal responsibility; it is everyone's responsibility. It requires a further acknowledgement that the ability to verify an individual's true identity is one of the cornerstones of national and economic security.

The REAL ID Act stipulates that in order for a DL or State-issued ID to serve as an identity document for entering a Federal facility—including boarding a plane—the document must meet, at a minimum, the security standards spelled out in the act. Thus States are not required to issue licenses and IDs in accordance with REAL ID, but they could be subjecting their residents to considerable inconvenience if they do not. There is no intent under REAL ID for the Federal Government to assume responsibility for issuing DLs. That process should and will remain with each State. REAL ID seeks only to ensure that every State's process for issuing DLs and IDs—including the documents themselves—meets specified minimum security standards.

Today, the controversy around REAL ID has shifted significantly from one of the value of the law to its funding, and for good reason. With only $79 million available for 50 States and 6 jurisdictions to meet initial compliance deadlines in a year and a half, this Congress needs to take the funding of REAL ID seriously. If ever there was a domestic funding emergency, REAL ID represents one of significance.

Debunking Myths About REAL ID

Myth.—REAL ID is a Federal imposition, with little to no connection to State efforts to improve ID issuance.

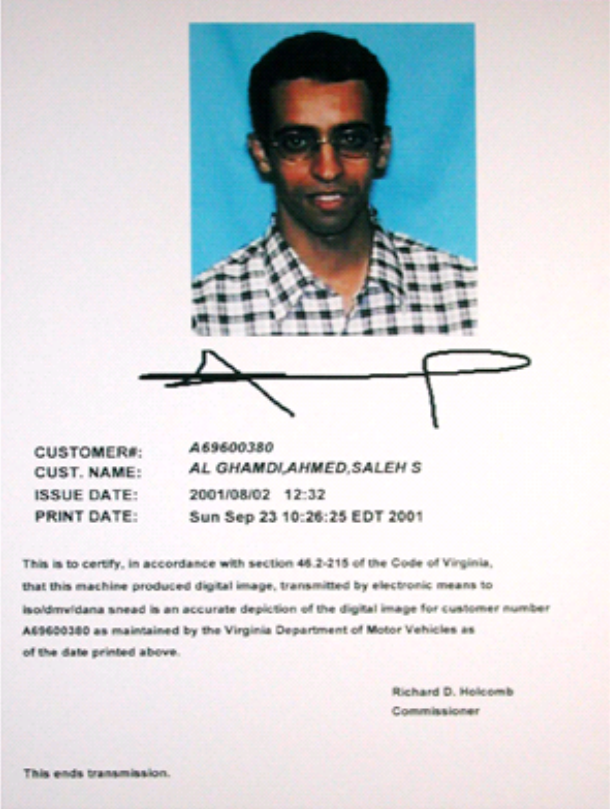
Fact.—REAL ID was passed into law based on the States' own Secure Document Framework developed by AAMVA after the States acknowledged post 9/11 that the current State DL issuance system is deeply flawed in its ability to generate IDs both secure in their content and production. Such deep weaknesses threaten national and economic security, public safety, and privacy.

On October 24, 2001 the American Association of Motor Vehicles Administrators (AAMVA)—an organization promoting information exchange, uniform practices and reciprocity, with representatives from every U.S. and Canadian jurisdiction—passed a resolution to form a special task force to enhance the security and integrity of the DL and ID issuance processes. AAMVAnet already supported the Commercial Driver License Information System and provides connectivity for such things as SSN checks by DMVs, and AAMVA's leadership in setting standards for bad drivers made them the logical choice for taking on issues related to 9/11.

Prior to 9/11, AAMVA had a significant leadership role that included petitioning Congress in 1996 to mandate minimum standards for DLs. From 1999 to 2001, AAMVA worked with the National Highway Transportation Administration (NHTSA) and Congress toward creation of the Driver Record Information Verification System (DRIVerS). So when AAMVA went to work on creating a special task force to deal with the panoply of issues involved in creating a more secure ID issuance framework, the organization had the ability and credibility to make a difference. And they did. Their work became the foundation for the technical requirements of the REAL ID Act.

The REAL ID Final Rule, issued on January 11, 2008, has responded to thousands of comments by States and other stakeholders and provided a new set of compliance deadlines which the National Governor Association acknowledges as reflective of their concerns and suggestions. All States are now set up to comply, with all States having been issued an extension to comply with the initial benchmarks set out by the Rule of January 1, 2009 instead of the law's deadline of May 11, 2008. The relaxation of the timeline to comply has resulted in a reduction of estimated

costs by DHS from about $11 billion burden on the States to a $3.965 billion requirement spread over 11 years, or about $360 million per year to implement.



CUSTOMER#: A69600380
CUST. NAME: AL GHAMDI,AHMED,SALEH S
ISSUE DATE: 2001/08/02 12:32
PRINT DATE: Sun Sep 23 10:26:25 EDT 2001

This is to certify, in accordance with section 46.2-215 of the Code of Virginia, that this machine produced digital image, transmitted by electronic means to isoldmv/dana snead is an accurate depiction of the digital image for customer number A69600380 as maintained by the Virginia Department of Motor Vehicles as of the date printed above.

Richard D. Holcomb
Commissioner

This ends transmission.

Photo Caption.—9/11 hijacker Ahmed al Ghamdi, shown above, checked in at Logan Airport in Boston on the morning of 9/11, using his fraudulently obtained VA ID card.

The Driver License/ID Security Framework that emerged from the AAMVA Special Task Force was detailed and comprehensive; that Framework became the backbone for REAL ID. The outline of the task force responsibilities is worth repeating as it shows how AAMVA—and thus the State DMVs—were well aware and desirous of fixing the multiple vulnerabilities in State ID issuances systems. In some ways, then, REAL ID was simply a Federal bow to the States' own work in this area. AAMVA's "Uniform Identification Subcommittee" divided the issues into sub-categories. What is interesting is that despite the permutation of the mission statements from these subcommittees to the AAMVA Security Document Framework, to REAL ID, to the Proposed and Final Rule, much of the language and policy statements have remained relatively unchanged.

Another interesting aspect of AAMVA's tasking was a group established just to deal with enforcement issues, including those treating/ID fraud, and determine increased penalties for dealing with such fraud. A significant justification for REAL ID is that by setting minimum standards as a foundation in both the verification of identity and card production processes, security is built into all State systems. This will make law enforcement activity more effective while at the same time discouraging fraud. As Chuck Canterbury, National President of the Fraternal Order of Police stated in a Feb. 21, 2007 letter to Senate Majority Leader Harry Reid:

> [REAL ID] is very much of an officer safety issue. Law enforcement officers need to have confidence that the documents presented to them to establish the identity of a given individual are accurate. Officers rely on these documents during traffic stops and other law enforcement actions to access information related to that individual's criminal history. No police officer wants to be in the dark about the fact that he may have detained a wanted or violent criminal who has simply obtained false identification. This places both the officer and the public he is sworn to protect in greater danger. For this reason, the FOP will strongly oppose any bill or amendment that would repeal the REAL ID Act.

Below is a chart that shows that the policies advocated by the States via AAMVA's 2001 working groups remains a strong influence on REAL ID policies advocated today by DHS and also influenced by the National Governors' Association and National Conference of State Legislators. This chart reflects where AAMVA started in 2001 as closely tied to REAL ID Final Rule.[23]

Secure ID Feature Tasked by AAMVA	2001 AAMVA Secure ID Issuance Task Force Assignments	2008 DHS REAL ID Final Rule for Secure ID Issuance
Model Legislation	"Develop model legislation to assist States in implementing the overall package of Uniform Identification Standards".	REAL ID is that legislation.
Process and Procedures.	"Gather and incorporate all deliverables of the Uniform ID Subcommittee (Task Groups) into one Model Program. This model program will include minimum requirements, best practices and model legislation to support a uniform and secure DL and identification card system for motor vehicle agencies in the U.S. and Canada."	Section 37.01: REAL ID is applicable to States and U.S. territories that choose to issue DLs in compliance with REAL ID, and IDs not in compliance of REAL ID. The Rule sets out minimum requirements to support a uniform and secure DL and identification card system for Motor Vehicle Agencies.
Driver License Agreement.	"The DLC/NRVC (Driver License Compact/Non-Resident Violator Compact) Joint Compact Executive Board has been asked to explore enhancing the newly created Driver License Agreement (DLA), a voluntary DL compact between States, to include requirements established for a more secure DL/ID issuance system."	
DRIVerS Infrastructure.	"The Driver Record Information Verification System (DRIVerS) task group will be charged with creating an all driver pointer system, to keep bad drivers off the road. Simply put, DRIVerS will direct a State where to find and accurately verify someone's driving history in another State. "	

[23] Janice Kephart, *REAL ID Final Rules: a Summary* (Feb. 21, 2008) was used for column three. Found at *http://911securitysolutions.com/index.php?option=com_content&task=view&id=154&Itemid=38.*

Secure ID Feature Tasked by AAMVA	2001 AAMVA Secure ID Issuance Task Force Assignments	2008 DHS REAL ID Final Rule for Secure ID Issuance
Acceptable Documents.	"Validate and update the existing acceptable ID document list for the proof/authentication of specific personal information, such as, name, date of birth (DOB), legal presence, etc. and evaluate the utilization of foreign documents for the same purpose. Phase two will result in a recommendation for document (DL/ID) validity periods in relation to legal status/validity".	Sections 37.11 (Identity Verification) and 37.13 (Document Authentication) require that an applicant provide sufficient documentation for a State to verify identity and authenticate documents presented for the purpose of establishing identity and includes specific personal information such as name, DOB, legal presence and use of documents, including foreign documents, for that purpose. An ID document list is provided.
Residency	"To develop a definition of residency/domicile with and without a legal presence requirement for the purpose of driver licensing (establishment of the driver control record) and identification."	Lawful Presence is defined in 37.03, and the procedure for determining lawful status for the purpose of driver licensing is found in 37.13. Lawful status must be checked in SAVE, Section 37.13(b)(1). The issuance with or without legal presence is covered by Section 37.21, Temporary or Limited Term IDs and in Section 37.71, Non REAL ID DL or ID.
Verification	"Identify and establish methods for verifying documents used to establish identity of an individual applying for a DL or identification card. Verification of identity may include, but is not limited to, full legal name, date of birth, Social Security Number (when applicable), and residency and/or legal presence".	Again, methods for verifying (authenticating) documents are covered by Sections 37.11 and 37.13. Section 37.31 provides requirements for source document retention. Section 37.33 sets out minimum requirements for information held by DMV databases. Sections 37.41(b)(2) set out security requirements for personally identifiable information.
Fraudulent Document Recognition.	"To assist jurisdictions with the formal training of motor vehicle employees and law enforcement in the recognition/detection of fraudulent identification documents."	Section 37.41(b)(5) requires employee fraudulent document training and security awareness training.

Secure ID Feature Tasked by AAMVA	2001 AAMVA Secure ID Issuance Task Force Assignments	2008 DHS REAL ID Final Rule for Secure ID Issuance
Card Design Specifications.	"Deals with physical and encoded features of the DL/ID document. Features include security elements, card layout, printed and encoded data, and machine-readable technologies. It is our hope that this effort produces a standard for the DL document that specifies minimum data and minimum technologies to be used on the DL/ID document".	Section 37.15 sets out minimum security requirements to harden the DL or ID but assures flexibility, based on comments received during rulemaking. Section 37.17 lists card surface requirements and 37.19 the machine readable zone requirement.
Internal Controls	"To identify best practices for internal fraud control and prevention measures".	Sections 37.41 to 37.45 set out controls for physical security of production facilities; employee background checks and access control; requires a State to submit a plan on preventing access to personally identifiable information; and a separate report on safeguarding IDs in coordination with law enforcement.
Oversight Compliance System.	"To review current procedures for the oversight and compliance of Federal and State programs and to develop a process for compliance to AAMVA standards regarding DL/ID Processes/Procedures".	Sections 37.51 to 37.65 set out in detail procedures for determining State compliance.
Unique Identifier	"Developing a way to uniquely identify an individual such that: • A holder will have no more than one (1) DL/ID card and record; • authorized users can verify that the holder of a DL/ID card is the individual to whom the card was issued; and • an individual's driver record contains only information that pertains to that individual.	• Section 37.29 sets out the "one driver one license" rule designed in part to verify driver licensing in another State. This helps get out the underlying principle of "keep bad drivers off the road" as referred to in DRIVerS infrastructure above. • Supported by document security requirements in Section 37.41(b)(2) and source document retention Section 37.31.

Myth.—REAL ID creates a national ID and is a Federal mandate.

Fact.—The driver's license is the most common form of ID used in the United States today, accepted for everything from opening a bank account to boarding a plane to picking up movie tickets with a credit card. Securing an already widely used credential makes good sense. Each State will still issue many varieties of REAL ID compliant—and if they choose—non-compliant IDs. REAL ID does not affect States' right to decide who is eligible for a DL or ID; that decision remains with each State. There is thus nothing "national" about such issuance. If anything, REAL ID can be said to obviate the need for a national ID.

One example of how REAL ID does not create a national ID is that the benchmarks do not mandate anti-counterfeiting features of the card. Instead, under Section 37.15 of the Final Rule, anti-counterfeiting is described as follows:

37.15(c) Three levels of security are required to detect false cards:

Level 1 requires an "easily identifiable visual or tactile feature" for cursory examination without any aids.

Level 2 is a feature detected by "trained inspectors with simple equipment."

Level 3 is a feature only detectable by forensic inspectors.

To meet these security levels States have numerous choices from a large variety of vendors. The Rule simply states that the card technologies must not be commonly available to the general public, must be multilayered, and must be able to be integrated into the cards. There is nothing about these requirements that creates one type of card issued by one government entity; in fact, these rules are designed to give States the choices they need to make to achieve fiscal responsibility and security in equal doses.

Myth.—REAL ID will create a hackable, national database.

Fact.—There is no aggregation of personal data into "one huge, hackable database operated by the Federal Government," as some claim. REAL ID calls for the States to operate secure databases that are searchable by other authorized parties such as motor vehicle agencies and law enforcement. The Act also calls for crosschecking applicants' information with Federal and State databases to better authenticate credentials. No actual information is shared between these databases, just simply "yes" or "no" answers, and there is no access to the actual information that stands behind queries.

Further, the Federal Government does not hold applicants' information; in fact, the REAL ID Final Rule requires that applicant information be protected by each State. Nor does the Federal Government network the databases together. The databases are likely to be networked to the States by an AAMVA secured network, for which DHS has requested fiscal year 2009 funding of $50 million for further upgrades. Most of these databases are currently used by States already to verify identity in a variety of ways—with no privacy complaints. Thus the Federal Government will not hold individual applicants' information, and the notion that REAL ID would create a single Federal database is completely erroneous.

Myth.—REAL ID invades privacy.

Fact.—REAL ID protects privacy by ensuring that people are who they say they are. The information contained on a REAL ID license will be the same as what is required by most States today. That information, such as a digital photo, name, permanent address, age, height and weight, is widely available and does not implicate privacy concerns. REAL ID licenses are not required to contain RFID technology, biometric fingerprint information, or Social Security numbers.

The Final Rule supports privacy of personal information in a number of areas, including protection of personally identifiable information; access to information by employees; and securing production facilities.

Best practices on securing privacy have existed in the DL arena for years and build on the Commercial Driver License Information System (CDLIS) and National Driver Register (NDR) database created in 1986. These databases together have been servicing 45 States for 20 years, and REAL ID does not even go so far as creating a new database. Even so, there have been no complaints about intrusions on privacy or identity theft with either of these databases. One reason why is because Federal law already protects the use of such data under the Driver's Privacy Protection Act of 1994. This law restricts how DL information can be used by States, barring States and their employees from selling or releasing personal information such as SSNs, images, addresses, phone numbers and birthdates. Until that law was passed, 35 States had such information public and many made money off the sale of such information to all varieties of private enterprise. Congress set a higher bar to protect privacy in the area of State-issued DLs then, and REAL ID 20 years later is a natural followup: not only securing data, but identities and the documents that support those identities as well.

Also worthy of mention is that the Information Technology Association of America, who represents the largest producers of computer security systems—IBM, Microsoft, Hewlett Packard, Oracle and others—has concluded that REAL ID, if implemented, will further protect privacy. In a May 7, 2007 report, the ITAA stated that REAL ID will actually "raises the bar on privacy for driver licenses" because it sets higher benchmarks for data security; requires tougher identity adjudication; and builds on existing practice.

REAL ID also provides greater protection of privacy, requiring background checks of DMV employees, secure productions sites of cards, alongside due respect to civil liberties. Just to be clear, there are no plans for an embedded RFID chip in REAL ID DLs. Enhanced DLs are a different species, designed for border crossers who also regularly use a DL, and who voluntarily choose to acquire an Enhanced DL with a chip readable for border crossing purposes.

Myth.—The opportunities for identify theft will multiply exponentially.

Fact.—A collateral positive side effect of REAL ID is that it will help curtail identity theft, not enable it. For legal residents, REAL ID requires stronger security features with the intention of driving up the cost of creating counterfeit ID documents and enabling law enforcement both working with DMVs and in the field to make a quicker, more reliable determination of whether an ID is legitimate or not.

For criminals, terrorists and others who want to live in the United States for nefarious purposes or under false guise, obtaining a license or ID has been their ticket to acquiring legitimate cover for their illegitimate activities. Once our identity issuance systems and the IDs themselves are tightly secured, it will be much more difficult to obtain these "tickets" fraudulently.

FUNDING REAL ID

A review of the Final Rule shows that the administration request does not adequately reflect the costs in the Final Rule as they pertain to State investment in order to become REAL ID compliant. That is the crux of the current debate. Six years after 9/11, we can no longer afford delays simply due to funding when acceptable rules are in place.

After collecting thousands of comments from States and other interested parties, the Department of Homeland Security (DHS) issued final rules for the REAL ID Act in January 2008. All 56 U.S. jurisdictions meet initial REAL ID requirements and as of April 2, 2009, have been granted an extension until December 31, 2009 by the DHS. That means that every jurisdiction will continue to have their DLs acceptable for official purposes after the May 11, 2008 deadline as mandated by Congress in the REAL ID Act of 2005.

Funding for REAL ID under these circumstances is wholly inadequate. While Congress provided additional funding to implement REAL ID in fiscal year 2008 at $50 million, current REAL ID funding is at approximately $79 million in a separate fund created under the REAL ID Act for all U.S. jurisdictions.

The DHS Final Rule places the cost to the States at $3.965 billion. With an 11-year implementation cycle, States need on average $360 million per year to fund full REAL ID under their own estimates.

In fiscal year 2009, the administration made a request to fund REAL ID at a total of $160 million, with $50 million going to USCIS for the identification verification "hub" that is likely to be expanded by AAMVA (as of now). The administration has made a separate request for a combined grant program for critical infrastructure/bomb prevention and REAL ID of $110 million. This proposed fund is neither dedicated to REAL ID nor does it reflect the costs to the States as set out by the Final Rule. Here is the relevant language as set forth by the administration:

OMB fiscal year 2009 proposed budget numbers, p. 480:

> CITIZENSHIP AND IMMIGRATION SERVICES, Federal Funds, UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES: For necessary expenses for citizenship and immigration services, [$80,973,000] $154,540,000; of which $100,000,000 is for the E-Verify program to assist U.S. employers with maintaining a legal work force; and of which *$50,000,0000 is to support implementation of the REAL ID Act to develop an information sharing and verification capability with States.*

P. 516:

> *National Security and Terrorism Prevention Grants ($110 million)*.—This program provides competitive grants to specific State and local agencies to support proposals *which address national vulnerabilities identified by the Secretary as priorities. In 2009, the Secretary will invite States to submit project proposals to support REAL ID implementation* and buffer zone protection for critical infrastructure. *Final grant allocations will be determined competitively by the Secretary on the basis of how well proposals address identified national vulnerabilities.*

In a March letter to the White House, the National Governors' Association (NGA) requested $1 billion on 2008 spring supplemental, citing compliance deadlines beginning in 2009. In addition, a group of seven Governors has told Secretary Chertoff that they want complete funding for REAL ID in the supplemental this spring of $1 billion: REAL ID is an emergency, as all States seeking compliance or approved for an extension (all but one so far) need to reach 18 benchmarks by January 2009. Most are well on their way, but many lack sufficient funding to reach all 18 benchmarks by this date.

ESTIMATED COST OF REAL ID FINAL RULE OVER AN 11-YEAR PERIOD [1]

Estimated Costs (11 years)	Millions of $	Millions of $	Millions of $ (2006 dollars)	Percent Total
	7% Discounted	3% Discounted	Undiscounted	Undiscounted
Costs to States	2,879	3,413	3,965	39.9
Customer Services	636	804	970	9.8
Card production	690	822	953	9.6
Data Systems & IT	1,171	1,352	1,529	15.4
Security & Information Awareness	365	415	490	4.9
Data Verification	5	7	8	0.1
Certification process	11	13	16	0.2
Costs to Individuals	3,808	4,814	5,792	58.3
Opportunity Costs	3,429	4,327	5,215	52.5
Application Preparation (125.8 million hours)	2,186	2,759	3,327	33.5
Obtain Birth Certificate (20.1 million hours)	348	440	530	5.3
Obtain Social Security Card (1.6 million hours)	31	37	44	0.4
DMV visits (49.8 million hours)	864	1,091	1,315	13.2
Expenditures: Obtain Birth Certificate	379	479	577	5.8
Cost to Private Sector	8	9	9	0.1
Costs to Federal Government	128	150	171	1.7
Social Security card issuance	36	43	50	0.5
Data Verification—SAVE	9	11	14	0.1
Data Systems & IT	65	74	82	0.8
Certification & training	17	21	25	0.3
Total Costs	6,853	8,406	9,939	100.0

[1] Source: DHS Final Rule, p. 221. *http://www.dhs.gov/xprevprot/laws/gc__1172765386179.shtm.*

The total, undiscounted 11-year cost of the final rule is $9.9 billion. Based on a total of 477.1 million issuances over the 11 years of the analysis, the average marginal cost per issuance for States is $8.30. Individuals will incur the largest share of the costs. More than 58 percent of the costs (discounted or undiscounted) are associated with preparing applications, obtaining necessary documents, or visiting motor vehicle offices.

The final cost to States and the Federal Government at $4.4 billion for complete implementation of REAL ID. States have to be compliant by 2011, leaving only 3 fiscal years for reaching benchmarks set out for DHS, although the final implementation date is 2017.

According to the Federal Government, their burden is priced at $171 million. These costs cover Social Security Card issuance ($50 million); Data Verification via SAVE ($14 million); Data Systems & IT ($82 million); and certification and training ($25 million).

Ms. SANCHEZ. Thank you.

I thank all the witnesses once again for their testimony.

I will remind the members that they each have 5 minutes to question, in case they come back. I have to put that on the record.

I will now recognize myself for questions.

There has been a lot of debate on the security and privacy of the proposed pass cards, the enhanced driver's licenses and other WHTI-acceptable travel documents.

Can you tell me specifically what your opinions are with respect to the security and the privacy of those proposed cards, if they are acceptable, if we need to change something on them? Maybe each of you can answer that.

Mr. PHILLIPS. I will defer to Liz on the license, but on the pass card, NEXUS card, SENTRI cards, there is absolutely no personal data in that card.

The honorable Mrs. Christensen mentioned earlier that NEXUS was widely counterfeited and used, and that is not quite right.

If anyone uses a trusted traveler card or the new pass card, there is simply a 9-digit number in that document that brings up the record in the CBP booth on the screen.

So if anybody stole my card and tried to use it, even put their picture on my current card, my picture is going to come up in the booth and they can't use it.

Second, there is no way that they can get—my name isn't in the card, my Social Security number, my birth date, it is not there. It is just this number.

So it is not correct when people say wirelessly they could hijack data from reading your card.

So I do feel it does need a machine-readable zone and they are going to be issuing a new card for NEXUS, SENTRI, called the trusted traveler card that is going to have a machine-readable zone to make it even better, because it is true that the current card might be able to have someone put a fake picture on it. But they still couldn't use the card even if they did.

Ms. SANCHEZ. Ms. Luce.

Ms. LUCE. Yes. Our card has an RFID chip that goes to a unique number. So when you come up to the border, it will bounce into our driver's license data, which brings up all the information that is on the card.

But if anybody tried to take the information from the RFID chip, first of all, it is a Class C felony in the State of Washington. So that is something we have worked strongly with the ACLU to get in place this year.

Second, there is no personal information they could have. It would be a unique number.

I have an enhanced driver's license. I don't even know what my RFID number is. There is just no way you would ever know.

Ms. KEPHART. Let me address it from REAL ID. I think that this is a good way to do this.

It is a little more complicated with REAL ID, because there are a number of different tiers of privacy arguments that have been made in regards to REAL ID. So let me just take a couple of them.

First, under the final rule, every State has to protect their information and provide a security plan to DHS as to how personal information is going to be protected.

Second, only the State will hold, as it does now, only the State holds personal data. No one else will have access to it.

Third, there is no national database which links into the privacy claim. The databases are where they are, either in the Social Security Administration or the saved database, which issued for legal precedence, the vital events information is at each State. Those will be interstate exchanges.

But these are more like red light-green light exchanges. Is this person who they say they are? Is this the correct birthdate? No information actually as to that person is given back.

So privacy is protected that way, too, and, also, to mention the Driver's Privacy Protection Act, which has been in place since, I believe, 1986, if I have that right, has protected privacy information of drivers since that time.

The commercial driver's license database, on the fourth point. The commercial driver's license information system also has been in effect for a large number of years. AMVA controls that, which is a private network.

There has never been a privacy breach on that network ever that has been reported.

So we have a pretty secure system in place. Of course, security of private information and personal information on the REAL IDs is really important, but there are a large number of tiers to protect that and while States need to still do their work to make sure it happens, I think it is on its way to having that issue solved in REAL ID, because there has been a lot of pushback on that issue and DHS has had to do a lot work in that area.

Ms. SANCHEZ. Thank you. I appreciate your candid comments on that.

The other issue we have is let's say that we get a good card together, I was very interested in the statistics that Mr. Phillips—not statistics, the length of time to process people, because, of course, we want to make it easy for the right people to cross borders, et cetera, or get into the country and we want to be able to stop the bad guys or people who aren't complying with our laws.

So with respect to the port, especially the land port of entries, how do you feel, are they adequately staffed? Are they correctly operated and maintained?

What changes do you think we could do, since we are changing these cards or making these cards or maybe going to a full card, ultimately, Mr. Phillips, and the REAL ID and the whole issue?

What do you think we need to do at the particular land port of entries to be more efficient?

Mr. PHILLIPS. I would answer in two pieces. I really think that serious thought be given to do the document checks where people leave from.

In other words, we ought to do it at the airport in London instead of when they land at JFK Airport. If we did it there, then inadmissible people would not have to be checked at our border. That is one change.

At our own borders, under the current conditions, CBP is very responsive to making the changes that they have. The key is the RFID documentation to allow the document data to be in the possession of the officer before the person enters the primary booth.

That is where you are saving is going to occur and in order to do that, we need the readers that were discussed earlier. They have got to be installed.

I would hope that that project is going to be successfully achieved, and Mr. Jacksta will get lunch for it later on, I hope.

It is critical. The readers are critical.

Second, as far as, I think, Congressman Reyes' bill, we do need some staff additions to man the booths. It is nothing more angry than to arrive at a border which has 10 booths and six of them have an officer in it and four are empty.

On the northern border, that happens. Sometimes on the southern border. They are pretty good about manning the booths, I think, on the southern border.

But the key is the processing time per individual going through.

Infrastructure is critical. There are certain ports on both sides of the country that need additional access, need additional facilities, where you can't process people properly. They are 40, 50, 60 years old in some cases.

Most importantly on both borders is the key that infrastructure also includes road approaches. You can't just talk about a plaza and the building that you are processing. You have got to talk about the two-lane highway and make it three sometimes so you can put low-risk separately, as we have in Washington State on I–5.

We should separate FAST trucks and low-risk individuals in passenger cars before they get to the plaza. Those are the three key issues.

So it is the technology to utilize RFID-type documents, it is the ability to add some staff, some people, to man the booths when they need to be, and third is infrastructure changes both in the plaza, in the facility itself, and in the approach roads.

Those would be the three things I would comment on.

Ms. SANCHEZ. I would agree with that. I have the benefit of getting to cross the California-Mexican border and the biggest problem is always the approach and the infrastructure and getting in the right lane and people don't even know what lane they should be getting into, and we have something like 29 lanes there or something.

If you end up on the wrong side of the bridge you are never going to get over to your FAST track or anything else. So I think better signage and more open to be able to get into the right lane is definitely critical from that standpoint.

Yes, Ms. Luce.

Ms. LUCE. In the State of Washington, at the Blaine border, there is a priority lane for the NEXUS traveler and it seems to me that the pass card is going to have the RFID chip and the EDL will have the RFID chip.

Not all passports will, because they won't be brand new, but that those that do have an RFID chip, it would be great if they could all use the NEXUS lane and, that way, you could take the low-risk away and allow the border patrol officers to spend more time with those people who they can't verify as quickly.

Mr. PHILLIPS. Can I just make one point, please?

Ms. SANCHEZ. You all get your chance, sorry.

Mr. PHILLIPS. Just to clarify. RFID, there are two kinds of RFID. There is proximity and vicinity.

Unfortunately, because of ICAO rules in the world globally, all passports have to have a proximity chip, which means you have to take the passport, give it to an officer, he has to put it physically on a reader, and that is what takes 28 minutes, under the reality test of that. That is a proximity chip.

Everything else is a vicinity chip and that is the one that takes 8 minutes, and NEXUS, of course, is faster than that.

The key here is we envision three lanes at a border, a passport lane, an RFID vicinity lane, and a NEXUS lane. You don't want to mix the passports and the new vicinity chips in the same lane or else anybody with an EDL is going to be sitting behind passport people and it takes, again, 8 minutes versus 26, almost 3.5 times to do a passport lane.

So that is part of the change that we have to think about as we—and CBP is thinking about that as they develop it.

Ms. SANCHEZ. Ms. Kephart.

Ms. KEPHART. Well, I just wanted to add on something that could be done, because I have actually seen this done and it is very, very interesting.

You can actually do real-time tactical modeling and simulation at the land ports of entry, where you are not only measuring how fast it takes to get through the border, but you can actually put the cameras up and depending on the traffic flows and the number of inspectors you have and a number of other factors, you can actually make a software model to have it tell the CBP officers who are on duty where they should be allocated, what lanes should be open, how many should be open for certain types of trusted traveler programs at the time or regular lanes or whatever, as long as they have the technology there.

You make your border so much more efficient, depending on what kind of traffic you have coming in and what personnel you have at the time.

So you can really help. The issues that have been traditional at the border with personnel and infrastructure not being sufficient, you can really help make that more efficient if you use real-time modeling and simulation models.

So I would just throw that out there. I don't know if you have heard that before.

Mr. PHILLIPS. CBP has that and it is called the "Wizard" and they use that. It is very true.

Ms. SANCHEZ. Thank you.

I would like to ask, Ms. Luce, can you talk a little bit about the relationship your State has with DHS and getting the EDL okay'd and are there any particular challenging requirements of the program that you think are going to be are the most difficult for States to meet the mandate and platform that they have?

Ms. LUCE. Our actual experience with the Department of Homeland Security has been an absolutely fabulous one.

In my testimony, I mention how they came out to the State to meet with us and not only did they meet with us, but they worked with us for pretty much a solid week and when we understood—and, actually, before they had come, they did not have an idea of how we produced a driver's license.

So when they saw what we did and the interview technique that we have, I think that was something that really helped them to make them more comfortable with what we are doing.

Then as we found out what the minimum requirements were for Homeland Security, we were able to see how we could modify what we do so we can meet their needs.

So I think right now, when we did it, we have tried to keep our eye on REAL ID so that we didn't just spend a bunch of money as

a State that later on probably we wouldn't be able to say that the EDL could be used for REAL ID.

So that right, I think, is the biggest challenge, to have Secretary Chertoff say it is REAL ID plus, and yet we are unable to have that solidified in writing. It is a little frustrating.

But you know what? We like working with Homeland Security and I think it is just a matter of us having a few more conversations.

Ms. SANCHEZ. Let me ask you, have you talked with DHS at all about what type of oversight, what type of auditing, what type of——

Ms. LUCE. Yes.

Ms. SANCHEZ [continuing]. Structure they are going to have to ensure that your card isn't counterfeited or isn't—have you already begun that discussion even though you don't have in writing that actually it meets their standard of REAL ID?

Ms. LUCE. Not for REAL ID, but when we came up with the EDL, yes, we had to find out what kinds of things we were going to do. Like I mentioned, we had to have our employees have a Federal background check. They have never had that before.

They had to go through document training. Then we had a series of things that we had to meet and they come out and they do audit us, and we have right now about 25,000 appointments. We have issued over 9,000 licenses, and this since February 1.

So there is a demand out there and we are happy to help our citizens have a low-cost easy way to cross the border and keep good relations with our Canadian neighbors and still have economy and trade to occur.

So we are real pleased.

Ms. SANCHEZ. Great. Well, as somebody who comes from a State that has a border, that is——

Ms. LUCE. Yes. We have been actually in conversation with the California DMV.

Ms. SANCHEZ. Great, because it is always important to not reinvent the wheel and use lessons learned and best practices and that is why I am asking you and getting these answers for the record, because we want to implement, as soon as possible, in the safest manners possible, all of these cards and issues.

Mr. Phillips, I have a question for you.

It is important that DHS and the State Department do not implement WHTI without consulting local communities.

What type of discussion has your organization had with DHS? Do you feel that they have incorporated your ideas or thoughts or concerns and that they were considered in and are reflected in the final rule?

Mr. PHILLIPS. Yes, ma'am. From the beginning, I was involved in the April 5, 2005 announcement of the Western Hemisphere Travel Initiative and right after that, we began to interact with both DHS and State Department, and I can factually report to you that Frank, who was here earlier today, and Woody have come up to the northern border, from east to west.

We have had DHS from Alaska to Washington State all the way over to the eastern end of New York State. Whenever we have asked them to come and hear our concerns, discuss things, we sup-

port—I head up the border work group for PENWA on the western end of the country.

We support what Liz has been doing. Liz came to Anchorage. DHS is there. Michael Chertoff came up himself in one instance.

So I find them very open to discussion. My biggest concern, Congresswoman, was the fact that I think the press tended to hijack this announcement and made it sound like it was for the bad guys and it is a passport and it is a bad thing, and it should have been and should be today a public outreach that says this is an intent to take low-risk people, give them a secure document and facilitate their ability to cross the border into Mexico-United States and into Canada-United States.

That is the bottom line. The misperception out there is very still a bit negative, although we are beginning to go positive, I think.

Ms. SANCHEZ. In respect to the final rule, Department of Homeland Security estimates its foregone border crossing, attributable to WHTI, is less than 1 percent impact on the regional economy.

Do you agree with that analysis? In other words, once we get WHTI done and everything, that it is going to have less than 1 percent impact?

Mr. PHILLIPS. The perception here is that when it started, the concern you have is will people stop traveling and, again, this misperception has caused a very terrible disconnect in tourism and visitation since 2005.

People don't understand. They thought they had to have a passport to cross the land border when the air rule started. So there has been a disconnect. There has been negativism, more serious than one could understand.

But once it is implemented, it is not going to be a negative. It is going to be a positive for the local economies and I believe that this passage of time I just talked about—think about 65 minutes to 8 minutes, the gas that is saved, the gallons, thousands, millions of gallons of gas, the time of the public, the fact that the bad guys are going to be more caught than they are today, and the fact that trade and purchasing and buying and visitation and tourism will be enhanced.

I think it is going to be a positive effect. When you do your post-economic study, I believe that if you look at WHTI in 2010 and 2011, you are going to find a very positive effect, not a negative one, in my belief.

Ms. SANCHEZ. Ms. Kephart, do you have any comments on that?

Ms. KEPHART. On what WHTI's effects on the local economy? My belief has always been, coming out of the Commission, our emphasis was always on facilitation of the low-risk traveler and maximizing our ability to catch the high-risk or the terrorist or the criminal.

In terms of the effect on the local economy, I think I have to agree with Mr. Phillips that once you start a very much more efficient process, remember, we have had serious inefficiencies on our borders for two decades.

Once we get technology that can work together better and we have programs where people can enroll and make their way through the borders quicker—and DHS just rolled out this past

week the new global entry, which will be an expedited traveler for the international traveler, the U.S. citizen.

These programs all go a long way to really, I think, helping us be efficient in our border control. There is nothing more important to us than giving the border inspector time to inspect the people that really need to be inspected.

So I think these are good things all around.

Ms. SANCHEZ. Great. Thank you.

Well, those are the questions that I have had. I am sure that the members who were not here are going to have some questions for you and they will be submitting them in writing to you. I hope that you will get to them quickly and turn them around to us.

I thank you for your valuable testimony and your time today.

Hearing no further business, the subcommittee stands adjourned.

[Whereupon, at 6:04 p.m., the subcommittee was adjourned.]

APPENDIX

QUESTIONS FROM CHAIRWOMAN LORETTA SANCHEZ FOR KATHLEEN KRANINGER, DEPUTY ASSISTANT SECRETARY FOR POLICY, SCREENING COORDINATION OFFICE, DEPARTMENT OF HOMELAND SECURITY

Question 1. In your testimony, you stated that the Western Hemisphere Travel Initiative (WHTI) land and sea final rule reflects extensive consultation with stakeholders including border communities. What are the major differences between the Proposed Rule and the Final Rule published last month?

Answer. No response was received at the time of publication.

Question 2. Without RFID readers at the hundreds of other ports of entry into the United States, most of the WHTI-compliant cards would essentially be flash passes. What is the schedule for providing RFID readers to our ports of entry? What is the process for reviewing a traveler's documents if the RFID readers are unavailable?

Answer. No response was received at the time of publication.

Question 3. Both the Departments of Homeland Security and State are launching robust communications campaigns for WHTI implementation at land POEs. Can you describe specifically what you have planned and what you are doing different to prevent the mass confusion about the immediate need for passports that occurred during implementation of WHTI for air travel?

Answer. No response was received at the time of publication.

Question 4. The success of WHTI will be contingent, in part, on the ability of the Department to carry out a number of activities in the year leading up to full implementation on June 1, 2009. With the change of administrations occurring in the near future, many policies and procedures might change at the Department. What guidance do you have in place to ensure a successful transition for WHTI?

Answer. No response was received at the time of publication.

Question 5. The committee has been informed by both information technology specialists and privacy advocates that the RFID technology used in some of the WHTI-compliant documents is vulnerable to "skimming" and other security breaches. Nonetheless, the National Institute for Standards and Technology (NIST) has certified this technology to meet or exceed the relevant security standards and best practices as specified in statute. What certifications made by NIST demonstrate that WHTI-compliant travel documents are not vulnerable to "skimming"?

Answer. No response was received at the time of publication.

QUESTIONS FROM CHAIRWOMAN LORETTA SANCHEZ FOR ROBERT JACKSTA, EXECUTIVE DIRECTOR, TRAVELER SECURITY AND FACILITATION, U.S. CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY

Question 1. In your testimony, you stated that the Western Hemisphere Travel Initiative (WHTI) land and sea final rule reflects extensive consultation with stakeholders including border communities. What are the major differences between the Proposed Rule and the Final Rule published last month?

Answer. As stated in the Proposed Rule, the Department was very interested in comments on alternative approaches for specific groups of travelers. The policy decisions in the Final Rule reflect the input DHS received from the public and stakeholders. The changes for specific groups of travelers include: the full development of special provisions for children under 16 years of age and groups of children under 19 years of age. In the final rule, U.S. and Canadian children under 16 will be required to present only proof of citizenship. Groups of children, ages 18 and under, who are traveling with parental consent with public or private school groups, religious groups, social or cultural organizations, or teams associated with youth sport organizations that arrive at U.S. sea or land ports-of-entry in an official group and accompanied by an adult affiliated with the organization, will only be required to

present proof of citizenship. DHS also committed in the final rule to work with federally recognized Native American tribes and communities on the development of a WHTI-compliant enhanced tribal card. DHS also agreed to accept the INAC (Indian and Northern Affairs Canada) card issued by the government of Canada when presented by Canadians seeking to enter the United States. Additionally, DHS will work with the States and Canadian provinces on the development of enhanced driver's licenses as WHTI-compliant documents.

Question 2. Without RFID readers at the hundreds of other ports of entry into the United States, most of the WHTI-compliant cards would essentially be flash passes. What is the schedule for providing RFID readers to our ports of entry? What is the process for reviewing a traveler's documents if the RFID readers are unavailable?

Answer. Currently, CBP has technology in place at virtually all air, land and sea ports of entry that will read any travel document with a machine-readable zone, including passports, border crossing cards, trusted traveler cards and the new passport card. All CBP officers are currently trained in the use of this technology. This means our ports of entry can accept passports, passport cards and all WHTI-compliant documents today.

In preparation for full implementation, DHS awarded a contract on January 10, 2008, to begin the process of deploying vicinity RFID facilitative technology and infrastructure to 354 vehicle primary lanes at 39 high-volume land ports, which process 95 percent of land border traveler crossings. Site surveys will be completed by the end of May 2008. This summer, we will begin construction at land border locations with the installation of the integrated solution commencing shortly thereafter. Deployment will continue with completion scheduled for spring 2009.

Question 3. Both the Departments of Homeland Security and State are launching robust communications campaigns for WHTI implementation at land POEs. Can you describe specifically what you have planned and what you are doing different to prevent the mass confusion about the immediate need for passports that occurred during implementation of WHTI for air travel?

Answer. DHS is keenly aware of the impact these very important issues have on local communities and their economies. CBP remains committed to ensuring a smooth transition and mitigating any negative impact on legitimate trade and travel. DHS has moved aggressively to ensure that key audiences are aware of the new policies, and of the rationale behind them as part of our ongoing effort to make America's borders even more secure and to ensure that commerce is not unnecessarily impeded by these important changes.

The outreach initiative will accelerate and expand in the coming weeks and months. We are mindful that WHTI can represent a significant social and cultural change for border communities, and that it is in our best interest to use this change as an opportunity to encourage trade and travel, which are vital to the economic interests of the United States as well as our neighbors.

On February 4, 2008, CBP awarded a Public Relations Contract to Elevation, LTD., to alert and educate audiences in both the United States and Canada about upcoming modifications. The Public Relations firm will create a comprehensive plan to proactively communicate the new requirements and document options to the traveling public. We estimate the contract to be worth $10–$15 million over the next several years.

CBP will utilize a variety of tools in this sustained campaign, including paid advertising, public service announcements, press conferences and grassroots outreach, and consumer-friendly materials as well as leverage existing stakeholder partnerships. The design and execution of this campaign will raise traveler awareness across the Nation about secure and standard documents with facilitative technologies, and while ultimately soliciting compliance and ensuring a smooth transition to full WHTI requirements.

The immediate strategy of the communications plan is to conduct border events in summer 2008 with a "Know Before You Go" summer travel theme, including advertising WHTI-compliant documents and advising border communities of planned radio frequency identification (RFID) infrastructure construction. As we know, increased summer travel can produce increased wait times. Our intent through this program (as we have done in past years) is to remind the traveling public of that fact and encourage them to take steps that help minimize any potential delays—while also demonstrating that CBP is moving aggressively to make the process smoother, and less time-consuming, in future years while also greatly enhancing border security.

An advertising campaign will be launched later this year to reach the broader national audience that includes infrequent or would-be travelers. Joint press conferences will also be conducted with various States as enhanced driver's licenses be-

come available, beginning with New York in August 2008. Communication activities will be planned in coordination with the Department of State and the production of the passport card, and will be shared with Canadian counterparts to ensure that messages are aligned.

Moreover, when assessing efforts by DHS and CBP to ensure a smooth transition of these critical changes on our borders, the following factors must be considered:

- DHS published the land and sea rule more than 1 year in advance of the implementation date to give the public ample notice and time to obtain the WHTI-compliant documents they will need to enter or re-enter the United States on or after June 1, 2009.
- The WHTI air implementation in January 2007, and the change in land and sea travel document procedures that went into effect January 31, 2008, has demonstrated the traveling public's willingness to obtain the proper documents. DHS and CBP have applied lessons learned, including the need to disperse demand more evenly for travel documents, as well as the production of two additional document options—the enhanced driver's license and the passport card specifically designed for land and sea travel.
- DHS and CBP are confident that the passport card, with more than 290,000 applications received by the Department of State, and the enhanced driver's licenses being offered or to be offered by several States, will serve as the cost-effective, convenient alternatives that were requested throughout the rule-making process.

Question 4. The success of WHTI will be contingent, in part, on the ability of the Department to carry out a number of activities in the year leading up to full implementation on June 1, 2009. With the change of administrations occurring in the near future, many policies and procedures might change at the Department. What guidance do you have in place to ensure a successful transition for WHTI?

Answer. DHS and the Department of State have put many steps in place to ensure the complete implementation of WHTI by June 1, 2009.

WHTI is the plan to implement both a recommendation of the 9/11 Commission and Section 7209 of the IRTPA, passed by Congress and signed by the President. Implementing WHTI is a law—one that the change of administration will not impact. When the new administration takes office in January 2009, the air phase of WHTI will have been in place for 2 years (since January 2007). There has been little, if any, negative impact on travel as a result of its implementation and there is no doubt that the passport requirement for air travelers entering the United States will remain in place. Likewise, steps have been taken, and additional actions will continue, to ensure the June 1, 2009 deadline will be met for WHTI in the land and sea environments. WHTI is necessary to increase security at our borders and facilitate travel and trade.

U.S. Customs and Border Protection (CBP) is ensuring that multiple types of WHTI-compliant documents will be available in ample time for U.S. and Canadian citizens to obtain them before June 1, 2009; CBP has the infrastructure in place to read passports, passport cards, and WHTI-compliant documents; and we have a communications plan underway to educate the public over the next year about what documents they will need, and when they will need them.

At a higher level, both DHS and CBP have transition plans in place to ensure that all of our operations continue without impediment into the new administration. DHS senior-level career executives have already been identified as successors until Presidential appointees are named. As the transition between administrations is a period when there is typically an increase in possible terrorist activity, the continued implementation of a program that provides additional security at our borders, such as WHTI, is imperative.

Question 5. The committee has been informed by both information technology specialists and privacy advocates that the RFID technology used in some of the WHTI-compliant documents is vulnerable to "skimming" and other security breaches. Nonetheless, the National Institute for Standards and Technology (NIST) has certified this technology to meet or exceed the relevant security standards and best practices as specified in statute. What certifications made by NIST demonstrate that WHTI-compliant travel documents are not vulnerable to "skimming"?

Answer. The NIST certification applies only to the security and privacy of the card architecture, as specified in statute. NIST paid special attention to the privacy recommendations from the Data Privacy & Integrity Advisory Committee to the Secretary and Chief Privacy Officer of the Department of Homeland Security. As a result, recommendations from the NIST analysis have been incorporated into the passport card design, which include permalocking of the RFID chip to prevent alteration of data contained within the chip itself, and the issuance of an RFID attenuation sleeve to prevent unauthorized reading (or "skimming") of a WHTI-compliant

RFID enabled travel document. The Sandia National Laboratories conducted tests on the effectiveness of the RFID attenuation sleeve in accordance with the NIST certification.

The NIST analysis concluded that the Department of State passport card neither has, nor requires, a security objective to prevent counterfeiting of the RFID chip in isolation. It should be noted that in the unlikely event a card is "skimmed" by an unauthorized RFID reader, the following data would be made available as a result:

0010110000101000001101010011110101011001010010 1[. . .]

The above series of "zeros and ones" represents actual real data contained within a WHTI-compliant RFID enabled travel document; simply translated, the data represents a number. There is no personal identifying information contained within the chip, and unlike the e-passport implementation, there is no photo, no biometric, no name or any other biographic information about the holder; simply a series of zeros and ones, meaningless to anyone trying to obtain personal information.

QUESTIONS FROM CHAIRWOMAN LORETTA SANCHEZ FOR DERWOOD K. STAEBEN, SENIOR ADVISOR, WESTERN HEMISPHERE TRAVEL INITIATIVE, DEPARTMENT OF STATE

Question 1. Several reports in the media recently called into question the overseas component of the supply chain and manufacturing process for passports. Can you discuss what protocols you have in place so that our CBP officers know they are looking at an authentic American passport?

Answer. No response was received at the time of publication.

Question 2. It is my understanding the passport cards will contain RFID technology and microchips similar to passports. What is the manufacturing process for the passport cards? Will the passport cards also be partly manufactured overseas? If so, what type of oversight will the State Department have over the process to ensure the security and integrity of the cards?

Answer. No response was received at the time of publication.

Question 3. In anticipation of increasing demand for passports and passport cards due to WHTI implementation, does the fiscal year 2009 budget request include the necessary resources to ensure that both passports and passport cards are processed within the normal 6-week timeframe?

Answer. No response was received at the time of publication.

Question 4. What formal plans are in place by the State Department to disseminate information to the traveling public regarding the final implementation requirements for WHTI at land and sea ports? What resources are included in the State Department's fiscal year 2009 budget request to fully inform the traveling public about these document changes?

Answer. No response was received at the time of publication.

Question 5. News reports indicated that the initial contract for the PASS cards was awarded to General Dynamics but was later terminated and given to L–1. What caused the change in contractors? Is there a difference in services provided by the two contractors?

Answer. No response was received at the time of publication.

Question 6. During the hearing, you told Ms. Christensen that "none of the final offers included an optical memory strip for testing." It is our understanding that one of the cards proposed by General Dynamics did include an optical stripe. Did General Dynamics propose a card with an optical stripe? If so please reconcile this with your statement.

Answer. No response was received at the time of publication.

Question 7. You further told Ms. Christensen that "you submitted all the test cards to a full battery of tests at Sandia National Labs." Please explain in detail the tests conducted by Sandia and their purpose.

Answer. No response was received at the time of publication.

Question 8. Did any person, company, or organization other than Sandia conduct adversarial or other testing to evaluate the various cards' security features? If so, what cards were tested, who conducted this testing, and what where the findings and recommendations?

Answer. No response was received at the time of publication.

Question 9. Are you aware of any testing suggesting that optical memory stripe (OMS) technology interferers with or otherwise impedes the performance of Radio Frequency Identification Technology? If so, please tell us who conducted this testing, what the results showed.

Answer. No response was received at the time of publication.

QUESTIONS FROM CHAIRWOMAN LORETTA SANCHEZ FOR ELIZABETH LUCE, DIRECTOR, WASHINGTON STATE DEPARTMENT OF LICENSING

Question 1. What advice do you have for other States that have entered or may be entering into a MOU with the Department of Homeland Security for the development of enhanced drivers' licenses (EDLs)?

Answer. Each State should review the DHS minimum requirements, conduct a gap analysis of capacity compared to DHS requirements and negotiate exceptions to problematic requirements with DHS. The State should make sure DHS fully understands the State's license issuance process to ensure informed decisionmaking at the Federal level.

Question 2. The requirements of REAL ID are imposing a significant financial burden on States. What type of resources and funding is the State of Washington dedicating to its EDL program?

Answer. At this time, we have requested and received funds through our legislature to utilize transportation funds to cover the costs of the EDL program. We received $12 million in funding to develop the program and offer the EDL program in 14 of Washington's 60 licensing service offices. There is no State-level grant funding available for the EDL or WHTI programs.

Question 3. Can you describe the level of personnel training and infrastructure investment the State of Washington underwent to make the EDL program possible?

Answer. Our staff received 2 weeks of training including AAMVA certified fraudulent document training, interview technique training, and DHS–ICE Division conducted a mini-session on fraudulent document training. Another added component for staff processing and issuing Enhanced Drivers Licenses is Federal criminal background checks. Organizationally, we moved staff around and hired contractors to assist with information system programming. In total, we invested 33,000 hours of programming changes and nearly as many hours of management and logistical planning.

We included a component of facial recognition biometrics to screen and compare applicant photos to others in our database to ensure we have one-driver and one record in Washington. An investment also was made in document authentication software to help screen foundational documents that customers present.

Question 4. Looking back on the State of Washington's experience with the EDL program, are there any components that you think are particularly challenging for States to meet or that you would like to see changed?

Answer. Overall, the EDL program has been successful. What was helpful in the development of the program was conducting a gap analysis and working closely with DHS to help them understand our processes. We are strongly of the opinion that the EDL/ID is one of the most secure licensing documents in the country. Consequently, we are at a loss to understand why DHS has not identified all EDL/ID's as acceptable forms of identity for all Federal purposes.

Question 5. Now that you are moving forward with your EDL program, has DHS described the type of oversight that you will be subject to? What type of internal auditing system do you have in place to maintain the security of the cards and integrity of the personnel?

Answer. Per discussion and agreement, DHS will conduct an independent audit of the program sometime after implementation. Within DOL, we have a unit that conducted an internal audit of the program and will provide continued support and feedback to look at best practices and opportunities for the Department.

○