

Statement for the Record

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**Subcommittee on Oversight of Government Management, the Federal Workforce,
and the District of Columbia
Committee on Homeland Security and Governmental Affairs
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Chairman Akaka, Ranking Member Voinovich, and distinguished members of this Subcommittee, I am pleased to appear before you today to discuss how the Department of Homeland Security (DHS) plans to implement the REAL ID Act and the Western Hemisphere Travel Initiative (WHTI), two initiatives resulting from 9/11 Commission recommendations designed to secure identification and protect the citizens of our country.

Background

At DHS, part of our job is to make it difficult for terrorists to travel into the United States. We need to do that while at the same time allowing innocent travelers to move quickly and smoothly to their destinations.

Restricting terrorist travel requires two things: 1) good information about our adversaries, so we know who should get special scrutiny; and 2) a good way to confirm the identity of travelers, so that our adversaries cannot avoid scrutiny by shedding one identity and assuming another. The Department has been asked to testify often about the first requirement, but there has been less focus in public on the vital role that secure identification plays in fighting terrorism. So I appreciate the opportunity to talk about

this issue, and the central role that REAL ID and WHTI play in our counterterrorism mission.

First, false identification has long been a threat to our security. For years, loopholes in our identification documents systems have been exploited for purposes of breaking the law. Many of us have been the victims of identity theft, which is often made possible by forged identity documents. The same criminal networks that helped illegal immigrants obtain fraudulent identity documents were put to use by the terrorists who attacked us on 9/11. Eighteen of the nineteen hijackers carried government-issued IDs, many obtained fraudulently. This led the 9/11 Commission to conclude, “for terrorists, travel documents are like weapons.”¹ The Commission made two important recommendations to address this problem: 1) the federal government should set standards for the issuance of sources of identification, such as driver’s licenses; and, 2) it should ensure that people crossing the border are not exempt from carrying secure identification.

To carry out these recommendations, Congress has enacted and DHS is implementing two legal requirements. The REAL ID Act sets standards for the security of the documents most people use to identify themselves inside the United States; its purpose is to make identity theft and fraud – by terrorists and others – much more difficult. The Western Hemisphere Travel Initiative requires that everyone entering the United States have a passport or acceptable identity and citizenship documentation. WHTI is designed to ensure that when we encounter travelers at the border, they have a document that confirms their identity and citizenship.

REAL ID

In this country the document that most people use to identify themselves is not issued by the federal government and was not originally intended as an identity document. State driver’s licenses were originally designed to verify that the holder had passed a driving test and was allowed to drive. But over the years they have become the primary identification document for almost everyone over the age of 16. They are used

¹ The 9/11 Commission Report, p. 384

to buy liquor and cigarettes, to enter federal buildings, to board airplanes, and to cash checks.

Our reliance on licenses issued by fifty-six jurisdictions to prove identity can create special problems. More important, there can be fifty-six different standards and fifty-six different notions of how much security should be built into the document and the issuance process, based on fifty-six different state and territory budgets and policies. Given the ease with which people travel interstate, it is all too easy for criminals and terrorists to exploit security holes in the weakest state license procedures. This seems to be what Timothy McVeigh did. In 1995, he was able to create a fake South Dakota license with ease; all it took was a manual typewriter and a kitchen iron. He used the license to rent a Ryder truck in Oklahoma and destroy the Murrah Federal Building.

After Oklahoma City and 9/11, the lesson was clear. As the 9/11 Commission report said, “(f)raud in identification documents is no longer just a problem of theft. At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.”² The 9/11 Commission’s recommendation was equally direct: “The federal government should set standards for the issuance of birth certificates and sources of identification, such as driver’s licenses.”³ That is what REAL ID does.

REAL ID does not create a national identification card. It does not establish a national database. REAL ID simply sets minimum standards for the identity documents that federal officers must rely upon every day to make security decisions about who gets on planes or enters federal facilities.

Implementation of REAL ID has been steady, and it continues today. The Act was enacted on May 11, 2005. A proposed rule generated over 21,000 public comments, and we worked with the states to address concerns about the costs of implementation. The states responsible for adopting security measures asked for more time and flexibility in the regulation, and we granted both, reducing the costs to states by 73 percent. We

² The 9/11 Commission Report, p. 390.

³ Id.

accomplished all of this without sacrificing security. The final rule was published January 29, 2008, and the minimum standards for the issuance of driver's licenses are now set.

The regulation requires states to meet some of those standards by January 1, 2010. All 50 states, the District of Columbia, and five territories have been granted extensions for the purpose of complying with the regulation. Many states are well on their way to meeting these standards, demonstrating their commitment to security.

A good example is Maine. The decision to seek an extension of the deadline provoked a healthy debate about license security in that state. The governor decided that the additional security measures set by REAL ID made sense for Maine. He proposed legislation to implement them, and it is now law. We were pleased to work constructively with Governor Baldacci on this issue, and we commend him and the state legislature for their work.

In some ways, this is typical of our experience. While views about REAL ID may differ, no state wants their documents exploited by terrorists or identity thieves. Once the debate gets beyond bumper stickers and focuses on specific security measures, agreement can come quickly. We look forward to continuing this focus on practical security improvements in all states as we move forward with REAL ID implementation.

Western Hemisphere Travel Initiative

It's remarkable that, in an age of terrorism, it was possible to travel to the United States without a passport or other secure document providing strong proof of identity and citizenship. And plenty of travelers tried to exploit this loophole. In fiscal year 2007, more than 30,000 individuals were apprehended at ports of entry trying to cross the border with false documents.

With Congress's help, we have been steadily plugging this security hole. WHTI designates specific identity and citizenship documents that can be used to gain entry at our land, sea, and air ports of entry. Relying on this Congressional guidance, we have ended the practice of flying into the United States without a passport or similar document, and more recently ended the policy that allows travelers to cross our land

border without identification. On January 23, 2007, the WHTI Air Rule required all arriving air travelers, regardless of age, to present a passport or other acceptable secure document for entry into the United States. Compliance is over 99 percent for citizens of the United States, Canada, and Bermuda, showing that Americans and foreign nationals alike are willing to obtain the necessary documents to enter or re-enter the U.S. once the requirements are known and enforced.

The next step was to improve security at our land border. Until January 31 of this year, the United States permitted entry by oral declaration alone. This was a serious security risk that we are pleased to have eliminated – and without the traffic jams and delays that many predicted. Compliance with the new policy has been good, again demonstrating that a firm deadline, widely advertised, is the best way to avoid confusion and secure cooperation when we raise security standards at the border.

The next step is to implement the passport or similar document requirement that Congress enacted. We recognize that, for border communities, this is a big step, and we have a responsibility to make this transition as easy as possible. We are working with the Department of State, which will produce passport cards that will reduce the cost of passports for people who live along the border. We also are continuing to work with state DMVs and Canadian provinces to develop enhanced drivers licenses acceptable for border crossing purposes (and compatible with REAL ID standards).

We will be prepared to implement this requirement as soon as Congress allows us to do so. By law, we may not implement this important security reform before June 1, 2009. Over the next 13 months, we will complete the infrastructure at our ports of entry and work to ensure that travelers have access to WHTI-compliant documents.

Conclusion

We continue to engage stakeholders as we institute nationwide secure identification. We regularly communicate with state DMVs and Canadian provinces in an effort to develop appropriate requirements, guidance, and milestones that ensure timely implementation. The development, production, and distribution of quality, physically secure documents, is an expensive process, as it requires replacing old

document production systems and infrastructure; however, the investment will pay healthy dividends towards the security of this country.