

**THE NEED TO IMPLEMENT WHTI TO PROTECT
U.S. HOMELAND SECURITY**

HEARING
BEFORE THE
SUBCOMMITTEE ON IMMIGRATION,
BORDER SECURITY, AND CLAIMS
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED NINTH CONGRESS
SECOND SESSION

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CONTENTS

JUNE 8, 2006

OPENING STATEMENT

	Page
The Honorable John N. Hostettler, a Representative in Congress from the State of Indiana, and Chairman, Subcommittee on Immigration, Border Security, and Claims	1

WITNESSES

Ms. Janice L. Kephart, Principal and Managing Member, 9/11 Security Solutions, LLC	
Oral Testimony	4
Prepared Statement	7
Mr. David Harris, Director, Insignis Strategic Research, Inc.	
Oral Testimony	41
Prepared Statement	43
Mr. Paul Rosenzweig, acting Assistant Secretary for Policy Development, U.S. Department of Homeland Security	
Oral Testimony	54
Prepared Statement	56
Mr. Roger Dow, President and Chief Executive Officer, Travel Industry Association of America	
Oral Testimony	59
Prepared Statement	62

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Prepared Statement of the Honorable Sheila Jackson Lee, a Representative in Congress from the State of Texas, and Ranking Member, Subcommittee on Immigration, Border Security, and Claims	87
Prepared Statement of the Honorable Louise M. Slaughter, a Representative in Congress from the State of New York	88
Letter from Corey P. Saylor, Government Affairs Director, Council on American Islamic Relations (CAIR)	
Prepared Statement of Business for Economic Security, Tourism & Trade (BESTT)	97
Prepared Statement of the Honorable Brian Higgins, a Representative in Congress from the State of New York	104
Prepared Statement of the Honorable John Conyers, Jr., a Representative in Congress from the State of Michigan, and Ranking Member, Committee on the Judiciary	105
Prepared Statement of the Honorable Ted Poe, a Representative in Congress from the State of Texas	105

THE NEED TO IMPLEMENT WHTI TO PROTECT U.S. HOMELAND SECURITY

THURSDAY, JUNE 8, 2006

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
BORDER SECURITY, AND CLAIMS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 11:37 a.m., in Room 2141, Rayburn House Office Building, the Honorable John N. Hostettler (Chairman of the Subcommittee) presiding.

Mr. HOSTETTLER. The Subcommittee will come to order.

Good morning.

Until a few days ago, few among us were particularly aware that Canada hosts an abundance of terrorists and as many as 50 terrorist organizations. While this is new information to most of us, the Canadian press has been full of such stories for at least the past 6 years.

Even as a highly regarded Canadian journalist authored three books on the topic of Canada's benign neglect of terrorists, all of which have been bestsellers in Canada, Americans have been preoccupied with the southwest border. It is to be expected that the visual phenomena of hundreds of thousands of illegal aliens crossing the arid Southwest, often in plain view of Border Patrol, and sometimes TV cameras as well, is something that captures the national attention.

But, today, we turn to our other borders, even more poorly guarded than the southwestern border. In fact, it is fair to say that the Canadian border is virtually unguarded. Canadians, as well as those who are imposters pretending to be Canadians or returning American tourists, roll through our border ports of entry with little or no document inspections.

In fact, there are many who continue to advocate that all those who claim to be Canadian and U.S. citizens should keep moving through the border checkpoints at 40 miles an hour or so. I don't agree with that point of view.

I hope the arrests in Canada of 17 jihadists, mostly home-grown, will cause the opponents of secure borders to reconsider, because the threat won't go away soon. It is important to understand that we are dealing with terrorists who don't appear to their neighbors or family members to be terrorists.

Very much like the London subway bombers, they appear to be nice young men, who have good manners. According to Canadian

news accounts published over the past few days, those arrests included recent converts to Islam, as well as five juveniles.

Some Canadian police officials describe the subjects as being from across the strata of society. If they are typical of many Canadian first- and second-generation immigrants, then the arrests demonstrate an unsuccessful adoption of traditional Canadian values, or at least a lack of assimilation by many north of the U.S. border.

I expect we all know that cultural assimilation in Canada, or in the United States, is much more than learning the English language. South Toronto, like those parts of London that are host to the radical imams who influenced the 9/11 terrorists and the shoe bomber has people who adhere to a militant understanding of Islam.

Toronto has a very large South Asian community, and the oldest man among those arrested, Qayyum Abdul Jamal, is the imam of the Al Rahman Koran Learning Center, a local mosque. Although the Canadian authorities have not provided details of the proceeding investigation, news accounts state that some of the group have been under surveillance since 2004.

And we need to acknowledge that we are dealing with terrorists on both sides of the border. While the Canadian Mounties already had their local terrorists under investigation, the Canadian arrests were connected to intelligence gained by the FBI during the investigation and eventual arrest of two young jihadists resident in the United States, one of whom had gone to high school in Canada before moving here.

I do believe we in the United States have a much more clear focus on the problem of terrorism and have moved beyond denial that our own citizens are capable of terrorism. That doesn't seem to be the case north of the border.

The brother of one of the men arrested was quoted this week in the Canadian Press newspaper as saying, "He is not a terrorist. Come on. He is a Canadian citizen."

Let us look at a few details of the violent acts the arrested Canadian citizens are reported to have planned. According to Gary Batasar, the lawyer for Steven Chand, Canadian prosecutors had provided an eight-page summary of the charges against his client and 16 other men arrested last week.

These charges included "plotting to storm the parliament buildings, take hostages, make demands to remove Canadian troops from Afghanistan and to free Muslim prisoners, planning to behead hostages if his demands weren't met and to behead the prime minister. The last thing was that they were going to storm the Canadian Broadcasting Corporation's building downtown in Toronto to take over communications to broadcast their message."

Police said the men were planning to build a simple but effective bomb, using fertilizer and diesel fuel, and were in an advanced stage of planning two attacks: a truck bombing to destroy a significant building and an attack involving opening fire on a crowded public place.

It was reported on Wednesday that Prime Minister Harper was laughing off the alleged assassination plot. It is too bad that his public statements recently about the Western Hemisphere Travel

Initiative also appear to laugh off the U.S. Government's intent to improve the security of all our borders, that with Canada no less than the others.

For example, it was recently reported in the context of meetings between Canadian Public Safety Minister Stockwell Day and our Secretary Chertoff that Canadian and U.S. officials are working on a third alternative, neither passport nor national I.D. card that would allow Canadians to move freely into the United States after the Western Hemisphere Travel Initiative's more stringent rules come into place.

In fact, Public Safety Minister Stockwell Day said he has received assurances from Homeland Security Secretary Michael Chertoff that an alternative Canadian document, as yet to be determined, would be acceptable. Maybe that is why Prime Minister Harper appears so lighthearted with regard to the WHTI. He knows something that we don't about the Administration's plans.

If we needed a clear case for why there needs to be a dramatic increase in security along the northern border, and that means an uncompromising implementation of the Western Hemisphere Travel Initiative at the earliest date possible, the example of this past week's terrorist arrests in Toronto is very dramatic.

With the 12 million or more illegal aliens resident in the United States, many of them carrying valid driver's licenses, it is clear that at least at the border, we need to authenticate who is a U.S. citizen and who is not before letting people re-enter the United States. And no lower standard should be set for Canadian citizens who wish to enter the United States.

At this time, if any other Members of the panel have an opening statement, I would be glad to—without objection, all Members' opening statements will be made a part of the record.

At this time, the Subcommittee will take a short recess to vote on a number of provisions in the House of Representatives, and we will return subsequently to reconvene the hearing. We are recessed.

[Recess.]

Mr. HOSTETTLER. The Subcommittee will come to order.

I want to thank the panel of witnesses for your indulgence as we have interrupted the hearing for the votes.

I would like to now introduce our panel.

Janice Kephart is a nationally recognized border security expert, specializing in the nexus between immigration and counterterrorism issues. She provided text, substantive footnotes and developed key recommendations on border security, along with her teammates, that appear in the 9/11 Commission's final report, and is the key author of the 9/11 Commission's staff report, "9/11 and Terrorist Travel." Prior to her work on the commission, Ms. Kephart served as counsel to the Senate Judiciary Subcommittee on Terrorism, Technology and Government Information.

David Harris is director of Insignis Strategic Research, Incorporated, a counterterrorism, national security and international risk analysis consulting group. He has trained police, military and other security personnel in intelligence collection and analysis. Mr. Harris is also active in academia, lecturing occasionally in national security and intelligence policy and defense policy at the Carleton

University School of Public Administration's graduate program. He is the former chief of strategic planning of the Canadian Security Intelligence Service.

In his position as counselor for the assistant secretary for the policy directorate and acting assistant secretary for policy development at the United States Department of Homeland Security, Paul Rosenzweig has responsibility for developing policy, strategic plans and international approaches on homeland security issues, including border security and immigration issues. Mr. Rosenzweig is also an adjunct professor of law at George Mason University School of Law. He serves on the editorial board of the "Journal of National Security Law and Policy" and the District of Columbia Bar Legal Ethics Committee.

Roger Dow is president and chief executive officer of the Travel Industry Association of America, or TIA, a position he assumed on January 1, 2005, with 2,000 organizations as members. TIA is the national umbrella organization that represents and speaks for all segments of the \$600 billion U.S. travel and tourism industry in promoting and facilitating increased travel to and within the United States.

Prior to joining TIA, Mr. Dow was senior vice president, global and field sales, for Marriott International, leading Marriott's 10,000-person worldwide sales organization. He worked for that company for 34 years. Mr. Dow also served his country in Vietnam, where he received a Bronze Star, among other citations, for his duties with the 101st Airborne Division.

As is customary with the Committee, I will ask the witnesses to please rise and take the oath.

And raise your right hands. Thank you. Do you solemnly swear that the testimony you will give before the Subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Thank you. You may be seated.

Please let the record reflect that the witnesses responded in the affirmative.

Once again, thank you for being here today. You will notice a series of lights in front of you. Without objection, your entire written statement will be made a part of the record, and if you can keep your opening statements, oral opening statements, as close to 5 minutes, it would be greatly appreciated.

Ms. Kephart, you are recognized.

**TESTIMONY OF JANICE L. KEPHART, PRINCIPAL AND
MANAGING MEMBER, 9/11 SECURITY SOLUTIONS, LLC**

Ms. KEPHART. Thank you, Chairman Hostettler, for having me here today. I very much appreciate your interest in assuring that the Western Hemisphere Travel Initiative, otherwise known as WHTI, gets implemented in a timely manner. As we begin our discussion today, we need to retrace our steps as to why WHTI was passed into law in the first place and the national security threat it seeks to mitigate.

What is that threat? It is quite simple, really. It evolved from the intense 14-month investigation of the 9/11 Commission border team, with whom I was so lucky to serve. The threat is simply this:

that most often, terrorists must cross and travel over borders to conduct their operations. To do so, they exploit any loophole in a border apparatus they can.

An extremely large loophole that still exists today here in the U.S., and which WHTI seeks to close, is the policy and practices that permit anyone claiming to be from the Western hemisphere to present easily forged documents, or nothing at all, to enter the U.S. The most commonly used documents include a birth certificate, thousands of varieties; a driver's license, over 200 varieties in the U.S.; or, as is the case with 40 percent of Canadians that pass over our land borders, absolutely nothing.

We know birth certificates and driver's licenses are highly subject to fraud. D.C. sniper John Lee Muhammad and LAX millennium bomber Ahmed Ressaam both made their living on stealing, making, selling fake U.S. or Canadian documents prior to coming to the U.S. for their criminal acts.

And we know that document forgers are rampant in the U.S. A story in yesterday's Seattle Post, for example, describes a brazen document forger who makes his living in that city off of fake driver's licenses and other U.S. documents but, interestingly enough, not passports.

While no travel document is perfect, passports have features other documents do not. They denote citizenship. They can be vetted through criminal and terror watch lists and alerts. National records are maintained of the passports' owners, so reported lost and stolen passports can be better tracked internationally. And they have particular security features more difficult to forge.

From the terrorist's vantage point, why bother with acquiring a lost or stolen passport to get into the U.S., when you can simply buy a driver's license off the street that will get you across the borders just fine. To the terrorists, the U.S. makes entry at Canadian and other land ports of entry easy, so why not take advantage of it?

Let me be clear, though, as I have been in previous testimony on the subject, that assuring facilitation of trade and tourism is important. As WHTI is currently envisioned, it will finally allow border inspectors to focus on high-risk travelers, while low-risk travelers can get streamlined and efficient processing, if they seek to do so.

This way—security and facilitation equally, providing the balance the two policy objectives should. And where does a terrorist end up with WHTI? With a difficult choice. Under WHTI, the terrorist can no longer present an unauthenticated document containing unverifiable information. Instead, the terrorist must choose, risk getting caught by attempting an illegal entry, or risk being detected by U.S. authorities at the border, presenting a passport.

WHTI makes it more likely the terrorists will expose themselves to authorities, and thus gives the American people a better chance at staying safe and keeping foreign terrorists who want to blow up significant buildings and chop off heads as stated in yesterday's stories about the 17 arrested in Toronto, out of the United States.

So this brings us to the next question: Are the 17 from Toronto the be all, end all, of threats from Canada? No. CSIS, the Canadian intelligence agency, tells us that Canada has a significant terrorist community, about 50 terror organizations actively operating there,

and about 350 individuals being actively watched. And, according to Jack Cooper, CSIS's deputy director today, Canada's problem is growing.

Only 17 were caught in Canada last weekend, and we don't even know if they were some of the 350 Canadian intelligence already knew about. Terrorist financing more than doubled in Canada last year, to the tune of \$2 billion. Canadian anti-terror legislation passed after 9/11 is not retroactive and, until this past weekend, had only one indictment.

Therefore, those Canadians trained in Afghan camps prior to 9/11 remain at large. We know that the FBI seeks out a number of naturalized Canadian citizens that have \$5 million bounties on them. For example, Abdul Rachman Judai, originally slated to participate in the 9/11 plot and, when he dropped out, to be part of a second wave of attacks, is wanted today. And there was also Amir al-Maati, a trained pilot and Canadian citizen who has vowed to crash a plane into a U.S. building.

And then from south of the border, we have significant issues with alien smuggling, document forgery and bastions of known terrorist activity and support in the Caribbean and throughout South America for terrorist activity.

The point is, we don't want these people to get into the U.S. We want to see them found. With WHTI in place, terrorists and criminals are less likely to try and get in, and, if they do, we are more likely to catch them. That means what the American people end up with is both security and facilitation, and the terrorists have a harder time traveling to carry out their missions.

Thank you.

[The prepared statement of Ms. Kephart follows:]

**Hearing before the House Committee on the Judiciary
Subcommittee on Immigration, Border Security, and Claims**

**Oversight Hearing on
"The Need to Implement WHTI to Protect U.S. Homeland Security."**

2141 Rayburn House Office Building

Thursday, June 8, 2006

11:30 a.m.

Testimony of Janice L. Kephart

President, 9/11 Security Solutions LLC

Former counsel, The National Commission on Terrorist Attacks Upon the United States and an author of *September 11 and Terrorist Travel, A Staff Report of the National Commission on Terrorist Attacks Upon the United States* and "Immigration and Terrorism: Moving Beyond the 9/11 Staff Report on Terrorist Travel"

House Committee on the Judiciary
Subcommittee on Immigration, Border Security and Citizenship
Oversight Hearing on
"The Need to Implement WHTI to Protect U.S. Homeland Security."
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Introduction.....	3
New Laws Addressing Terrorist Travel.....	5
National Intelligence Reform Act of 2004.....	5
REAL ID Act of 2005.....	6
The 9/11 Commission Recommendation Regarding Passports.....	7
Senate Immigration Bill Amendments Regarding WHTI.....	8
Addressing WHTI Concerns.....	8
NEXUS and FAST.....	9
Terrorist Travel and Passports.....	10
WHTI Was Put in Place Due to the Findings of the 9/11 Commission on Terrorist Travel; These Findings Are Still Valid	11
Terrorist Travel Between the United States and Canada.....	13
Analysis from the Canadian Security Intelligence Services.....	15
Fact Summaries—	
Terrorists with Significant Canadian Residency.....	16
17 Arrested in Toronto on June 3, 2006.....	16
Ahmed Ressay of the LAX Millenium Plot.....	16
Abderraouf Jdey.....	18
The Jabarah brothers.....	19
The Khadr family.....	19
Canadian Terrorist with U.S. Residency.....	20
Wanted Al Qaeda Operative with U.S. Legal Residency Possibly Holding a Canadian Passport.....	20
U.S.- Canada Cross Border Traffic.....	22
Hizballah cigarette smuggling scam.....	22
An Al Qaeda operative attempts entry over the northern border... ..	23
An Algerian terror cell dismantled.....	24
A Canadian Voice on Border Security.....	24
Terrorist Activity South of the Border.....	26
Mexico.....	26
A Note on Alien Smuggling.....	27
Relationship Between Columbian FARC and Al Qaeda.....	27
Tri-border Region of Paraguay, Brazil and Argentina.....	28
Travel document fraud in the Tri-Border Region.....	29
Hizballah in the Tri-Border Region.....	29
Caribbean Sea Area: Trinidad and Tobago, Venezuela and Antigua and Baruba	
Islamic Fundamentalism in Trinidad and Tobago.....	30
Venezuela.....	32
John Lee Mohammad in Antigua and Baruba.....	33
Conclusion.....	33

House Committee on the Judiciary
Subcommittee on Immigration, Border Security and Citizenship
Oversight Hearing on
"The Need to Implement WHTI to Protect U.S. Homeland Security."
Thursday, June 8, 2006
Testimony of Janice L. Kephart

Introduction

Thank you for the opportunity to submit testimony for the record on *terrorist travel* and the *Western Hemisphere Travel Initiative*. My testimony is based on the following work, plus additional research specific to today's hearing:

- As a counsel to the Senate Judiciary Subcommittee on Technology, Terrorism and Government Information prior to 9/11;
- As a counsel on the 9/11 Commission "border security team" which produced the *9/11 Final Report* draft recommendations and analysis;
- As an author of the 9/11 staff report, *9/11 and Terrorist Travel*;
- As the 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" in March 2005; and
- As the author of a September 2005 Center for Immigration Study report, "Immigration and Terrorism: Moving Beyond the 9/11 Staff Report on Terrorist Travel."

At the Commission, I was responsible for the investigation and analysis of the INS and current DHS border functions as pertaining to counterterrorism, including the 9/11 hijackers' entry and acquisition of identifications in the United States. My team also produced the drafts of the *9/11 Final Report* recommendations that were unanimously agreed to and refined by 9/11 Commissioners led by Governor Tom Kean and Representative Lee Hamilton.

I want to thank both Chairman Hostettler and Ranking Member Jackson Lee for holding this field hearing on the Western Hemisphere Travel Initiative. I am glad the Committee remains supportive of the policy we put forth in the *9/11 Final Report* of securing our borders alongside assuring facilitation for low risk commerce and commuters.

It is my hope that this Committee will continue to exercise their oversight authority on the important issue of terrorist travel and overall border. I hope your Committee will help insure that the House works with the Senate in conference to deal straight on with the issues brought forward by the Coleman WHTI amendments now attached to the immigration bill in conference. We must reserve the current trend that is submerging national security interests—rather than holding equal- to issues pertaining to economic facilitation when considering changes to our border system apparatus. To uphold our national security interests, we must continue to be vigilant in providing the best and least intrusive means to secure our borders.

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.

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 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 give up 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 one, and trusted or registered traveler/commercial programs augment the system as also being acceptable as an alternate to a federally issued travel document.

Below I discuss: (1) new laws addressing terrorist travel; (2) why the 9/11 Commission made the recommendation for a passport requirement for all entrants; (3) why a terrorist threat exists at both borders; (4) why the Western Hemisphere Initiative is an essential first step in addressing that threat; and (5) alternatives to the Coleman amendments.

The remainder of the testimony will cover the terrorist threat and border incursions by terrorists from Canada, Mexico and South America and Caribbean. I include South America not only because it is a critical element of the Western Hemisphere, but also because of its rampant terrorist support and activity alongside well-known forgery and counterfeiting of documents in these regions. Any delay in implementing WHTI will also result in a delay in hindering these terrorists travel to the United States on forged documents such as birth certificates and driver licenses.

New laws addressing terrorist travel

National Intelligence Reform Act of 2004

I wish to applaud Congress for passing the National Intelligence Reform Act of 2004, and the Chairman and the members of this committee that voted for it. That law contains many important terrorist travel provisions, including the new passport rules that are the subject of today's hearing. I look forward to working with this Committee in supporting the need to implement this law in step with the *9/11 Final Report* recommendations.

The rollout for the Western Hemisphere Travel Initiative is as follows:

1. December 31, 2006 – Requirement applied to all air and sea travel to or from Canada, Mexico, Central and South America, the Caribbean, and Bermuda.
2. December 31, 2007 – Requirement extended to land border crossings as well as air and sea travel.

A two-tiered rollout is absolutely essential. Kinks in implementing the Initiative can be worked out prior to execution at the land border ports of entry, which experience higher volumes of incoming applicants alongside commercial, and commuter traffic. A delayed roll-out until the statutory deadline of January 1, 2008 will not only unnecessarily impact our national security, but will nearly assure a bureaucratic death for a new program which requires both the technology and the border officers to work seamlessly in practice.

Working within the mandate of the Intelligence Reform Act, the State Department is working on alternatives to a passport for the communities adjacent to our physical borders with Canada and Mexico. To accommodate the concerns expressed in the hundreds of comments on the rulemaking, the State Department is planning to introduce a Department of State-produced Passport Card that can act as a U.S. passport in an alternative format with all the security features and vetting of a U.S. passport. DHS and State have agreed that the biometric taken will be the same as the U.S. passport- a facial image.

As planned, it will be available at the 7,000 offices that already process passports and cost about half as much as a U.S. passport. It will look much like a driver's license and fit into a wallet, but will not actually contain biometrics (identity) and registration information (citizenship). Instead, it will link back into a State/DHS database that will verify the cardholder with the card information (thereby protecting privacy).

The Passport Card will also serve as a platform to which DHS can add privileges for registered travelers. If the traveler wants to add these "privileges", Customs and Border Protection will need to collect 10 fingerscans, and conduct a full criminal background check and an interview. Again, those "privileges" will be registered in a joint run DHS-State database, not the card, and can expire or be revoked by DHS. The biometric feature will allow DHS to identify the benefits to which the traveler is entitled. Along with this card, NEXUS (northern border commuters), SENTRI (southern border commuters) and FAST (northern border commercial drivers), and the Border Crossing Card (Mexican laser visa) will also likely be an acceptable as a substitute for a passport and a visa for traveling to the United States from North or South America, including the Caribbean.

This card will be a better selling point to the border communities and others who will benefit from it if and when DHS and the State Department must resolve if and how RFID

technology will be added to it, or whether those with the travel card will have dedicated lanes. A traveler will then not only have the added value of an easy carrying and cheaper option for a passport, but also have the added value of possession of the card truly facilitating entry at land POEs. With the proper physical and technological infrastructure and human resources in place, the potential for increasing security and facilitating trade and travel is manifold.

It is positive to see the Immigration Reform Act of 2006 embracing the card.

REAL ID Act of 2005

I also want to thank Congress for their work in making driver licenses meet minimum standards of verification and authenticity. The REAL ID Act was passed in large part to counter the ease with which the 9/11 hijackers attained 14 driver licenses and 10 state issued identifications from California, Florida, Maryland and Virginia.¹ We know that at least 6 hijackers presented these ids on the morning of 9/11 to disguise their lack of affiliation with the United States.²

The policy behind the REAL ID Act is to make it more difficult for terrorists and those who seek to circumvent U.S. laws to embed in the United States. The law brings identifications issued within the United States closer in step (although not completely) with our latest requirements for secure and verifiable travel documents for entry into the United States. I must be clear about another matter: state issued driver licenses can never replace U.S. passports for the purpose of entry into the United States by U.S. citizens. A list of reasons includes:

- States are not required to follow the requirements of the REAL ID Act, so we can not be assured that all driver licenses presented to border officers meet the requirements of the REAL ID Act.
- REAL ID requires lawful presence in the United States, not citizenship, so even under REAL ID nationality cannot be determined by simply presenting a driver's license.
- Applicants are not vetted for national security concerns or against terror watchlists.
- Driver license applicants receive an automatic check for fraud in the manner that passport applicants do via checks by the State Department's Diplomatic Security investigators.
- Driver licenses do not contain the same type of biometric information required in passports and checked by U.S. Visit or the registered traveler programs like NEXUS and FAST. Without the biometric that can be verified in real time, border officers are denied the opportunity for a real time verification of, for example, a digital photo on the driver license as matching the applicant for entry.

¹¹ See *9/11 and Terrorist Travel: A Staff Report of the National Commission on Terrorist Attacks Upon the United States* (Franklin, Tenn.: Hillsboro Press, 2004) at p. 44. It is available in book form at http://providence-publishing.com/Merchant2/merchant.mvc?Screen=PROD&Store_Code=PP&Product_Code=9ATT&Category_Code=FTANR.

² *Ibid* at p. 43.

- There are 240 varieties of state-issued driver licenses. A single document like the passport can be trained for forensic review by border inspectors, but we can never ask border inspectors to verify 240 varieties of driver licenses (or even 50 for that matter) in the 45 second time frame that most inspectors are allocated to adjudicate an applicant seeking admission into the United States.
- None of these facts are changed by adding a citizenship notification to a license, as suggested in the current language of the Coleman Amendment to the Immigration Reform Act of 2006.

The 9/11 Commission Recommendation Regarding Passports

In a now oft-repeated quote from the 9/11 Final Report, we summarized our findings based on 18 months of research into how the 9/11 hijackers got in and stayed in the United States as follows:

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, present themselves to border security officials, or attempt to circumvent inspection points.

In their travels, terrorists use evasive methods, such as altered and counterfeit passports and visas... immigration and identity fraud. These can sometimes be detected. (p. 384)

The Report continues later with clear recommendations:

Americans should not be exempt from carrying biometric passports or otherwise enabling their identities to be securely verified when they enter the United States; nor should Canadians or Mexicans. Currently U.S. persons are exempt from carrying passports when returning from Canada, Mexico, and the Caribbean. The current system enables non-U.S. citizens to gain entry by showing minimal identification. The 9/11 experience shows that terrorists study and exploit America's vulnerabilities.

To balance this measure, programs to speed known travelers should be a higher priority, permitting inspectors to focus on greater risks. The daily commuter should not be subject to the same measures as first-time travelers. An individual should be able to pre-enroll, with his or her identity verified in passage. Updates of database information and other checks can ensure ongoing reliability. The solution, requiring more research and development, is likely to combine radio frequency technology with biometric identifiers. (p. 388)

Senate Immigration Bill Amendments Regarding WHTI

The current Coleman WHTI amendments to the Immigration Reform Act of 2006, as currently written, will effectively dismantle the purpose and goals set out by the 9/11 Commission and Congress when it wrote and passed WHTI into law.

It is unfortunate that the May 25, 2006 press release from Senator Coleman makes no mention of the need for secure borders as a basic underlying policy in formulating border strategy. Instead, the Senator's amendment provides a rather vague list of requirements for WHTI that will be so difficult to measure, take so long to achieve, will require more funds to fulfill, and delays implementation for at least three more years so that the amendment effectively will kill WHTI. Take for example the vague language requiring DHS to "certify" certain activity prior to implementation as described by Senator Coleman's press release:

- Meeting the deadline for implementing WHTI is contingent upon the certification of the following (among other requirements):
 - Passport cards have been distributed to at least 90 percent of applicants, are turned around in a timely fashion, and have been tested in a pilot.
 - Border patrol officers are prepared to accept these documentary alternatives to a passport.
 - US border crossings have been equipped with document readers and technology so that the new requirements will not substantially slow the flow of traffic.

In other words, in a best-case scenario, the Coleman Amendment puts the implementation of WHTI out eight years from 9/11, when basic procedures could begin to be phased in now. That, to the victims of 9/11 and to the American people as a whole, borders on irresponsible.

Addressing WHTI Concerns

The concern now is that WHTI, by requiring a passport or equivalent document of every person coming into the United States, is going to substantially impede the flow of trade and tourism across ports of entry. These concerns, which underlie much of the opposition to WHTI, are based on faulty assumptions:

1. Passports or an approved equivalent will significantly slow down traffic at POEs. How could this be? WHTI takes away from the border inspector the need to question and review in depth (and never verify) the authenticity of thousands of varieties of birth certificates (about 50,000 in the US today) and driver licenses (about 240 varieties today) down to a passport or equivalent that verifies-- at a much lower rate of fraud- citizenship and identity.
2. That security is sufficiently achieved by retaining random checks of vehicles and their passengers at land POEs. This is the underlying concern, really: that eventually *all* persons will be checked coming into the United States. Opponents know that this is not a winning argument, but my extensive discussions with opponents of WHTI have made it clear that, once all their arguments are peeled back, their main concern is that WHTI applies even-handedly to *everyone*.

3. RFID technology and the type of RFID applied, and by whom, is the key to operationally implement WHTI. That simply is not the case. By modeling and simulating different courses of action not just with RFID but also with the use of lanes and personnel—e.g. maximizing the best use of the physical infrastructures at POEs, we can mitigate much of the potential concern about WHTI slowing down trade and tourism.

This may not seem potentially important, but the fractions of seconds that a good modeling and simulation decision tool can change for any variety of potential problems and solutions can take a port of entry from backing up for miles to having solid traffic flow-through. Each port can be modeled separately to determine the best implementation of WHTI. Security and commerce can thus be achieved without making it an “either or” debate, or causing unnecessary delays in its implementation. This has already been done for personnel allocation and physical infrastructure changes for POEs with significant positive impact. It only makes sense to apply M&S to policy initiatives that have operational impact for POEs such as WHTI.

Nexus and FAST

Streamlining the admission process for low risk travelers augments U.S. national security by permitting the immigration and customs officers who enforce U.S. immigration law at the border to focus on those seeking entry who may pose a national security risk. This does not mean that sleeper cell style terrorists could not exploit, for example, NEXUS and FAST, on the northern border or SENTRI on the southern border. Of course they could. However, there is little incentive for them to risk being vetted in watchlists and criminal databases and having an enrollment in a U.S. government program that could highlight their identity, freezes their biometric and travel patterns. The result is that programs like these, as long as they are tamper proof on a number of levels, should be sufficient to replace the passport as a viable biometric travel document. Our *9/11 Final Report* and the findings of my team’s *9/11 and Terrorist Travel* both support that conclusion.

In addition, these programs—once they have achieved a threshold of enrollment-- are proving their worth in cutting down wait times at northern land ports of entry for all entrants, siphoning off the SENTRI, NEXUS and FAST drivers and passengers into dedicated lanes and allowing wait times for remaining travelers to be reduced as well. Right now, SENTRI exists at three locations on the southern border with 30 lanes operating and NEXUS exists at 12 land border ports of entry and has 15 lanes. FAST is in place at 35 land ports of entry and has 136 dedicated lanes. Canadian NEXUS now exists at eight land border ports of entry for commerce flowing from the United States into Canada. NEXUS has reduced processing time from a potential stop by a border officer to a guaranteed five to seven second crossing time once at the border station.

The result is that commerce—in terms of commuter and commercial traffic, as well as tourism- is enhanced across the board, a win-win situation. Americans commuting to Canada will find a similar upgrade in their wait times when the Canadians expand their

version of NEXUS, with a contract just recently awarded for a Canadian NEXUS to be developed further and installed over the next few years.

We must work to insure that NEXUS, FAST and SENTRI are easily available to those who seek to enroll, and that the ports are configured to maximize the benefits of the program.

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.

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.

For the terrorist, the underlying purpose of the travel will often determine how he decides to travel. For example, the nineteen 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 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 three 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.



A partly-burned copy of Ziad Jarrah's U.S. visa recovered from the Flight 93 crash site in

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*. However, where there is no passport or equivalent biometric travel document required for admission, as is currently the de facto case in the Western Hemisphere, 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.

WHTI Was Put in Place Due to the Findings of the 9/11 Commission on Terrorist Travel; These Findings Are Still Valid

Today, terrorists with Canadian, Caribbean or Mexican citizenship 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 remainder of this testimony provides supporting factual detail.) The Western Hemisphere Travel Initiative thus becomes an important first step in at least chilling terrorist travel between the U.S. and Canada/Mexico and the Caribbean. This includes any variety of terrorist, whether he be a Mexican Islamic convert (as sought out by Al Qaeda) or Canadian.³ 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

³ 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?"

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.)

Even if terrorists choose to acquire a passport with a false identity and with false underlying support documents (as 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.⁴ 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 that might be fake or stolen.

To break down the national security policy implications further of the effect that the Western Hemisphere Travel Initiative will have on the terrorist, here are the options that exist for a terrorist today: (1) use a legitimate passport using his or her real name and risk showing up on a database check; (2) use a whole variety of other documentation such as driver licenses or birth certificates that can be neither verified for content nor authenticated as government issued documents; or (3) enter illegally over the physical borders. For the terrorist today, the most optimum form of travel, then, is to use option (2), identification that can neither be authenticated nor its contents verified and contains no biometrics. By eliminating option (2), the terrorist now has to make a choice: either risk exposure to the government of his identity and whereabouts or enter illegally. Requiring use of a biometrically based passport under option (1) is what the United States needs to do to lower its risk of terrorist entry. In regard to option (3), we must take measures against illegal entry as soon as possible. There is reason for concern here, however, as Secretary Chertoff's recently announced Secure Border Initiative almost singularly focuses on the southwest border. Perhaps recent events in Canada will change his mind.

⁴ Levine, Samantha. "Terror's Best Friend." *US News & World Report*, December 6, 2004.

Terrorist Travel between the U.S. and Canada

Today, terrorists with Canadian citizenship can move in and out of the United States right virtually unconcerned about detection. According to reporting about FBI public statements:

Al Qaeda recruiters are aggressively enrolling youths, with U.S., Canadian or Western European passports and good command of the English language and the North American interior. While the network had always tried to recruit people with U.S. and other Western passports, FBI counter-terrorism chief Larry Mefford recently revealed that al-Qaeda was 'refocusing its efforts' to sign on disaffected Americans, green-card holders and Muslims who had spent time in the U.S. as students or visitors who had a good command of English and a working knowledge of American society and culture.⁵

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.⁶ 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 officers no longer need to play a guessing game as to who is and who is not a U.S. citizen. On the Canadian side, having a standard Canadian passport that border officers can be trained in its forensic qualities gives our border officers a better chance of snuffing out Canadian passports that might be fake or stolen.

To break down the national security policy implications further of the effect that the Western Hemisphere Travel Initiative will have on the Canadian terrorist, here are the options that exist for a terrorist today: (1) use a legitimate Canadian passport using his or her real name and risk showing up on a database check; (2) use a whole variety of other documentation such as driver licenses or birth certificates that can be neither verified for content nor authenticated as government issued documents; or (3) enter illegally over the physical borders. For the terrorist today, the most optimum form of travel, then, is to use option (2), identification that can neither be authenticated nor its contents verified and contains no biometrics. By eliminating option (2), the terrorist now has to make a choice: either risk exposure to the government of his identity and whereabouts or enter illegally. Requiring use of a biometrically based passport under option (1) is what the United States needs to do to lower its risk of terrorist entry. In regard to option (3), we must take measures against illegal entry as soon as possible. There is reason for concern here, however, as Secretary Chertoff's recently announced Secure Border Initiative almost singularly focuses on the southwest border.

⁵ Elaine Shannon. "Al-Qaeda Seeks Canadian Operatives To get around tighter U.S. security, Osama bin Laden is trying to recruit disaffected Muslims north of the border." July 8, 2003.

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

Analysis from the Canadian Security Intelligence Services

Reports in the news media alongside statements and reporting by Canada's intelligence service, the Canadian Security Intelligence Services (CSIS), indicate the threat of terrorist infiltration from Canada is real and dangerous. In July 2005, it was reported that CSIS stated that at least 50 terror groups have a presence in Canada. All types of terrorist activities go on in Canada, including terror financing, weapon and equipment procurement, "manipulating immigrant communities and *facilitating travel to and from the United States* and other countries."⁷

In May 2005, UPI reported that Jim Judd, director of CSIS, told the Canadian Senate in a hearing that well-known terrorists were freely organizing in Canada and although many were recent graduates of terrorist training camps, many are "battle-hardened veterans of campaigns in Afghanistan, Bosnia, Chechnya and elsewhere". He went on to say: "Often these individuals remain in contact with one another... or with colleagues outside the country, and continue to show signs of ongoing clandestine-type activities, including the use of counter-surveillance techniques, secretive meetings and encrypted communications."⁸

Two declassified CSIS reports from May 2004, stated as still accurate a year later by CSIS, reiterate the point. The first report, "Sons of the Father: The Next Generation of Islamic Extremists in Canada," states that there is a second generation of "young jihadists" who are brought up by parental figures to "see the justification of using violence to gain political goals." They are further trained in terror and represent a "clear and present danger to Canada and its allies." The report continues:

The presence of young, committed jihadists in Canada is a significant threat to national security for a number of reasons. These individuals are very familiar with Canadian customs and mores and have no difficulty fitting in to Western society. They have excellent English-language skills and can pass as average Canadians, thus evading more rigid scrutiny by security officials. Their knowledge of Canadian- and by extension Western – society renders them a valuable resource for international Islamic extremists who need individuals to infiltrate our countries to carry out terrorist acts.

Young Canadian extremists also have bona fide Canadian travel documentation. The possession of a valid Canadian passport facilitates international travel. While organizations such as Al Qaeda have sophisticated document forgery capabilities, the use of real papers provides another tool in their campaign.⁹

The other April 2004 CSIS report, "Al Qaeda Attack Planning Against North American Targets," says the current trend of radical converts poses a particularly difficult threat "due to their ability to evade scrutiny by security forces. Islamic extremists value these individuals because their appearance, documentation and ability to blend into Western

⁷ Beth Duff-Brown. "Intelligence officials believe 50 terror groups have presence in Canada". The Associated Press. July 5, 2005.

⁸ Shaun Waterman. "Canada fears new generation of terrorists". UPI. May 12, 2005.

⁹ "Sons of the Father: The Next Generation of Islamic Extremists in Canada." CSIS IB 2004-5/07.

countries increases their chances of successfully carrying out terrorist acts.” The report concludes that the outlook is for “these groups to expand their operational and support networks in Canada” and that “Islamic extremists will continue to exploit Canadian documentation for terrorist operations.”¹⁰

In an interview in May 2005 with UPI, CSIS said that the service was monitoring about 350 individuals and organizations in Canada and abroad who pose threats. And since Canada’s Anti-Terrorist Act, passed in December 2001, is not retroactive, those jihadists who trained in terror camps or whose known terrorist activity is prior to that date, are still at large.¹¹ These second generation jihadists today, under the current framework, can pass into the United States without a passport.

And a poll conducted in Canada in August 2005 suggests that Canadians agree they have a problem with terrorists residing or operating in their country: “A majority (62 per cent) believe a terror attack will occur in the country within the next few years, and only 25 per cent believe Canada is very well or well prepared.”¹²

CSIS’ Assistant Director, Jack Hooper, recently testified before the Canadian Senate that:

We are seeing phenomena in Canada such as the emergence of homegrown ... terrorists. These are people who may have immigrated to Canada at an early age who become radicalized while in Canada. They are virtually indistinguishable from other youth. They blend into our society very well, they speak our language and they appear to be, for all intents and purposes, well assimilated."

That is indeed the case with the June 3, 2006 arrest of 17 Canadian residents for an alleged terror plot.

Fact Summaries

Terrorists with Significant Canadian Residency

Canadian Intelligence is concerned about these 350 jihadists in Canada. But these numbers do not necessarily include recent reporting that over 50 terrorist organizations are active in Canada nor that last year saw a sharp rise in terror financing coming from Canada-about 32 cases- through March 2005 worth about \$2 billion, two and a half times the \$70 million of the previous year. Much of this money came from one large business in Canada owned by a Mid East individual with terrorist ties.¹³

Below, I review a sampling of terrorists with Canadian citizenship or affiliation and the threat they did (or may continue to) pose to the United States.

¹⁰ “Al Qaeda Attack Planning Against North American Targets.” Integrated National Security Assessment Centre 2004 05 21.

¹¹ Shaun Waterman. “Canada fears new generation of terrorists.” UPI. May 12, 2005.

¹² Campbell Clark with a report from Daniel Leblanc. “Canadians want strict security, poll finds”. The Globe and Mail (Canada). August 11, 2005

¹³ The Financial Transactions and Reports Analysis Centre (FINTRAC) 2005 Annual Report.

17 Arrested in Toronto on June 3, 2006. On Saturday, June 3, 2006, Canadian authorities arrested 17 Canadian citizens and residents, most of whom are immigrants from South Asia, for terrorist conspiracies across southern Ontario, including subway systems and the Parliament Building in Ottawa. Any of the citizens involved in this plot could have easily, under current laws, passed into the United States without showing a valid travel document verifying citizenship or identity. Because of today's laws covering entry, we will probably never know.

Found in their possession were three tons of ammonium nitrate, 1-½ 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 Royal Canadian Mounted Police Assistant Commissioner Mike McDonnell has stated in press conferences has said that the group was "homegrown" and it was "their intent to use [the explosives material] for a terrorist attack." CSIS stated that the suspects are "adherents of a violent ideology inspired by Al Qaeda." Of the 12 Canadian men and five youths, one was a 21-year-old health sciences student another a 30-year-old computer programmer. The oldest was 43.

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 Sadeque**, 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 had already conducted surveillance, including in Washington D.C.)¹⁴

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 last fall. Over the internet, a variety of plots focusing on the U.S. Capitol, the World Bank, fuel storage facilities and aviation towers were discussed.¹⁵

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 Plot¹⁶ Ahmed Ressam was born in Algeria in

¹⁴ Jason Chow and Ricardo Alonso-Zaldivar, "Canada Arrest 17 in Alleged Terror Plot." *Los Angeles Times*, June 4, 2006.

¹⁵ *Ibid.*

¹⁶ 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).

1967 and, in 1992, when civil war broke out, traveled to France where he lived, illegally, until 1994. Using a false French passport, he then made his way to Montreal where he lived for the next four 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.”¹⁷

In April 1998, after meeting with Abu Zubaydah in Pakistan, Ressay was sent to the Khaldan camp in Afghanistan where he spent the next five to six months. Khaldan had earned a reputation for its instruction in how to acquire, forge, and manufacture travel documents and credit cards, and Ressay learned well.¹⁸ At Khaldan Ressay also learned the other tradecrafts of a terrorist, the use of weapons, bombmaking, and urban warfare. Zubaydah himself was sufficiently impressed with Ressay’s passport manipulation abilities to have apparently asked him to acquire additional Canadian passports for distribution to al Qaeda fighters.¹⁹ And it was Ressay’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 Ressay 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, Ressay pulled out fake documents—including a Canadian passport- in the name of Beni Antoine Noris. This was not the first time Ressay was asked questions. Ressay had already undergone a cursory examination by a U.S. immigration officer in Vancouver, who had been suspicious of Ressay 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 Ressay was wanted in Canada, neither that name nor the alias Noris was in the INS database. Ressay was admitted for boarding.

Ressay’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, Ressay 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

¹⁷ “Trail of a Terrorist: Introduction.” *PBS FRONTLINE*. Oct. 25, 2001

<http://www.pbs.org/wgbh/pages/frontline/shows/trail/inside/cron.html>

¹⁸ *USA v. Ressay, et al.* WDA 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 Ressay, July 3, 2001 (transcript p. 549-551).

¹⁹ 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>

actuality, Ressam was a member of the Armed Islamic Group²⁰ (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 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.”²¹ Though Ressam was arrested four times for his thievery, he was convicted just once; and he was punished with a fine, not jail time.²²

Abderraouf Jdey, aka Faruq Al-Tunisi, is a Tunisian that studied biology at the University of Montreal.²³ In 1995, he became a Canadian citizen.²⁴ In 1999, he received a Canadian passport and traveled to Afghanistan.

The *9/11 Final Report* states that Jdey “may have trained in Afghanistan with [9/11 hijackers] Khalid al Mihdhar and Nawaf al Hazmi and received instruction from KSM with [Mohamed] Atta and [Ramzi] Binalshibh.” There is also evidence from materials seized at a Pakistani safehouse that Jdey was an initial member of the 9/11 plot. In another safehouse of al Qaeda operations chief Mohammed Atef in Kabul in November 2001, coalition forces found martyrdom videotapes made by Jdey and Binalshibh. 9/11 mastermind Khalid Sheikh Mohammed has admitted Jdey to be a top operative, but has said that Jdey was to participate in a planned second wave of attacks, and had already dropped out of that plot as well by the summer of 2001.

However, young Canadian Al Qaeda operative Mohammed Mansour Jabarah states otherwise. Jabarah has told Canadian intelligence that Jdey downed American Airlines Flight 587 with a shoe bomb on November 12, 2001. A May 2002 Canadian government memo characterized this information as coming from a “source of unknown reliability.” Jabarah said he received this information second hand by Abu Abdelrahman, a high ranking Saudi al Qaeda member associated with KSM.²⁵ While the FBI issued a high

²⁰ 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>.

²¹ USA v. Ressam, et al. WDA 99-CR-666. “Indictment.” April 3, 2001.

²² *Ibid.*

²³ www.scienciapress.com/findings/mailer.htm. This site also weaves a theory that Jdey may have been the anthrax mailer to Senators Leahy and Daschle in September 2001. However, this theory remains unsubstantiated.

²⁴ Research used in this section was provided by Josh Lefkowitz at the Investigative Project on Terrorism. Sources for this section are the *9/11 Final Report* (p. 527); and <http://www.fbi.gov/terrorinfo/jdey.htm>. (accessed November 8, 2005); “Wanted – Again Canadians on an FBI Terror List.” *CBC News Online*. May 27, 2004; Bell, Stewart. “Montreal Man Downed U.S. Plane, CSIS Told.” *The National Post*. Aug. 27, 2004.

²⁵ Bell, Stewart. “Montreal Man Downed U.S. Plane, CSIS Told.” *The National Post*. Aug. 27, 2004. Ted Lopatkiewicz, spokesman for the National Transportation Safety Board, said: “We have seen no evidence of anything other than an accident here. There has been no evidence found, from what I can tell—at least that’s been relayed to us—that there was any criminality involved here. It appears, at least the evidence we have, is that a vertical fin came off, not that there was any kind of event in the cabin.”

alert for Jdey in 2002, there has been no further public information regarding Jabarah's claims. Attorney General Ashcroft conducted a press conference in May 2002 stating that Jdey was one of seven al Qaeda associates "sought in connection with the possible terrorist threats in the United States." Jdey's whereabouts are unknown.

Another wanted naturalized Canadian with a \$5 million bounty on him by the FBI is **Amer Al-Maati**. His name was found on documents in Afghanistan.²⁶ He is a licensed pilot who had vowed to hijack a plane and crash it into a U.S. building.²⁷ In August 2004 there was an unsubstantiated report that he was seen at the Nantucket Airport.²⁸ Also listed is Canadian citizen **Faker Ben Abdelazziz Boussora** who is known to have a suicide note and concern exists he may try to reenter Canada to plan a terrorist attack. He is believed to have possibly entered the United States. Boussara also faces a \$5 million bounty.²⁹

The Jabarah brothers. On July 3, 2003, Abdulrahman Mansour Jabarah, then 24, was killed in a firefight between Saudi authorities and an Al Qaeda cell close to the Jordanian border. Jabarah, like his younger brother, Mohammed "Sammy" Jabarah, was a second-generation Canadian citizen with close ties to senior Al Qaeda leadership. The boys grew up in Canada and attended conservative mosques in a town about 200 miles north of Detroit. Their father is an Iraqi, their mother a Kuwaiti. The couple had emigrated to Canada in 1994. Both boys had traveled to Pakistan and met up with Al Qaeda there. Until his death, the FBI considered Abdulrahman Jabarah quite dangerous.³⁰

"Sammy" Jabarah, in U.S. custody since April 2002, was found after his Jemaah Islamiyah contacts in Singapore were arrested and identified Jabarah as their Al Qaeda contact after a September 2001 meeting. "Sammy" was to supply cash for explosives for their attacks on Western embassies and a U.S. warship docked in the Singapore harbor. He was traveling on a Canadian passport. After interrogation by the Canadians, Jabarah was turned over to U.S. custody, where he resides today. He was originally recruited in Canada and sent to Afghanistan for training in the summer of 2001. Authorities all say that Jabarah was sent to Southeast Asia by Osama bin Laden, having met with him four times and sworn his allegiance to him. His planned attack "could have killed thousands."³¹

The Khadr family. **Ahmad Said Al-Khadr** was a high-ranking ranking Al Qaeda operative who had emigrated to Canada from Egypt in 1975 and married a local Palestinian woman. He met Osama bin Laden in 1985 and became his closest ally in Canada. He worked for the militant Islamic charity, Human Concern International. Pakistan arrested Khadr in 1995 for misappropriating HCI funds for an attack on the

²⁶ "FBI seeks man tied to al Qaeda." CNN.com. Nov. 13, 2002.

<http://archives.cnn.com/2002/US/11/13/alqaeda.suspect>

²⁷ Adrian Humphreys. "Gaps found in border database, Dangerous Individuals not Red-Flagged." *The National Post*. August 16, 2005.

²⁸ Sean Murphy. "Possible terrorist sighting roils isle." *Boston.com*. August 21, 2004.

²⁹ Ibid.

³⁰ Elaine Shannon. "Al-Qaeda Seeks Canadian Operatives To get around tighter U.S. security, Osama bin Laden is trying to recruit disaffected Muslims north of the border." July 8, 2003.

³¹ "INDEPTH: PASSPORT TO TERROR." *CBC News Online*. October 2004.

<http://www.cbc.ca/printablestory.jsp>

Egyptian Embassy in Pakistan. However, Canada intervened and soon Khadr was back in Canada. His entire family became Al Qaeda. Osama bin Laden married one daughter to an Al Qaeda member in 1999. Another son, 23, is a fugitive who once ran an Al Qaeda training camp.³² Another son, 19, was wounded in battle after throwing a hand grenade at U.S. soldiers that left one soldier dead and three others wounded.³³ He is now detained at Guantanamo. And another son, 14 at the time, was wounded severely in a gun-battle in Pakistan with Pakistani authorities. That same battle left his father dead. One son, 22, returned to Canada in October 2003 and denounced his family's extremism, labeling his family an "Al Qaeda" family.³⁴

Canadian Terrorist with U.S. Residency

Mohammed Warsame was born in Somalia and sought refugee status in Canada in 1989.³⁵ He became 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. At the time of his arrest, he was a student at Minneapolis Community and Technical College. In January 2004, Warsame was indicted and charged with conspiracy to provide material support to al Qaeda. Warsame has admitted attending an al Qaeda training camp in 2000 and 2001 and receiving military training (weapons, martial arts). He attended lectures given by Osama bin Ladin and even sat next to him at a meal. Moreover, he fought with the Taliban and provided financial assistance to al Qaeda members in Pakistan once he had returned to the United States.

Wanted Al Qaeda Operative with U.S. Legal Residency Possibly Holding a Canadian Passport³⁶

Born in Saudi Arabia, **Adnan El-Shukrijumah**, aka "Jafar the Pilot," has spent 15 years in the United States (mostly in South Florida), speaks fluent English, and has been



employed as a teacher.

³² Daniel Pipes. "The Khadr: Canada's First Family of Terrorism." *New York Sun*. March 16, 2004.

³³ "U.S. military charges Omar Khadr with murder." *CTV.ca News Staff*. Nov. 8, 2005.

³⁴ Daniel Pipes. "The Khadr: Canada's First Family of Terrorism." *New York Sun*. March 16, 2004.

³⁵ This paragraph is found in my report, "Immigration and Terrorism: Moving Beyond the 9/11 Staff Report on Terrorist Travel." Center for Immigration Studies (September 2005).

³⁶ This section on El-Shukrijumah is found in my report, "Immigration and Terrorism: Moving Beyond the 9/11 Staff Report on Terrorist Travel." Center for Immigration Studies (September 2005).

El-Shukrijumah trained with Jose Padilla to partner in the dirty bomb plot, helicopter plots, and the New York and New Jersey financial infrastructure plots discovered in the summer of 2004. A Department of Homeland Security document quoted in Newsweek states that “KSM has identified Adnan el-Shukrijumah, a Saudi born permanent U.S. resident alien, as an operative with standing permission to attack targets in the United States that had been previously approved by Osama Bin Ladin.”

FBI Director Robert Mueller called him “a trained operative who poses an operational threat to the United States” who the FBI considers to be armed and dangerous. In late 2000 or early 2001, El-Shukrijumah was under investigation for his relationship to Imran Mandhai, convicted in Florida of conspiring to bomb a National Guard armory, power stations, Jewish businesses, and Mount Rushmore prior to 9/11. Mandhai was associated with Hakki Cemal Aksoy, convicted in 2002 for firearms violations and asylum fraud and in whose apartment bomb making manuals and notes were found.

El-Shukrijumah had previously applied for naturalization, but the INS interior enforcement office in Miami noticed that the application was fraudulent. The INS agents working the case met with the U.S. Attorney’s Office in Miami, and even discussed seeking a search warrant for El-Shukrijumah’s residence. Without further information linking El-Shukrijumah to terrorist activity, the matter was dropped.

As an LPR, El-Shukrijumah easily traveled to and from attended training camps in Afghanistan, where he was most likely schooled by Ramzi Binalshibh, famous for his role as emissary between KSM and 9/11 ring leader Mohamad Atta. El-Shukrijumah is a skilled bomb maker and a Florida trained pilot, and authorities have found a document that ties him (via one of his aliases) to the Oklahoma flight school where Zacarias Moussaoui trained. He may have been friendly with Atta as well, as I describe an immigration officer’s witnessing of receiving a request for help with travel documents in May 2001 from El-Shukrijumah on behalf of Atta and likely another 9/11 pilot in *9/11 and Terrorist Travel*. According to Attorney General John Ashcroft, El-Shukrijumah “scouted sites across America that might be vulnerable to terrorist attack.” In addition to surveilling high-profile targets in New York’s financial district, El-Shukrijumah surveilled the Panama Canal.

Back in the United States, he was also involved in an aborted plot with Jose Padilla to blow up apartment buildings in the United States. He was also likely Padilla’s first partner in the dirty bomb plot, but differences between them ended the joint venture. There are also reports that El-Shukrijumah attempted to procure radioactive material from McMaster University in Hamilton, Ontario. In March 2004, El-Shukrijumah attended a terrorist summit in Pakistan and met with a number of key al Qaeda members, including Abu Issa Al-Hindi, Mohammed Naeem Noor Khan, and Mohammed Babar. IN past months he has been spotted in Mexico. He reportedly met with members of the Mara Salvatrucha gang (known as MS-13) in Honduras, although Interpol denies the existence of evidence of such a meeting. In September 2004, the Aviation and Security Association reported, “An alert airline crewmember saw and then confronted a suspicious acting person at Kansai International Airport in Japan. El Shukrijumah was this suspicious person.” However, law enforcement was not notified.

Reporting indicates that since El-Shukrijumah fled the United States after 9/11, he has tried to get back into the United States using various passports. He has a Guyanese passport, but may also hold passports from Saudi Arabia, Canada, and Trinidad. However, unless authorities made a decision to permit Shukrijumah his freedom for law enforcement or intelligence reasons, or know that he did manage to enter the United States on one of these passports undetected and law enforcement knows about it, I do not place much credence in these reports.

U.S. – Canada Cross Border Traffic

Hizballah cigarette smuggling scam.³⁷ Throughout the 1990s, Hizballah agents reporting to the military leadership in Lebanon smuggled millions of dollars worth of illegal cigarette sales back to the organization. The Charlotte, North Carolina smuggling ring was an extremely advanced enterprise with a clear and elaborate structure and a well-defined chain of command. Cigarettes were bought in North Carolina and sold in Michigan. A single truckload of cigarettes could yield a \$2 million profit. Operatives were stationed in Canada and as well as Lebanon. Each operative was assigned specific tasks, including maintaining communications with cell members in Canada, selling cigarettes at convenience stores, driving trucks filled with crates of smuggled cigarettes interstate, and procuring high-tech tools for Hizballah members in Lebanon.

In June 2002, a federal jury in Charlotte convicted the brothers **Mohamad Hammoud** and **Chawki Youssef Hammoud** of funneling profits from their multimillion-dollar cigarette smuggling ring to Hizballah. According to the indictment, the members of the cell planned to acquire for Hizballah such items as night vision devices, global positioning systems, mine and metal detection equipment, stun guns, nitrogen cutters (designed for cutting metal under water), laser range finders, camera equipment, advanced aircraft analysis and design software, military-style lensatic compasses, and mining, drilling, and blasting equipment.

Said Mohamad Harb, also based in Charlotte, provided the link between the cigarette-smuggling operation and a Hizballah equipment procurement cell in Canada, where he met and coordinated with a Hizballah “purchasing agent.” Harb was a key figure in transferring goods to Hizballah in part because of his expertise with fake credit cards. In particular, Harb would set up credit card and banking scams to purchase dual-use equipment (night vision devices, mine detection equipment, etc.) for Hizballah.

Mohammed Hassan Dbouk and his brother-in-law, **Ali Adham Amhaz** ran the Canadian section. Dbouk and Amhaz reported directly to Haj Hassan Haj Hilu Laqis, Hizballah’s chief military procurement officer in Lebanon. Their activities were funded in part with money that Laqis sent from Lebanon and in part by their own criminal activities in Canada, such as credit card and banking scams. In his role as a high-ranking Hizballah member and a reconnaissance and intelligence specialist employed by the Hizballah-run al Manar television station, Dbouk oversaw military equipment

³⁷ Most of this section was researched by Vinay Tripathi and Daveed Garenstien-Ross 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).

acquisitions such as night vision goggles and global positioning systems. According to the CSIS, at one point, a Charlotte cell member flew to Seattle to deliver a series of forged checks to Dbouk who then used them to purchase equipment for Hizballah.

An Al Qaeda operative attempts entry over the northern border. Nabil Al-Marabh stayed at a terrorist guesthouse in Pakistan known as the House of Martyrs, engaged in weapons training in Afghanistan, and worked for the Muslim World League—then an important source of al Qaeda’s funds³⁸—in the early 1990s.³⁹ He then worked at the same Boston cab company as individuals convicted in Jordan for the Millennium plot to blow up religious and western tourist locations in Jordan.⁴⁰ These individuals identified Al-Marabh as an al Qaeda operative.⁴¹ Al-Marabh maintained a Boston address from 1989 to 2000.⁴² He also lived in Toronto, Detroit, Tampa, and Chicago.⁴³

On June 27, 2001, Al-Marabh tried to illegally enter the United States near Niagara Falls by hiding in the back of a tractor-trailer. He had a forged Canadian passport and fake social insurance card.⁴⁴ He later told authorities he had regularly traveled illegally between Canada and the United States.⁴⁵ Moreover, Michigan state records showed Al-Marabh receiving five driver’s licenses there in thirteen months; he had licenses for Massachusetts, Illinois, Ontario, and Florida,⁴⁶ and a commercial driver’s license and a permit to haul hazardous materials,⁴⁷ including explosives and caustic chemicals.⁴⁸

In September 2001, authorities raided a Detroit residence that had Al-Marabh’s name on the mailbox. They found three men with fake immigration documents, airport identification badges, and a notebook containing handwritten notes about security at a U.S. military base in Turkey and an airport in Jordan.⁴⁹ These men, who may also have been involved in a plot to kill former defense secretary William Cohen during a visit to Turkey,⁵⁰ were later charged with being part of an al Qaeda sleeper cell.⁵¹ They were convicted, but the verdict was thrown out in September 2004.⁵²

³⁸ USA v. Arnaout. “Government’s Evidentiary Proffer Supporting the Admissibility of Co-Conspirator Statements.” NDIL 02-CR- 892. Jan. 31, 2003 at p. 25.

³⁹ Steve Fainaru. “Sept. 11 Detainee is Ordered Deported.” The Washington Post, Sept. 4, 2002.

⁴⁰ Farmer, Tom. “Bin Ladin Operative May Have Lived In Dorchester For More Than 10 Years.” The Boston Herald, Sept. 19, 2001 and USA. v. Elzahabi. DMN 04-MJ 26. “Criminal Complaint and Affidavit of Kiann Vandover, FBI Special Agent.” June 25, 2004.

⁴¹ Golden, Tim with Judith Miller. “Bin Ladin Operative Is Linked To Suspects.” The New York Times, Sept. 18, 2001.

⁴² Farmer, Tom. “Bin Ladin Operative May Have Lived In Dorchester For More Than 10 Years.” The Boston Herald, Sept. 19, 2001

⁴³ Schiller, Bill. “Terrorism Suspect had Florida Link.” Toronto Star, Oct. 26, 2001.

⁴⁴ Dimmock, Gary and Aaron Sands. “Toronto Shop Clerk Tied to World Terror.” The Ottawa Citizen, Oct. 29, 2001.

⁴⁵ *Ibid.*

⁴⁶ Schiller, Bill. “Terrorism Suspect had Florida Link.” Toronto Star, Oct. 26, 2001.

⁴⁷ Philip Shenon and Don Van Natta Jr., “U.S. Says 3 Detainees May Be Tied to Hijackings.” The New York Times, November 1, 2001.

⁴⁸ Wilgoren, Jody and Judith Miller. “Trail of Man Sought in 2 Plots Leads to Chicago and Arrest.” New York Times, Sept. 21, 2001.

⁴⁹ USA v. Hannan, et al. EDMI 01-C-R80778. “Criminal Complaint of Robert Pertuso, FBI Special Agent.” Sept. 18, 2001.

⁵⁰ “Terror Supporters among Us.” Associated Press, Nov. 17, 2001.

<http://www.cbsnews.com/stories/2001/11/17/archive/main318417.shtml> (accessed Oct. 28, 2004).

Al-Marabh was arrested in Chicago in September 2001 on a parole violation related to his stabbing of a man who had lived in his apartment.⁵³ In 2002, he pled guilty to conspiracy to smuggle an alien into the United States⁵⁴ and was ordered deported.⁵⁵ Prosecutors said the government had no evidence linking him to terrorism.⁵⁶ 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.⁵⁷ He was deported to Syria in January 2004. Months later, a press release from Immigration and Customs Enforcement called Al-Marabh a "suspected terrorist."⁵⁸

An Algerian terror cell dismantled. On November 3, 2005, it was reported that CSIS uncovered a Toronto-based cell of four Algerian refugee applicants who were members of the largest Algerian Islamic group, the Salafist Group for Call and Combat, financed by Osama bin Laden. According to the report, "the central figure of the Toronto-area cell was a former Al Qaeda training camp instructor who studied bomb-making at Osama bin Laden's Al Farooq and Shladun training camps in eastern Afghanistan." Apparently this individual left Canada in March 2004 after being approached by authorities. Three others were deported from Canada this past summer.⁵⁹

On November 5, 2005, **Brahim Bouchaib**, an Algerian formerly of Toronto, who may also be tied to this cell, admitted in a New York courtroom of making false statements to the Western New York Joint Terrorism Task Force. He had originally told immigration authorities that he had not entered the United States under an alias in 1999. He had actually entered the United States in 1997 on a false French passport. In early 2004, he married an American and moved back to Toronto, while his wife remained in Minnesota.⁶⁰

A Canadian Voice on Border Security

Canada has already spent \$6.5 billion to enhance its border security.⁶¹ Despite this sum, the Canadian Senate Standing Committee on National Security and Defence released a report in June 2005 regarding the urgent need for coupling security and facilitation

⁵¹ USA v. Koubriti, et al. EDMI 01-C-R80778. Indictment. Sept. 27, 2001.

⁵² Karush, Sarah. "Judge Drops Charges in Mich. Terror Case." *The Associated Press*. Sept. 3, 2004.

⁵³ "Boston Fugitive Arrested." Federal Bureau of Investigation Press Release. Sept. 20, 2001. and Wilgoren, Jody and Judith Miller. "Trail of Man Sought in 2 Plots Leads to Chicago and Arrest." *The New York Times*. Sept. 21, 2001.

⁵⁴ USA v. Al-Marabh. WDNY 01-CR-244-A. Plea Agreement. July 8, 2002.

⁵⁵ Fainaru, Steve. "Sept. 11 Detainee is Ordered Deported." *The Washington Post*. Sept. 4, 2002.

⁵⁶ *Ibid.*

⁵⁷ 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.

⁵⁸ "Selected Terrorism Investigations That Involved ICE and ICE Authorities." Immigration & Customs Enforcement Press Release. July 27, 2004.

http://www.ice.gov/graphics/news/factsheets/072704terrorist_fs.htm (accessed Oct. 5, 2004).

⁵⁹ Stewart Bell. "CSIS: terror cell busted." *The National Post*. November 3, 2005.

⁶⁰ Dan Herbeck. "Reports quizzing on ties to Algerians in Toronto." November 5, 2005.

⁶¹ Beth Duff-Brown. "Intelligence officials believe 50 terror groups have presence in Canada". *The Associated Press*. July 5, 2005.

together at land ports of entry between the United States and Canada. The report describes the value and need for “chokepoints” between our two countries as necessary and protective of each nation. With CSIS estimating 50 terrorist organizations operating in its country and the U.S. State Department estimating about 40 terrorist organizations with support of some form here in the United States, the Canadian Senate Committee makes a valid point. It states:

We need the border, partially for security reasons. The land border and its crossings provide us with natural chokepoints that work to protect both Canada and the United States. The border itself is a necessary separation of two discrete societies; and border crossings are valuable for monitoring the movement of people and goods between those societies to ensure that only legitimate people and goods pass back and forth.⁶²

The report’s Executive Summary describes the mutual Canadian-U.S. lack of action to couple security with facilitation since 9/11, asserting (as I do) that the two missions can and should work in tandem and in support of the other:

Despite what should have been the wakeup call of September 11, 2001, there has been an unsettling lack of progress on both sides of the border to improve efficiency and strengthen security at land border crossings. These crossings represent each country’s last, best chance to scrutinize persons and cargo that should not be entering each other’s territory.

What do we need to do to make these border crossings effective chokepoints for cutting off wrongful entry, while still enabling minimal passage times for cars and trucks on innocent voyages?

Beyond the obvious need for upgrades to infrastructures and systems, the Committee believes that the only way to twin good security with good commerce is to change the entire culture at border crossings.⁶³

The report then goes to address serious concerns, the first of which is to “EMPHASISE SECURITY, NOT MINOR ECONOMICS”. Twenty-six recommendations are made, one of which is a virtual the mirror image of the 9/11 Commission recommendation as interpreted by the Western Hemisphere Travel Initiative:

By 2007, the government require documentation of all people entering Canada (including Canadians) that is: a) Tamper-proof; b) machine-readable; c)

⁶² “Canada’s Land Border Crossings are Key to Canada’s Security and Prosperity. Why the Lack of Urgency to Fix Them? What will happen if We Don’t? An Interim Report of the Senate Committee on National Security and Defence.” Senate of Canada Standing Committee on National Security and Defence, p. 15 (June 2005) <http://www.parl.gc.ca/38/1/parlbus/commbus/senate/com-s/defe-e/rep-e/repintjun05-e.pdf>

⁶³ “Executive Summary: Borderline Insecure. Canada’s Land Border Crossings are Key to Canada’s Security and Prosperity. Why the Lack of Urgency to Fix Them? What will happen if We Don’t? An Interim Report of the Senate Committee on National Security and Defence.” Senate of Canada Standing Committee on National Security and Defence. June 2005. <http://www.parl.gc.ca/38/1/parlbus/commbus/senate/com-s/defe-e/rep-e/repintjun05-e.pdf>

Biometrically enhanced; and, d) Known to have been issued on the basis of reliable documentation.⁶⁴

Terrorist Activity South of the Border

South of the U.S. border abounds in terrorist activity. However, below are highlighted a few regions that pose potential concern not usually discussed in depth in U.S. policy discussions in order to inform the Committee regarding the threat that the Western Hemisphere exception poses to U.S. national security. Considering that, at minimum, the Coleman Amendment will continue that exception for another three years, it is essential that we understand the threat maintaining the exception poses.

Mexico

There is a plethora of news accounts about debris being found on the Southwest physical border of Islamic postcards, notebooks, and prayer rugs. We know of one public acknowledgement of a convicted terrorist who managed to cross the southwest border in a car. A Hizballah operative **Mahmoud Youssef Kourani** left Lebanon to travel to Mexico after bribing a Mexican consulate official in Beirut with \$3,000 to obtain a Mexican visa. Once in Mexico, he sought entry into the United States. Around February 2001, Kourani succeeded: he illegally entered the United States across the southwest border by hiding in a car trunk.⁶⁵ (Records do not indicate whether Kourani entered through a port of entry or over the physical border.)

In November 2003, a federal grand jury indicted Kourani on charges of conspiring to provide material support to Hizballah, a designated foreign terrorist organization. The indictment alleges that Kourani was a “member, fighter, recruiter, and fundraiser for Hizballah who received specialized training in radical Shiite fundamentalism, weaponry, spy craft, and counterintelligence in Lebanon and Iraq.” It also claims that Kourani recruited and raised money for Hizballah while in Lebanon.⁶⁶ Kourani pled guilty to significant terrorism charges in April 2005.

A Note on Alien Smuggling

Alien smugglers use whatever loopholes they can to manipulate U.S. border security. While we tend to think of alien smugglers running their clients across our physical borders on foot or by vehicle, our ports of entry are equally vulnerable. Failure to produce documents permits a request for asylum at an international airport or land port of entry. Equally, bogus documents like birth certificates or fake driver licenses or other currently accepted means of entry also pose the potential for successful entry. Requiring a passport or equivalent on all persons seeking entry, therefore, will help “catch and deter” alien smuggling operations, including those connected to terrorist activity.

⁶⁴ Ibid.

⁶⁵ USA v. Kourani, EDM1 03-CR-81030. “Government’s Written Proffer in Support of its Request for Detention Pending Trial.” Jan. 20, 2004.

⁶⁶ USA v. Kourani, EDM1 03-CR-81030. “Indictment.” Nov. 19, 2003.

For example, in March 2006, an FBI official testified before House Homeland Security Committee regarding the FBI's role in the Human Smuggling and Trafficking Center (HSTC), which serves to coordinate interagency efforts on, among other things, clandestine terrorist travel. HSTC supports the efforts of the National Counterterrorism Center (NCTC). Included in that testimony was the following statement:

The FBI and the HSTC recently identified a criminal enterprise that was smuggling special-interest aliens (SIAs) into the United States, and the FBI subsequently determined this criminal enterprise had a potential nexus to terrorist groups. This intelligence was provided to and is being investigated by the FBI's Counterterrorism Division in conjunction with the appropriate FBI Legal Attache offices.

In addition, **Salim Boughader Mucharrafile** is the well-known Lebanese-Mexican smuggler who is the only known smuggler our 9/11 team could identify at the time we published our *9/11 and Terrorist Travel* staff report in August 2004 as linked to suspected terrorists. Convicted in Mexico, he was then extradited to the United States for trial here.

Until his arrest in December 2002, Boughader smuggled about 200 Lebanese Hizballah sympathizers into the United States. Most of these sympathizers were young men, sent by their families to make money to send back to Lebanon. One client, Boughader said, worked for a Hizballah-owned television network, which glorifies suicide bombers and is itself on an American terror watch list. Although we do not know whether Kourani used Boughader's services, the methods Kourani used to enter the United States are the same methods Boughader used on behalf of his clients.

According to extensive Associated Press reporting on Boughader, he told reporters "If they had the cedar on their passport, you were going to help them. That's what my father taught me.... What I did was help a lot of young people who wanted to work for a better future. What's the crime in bringing your brother so that he can get out of a war zone?"⁶⁷

Relationship between the Colombian FARC and Al Qaeda

This information dovetails with an unclassified post-9/11 Border Patrol warning that I came across on the Commission warning of meetings in Madrid, Spain between members of Al Qaeda and the FARC. A topic of discussion at this meeting was the use of Mexican Islamist converts to infiltrate the United States across the southwest border, (presumably illegally, since the alert went to the Border Patrol). Recent reports warn that a "growing number [of illegal aliens picked up by the Border Patrol on the southwest border] hail from Central and South America, Asia, even Mideast countries such as Syria and Iran. In 2003, the Border Patrol arrested 39,215 so-called 'OTMs,' or other-than-Mexicans, along the Southwest border. In 2004, the number jumped to 65,814."⁶⁸

⁶⁷ Pauline Arrillaga and Olga Rodriguez, "Smuggler pipelines channel illegal immigrants into U.S. from nations with terror ties" The Associated Press (July 2, 2005)

⁶⁸ Mimi Hall, "Despite new technology, Border Patrol overwhelmed," USA TODAY . February 22, 2005.

Tri-Border Region of Paraguay, Brazil and Argentina

In 2003, the Library of Congress did a 90-page report as part of an interagency project regarding terrorist and criminal organization activity in the Tri-Border Region. Its first paragraph reads as follows:

This review of the available open-source information on Islamic terrorist group activities in Tri-Border Area (TBA) during the 1999 to 2003 period provides substantial evidence for concluding that various Islamic terrorist groups have used the TBA—where Argentina, Brazil, and Paraguay meet—as a haven for fund-raising, recruiting, plotting terrorist attacks elsewhere in the TBA countries or the Americas in general, and other such activities. Islamic terrorist groups with a presence in the TBA reportedly include Egypt's Al-Gama'a al-Islamiyya (Islamic Group) and Al-Jihad (Islamic Jihad), al Qaeda, Hamas, Hizballah, and al-Muqawamah (the Resistance; also spelled al-Moqawama), which is a pro-Iran wing of the Lebanon-based Hizballah. Islamic terrorist groups have used the TBA for fund-raising, drug trafficking, money laundering (\$6 billion in a five year time span), plotting, and other activities in support of their organizations. The large Arab community in the TBA is highly conducive to the establishment of sleeper cells of Islamic terrorists, including Hizballah and al Qaeda. Nevertheless, as many as 11,000 members of the Islamic community in the TBA may have moved since late 2001 to other less closely watched Arab population centers in South America.⁶⁹



⁶⁹ A Report Prepared by the Federal Research Division, Library of Congress under an Interagency Agreement with the United States Government, "TERRORIST AND ORGANIZED CRIME GROUPS IN THE TRI-BORDER AREA (TBA) OF SOUTH AMERICA." July 2003.

On 9/11, celebrations took place in the TBA glorifying the Al Qaeda attack on America. Their financial networks reach the Caribbean, discussed below.

With weak law enforcement and border security, travel and transactions in and out of the region occur basically uninhibited. Terrorist travel is further facilitated by a 2002 regional agreement that was signed permitting inspection-free container shipping and resident visas for ease of travel through the region. For example, every day 30,000 people cross the International Friendship Bridge that connects Brazil and Paraguay showing little to nothing in the way of travel documentation. A military expert's conclusion: "*open borders make the region inviting for terrorists and make an already difficult law-enforcement situation worse.*"⁷⁰

Travel document fraud in the Tri-Border region. A recent State Department report stated that amongst the terrorist cases arising from this region:

Some 17 ethnic Arabs (mostly Lebanese) [were arrested] on charges of possessing false documents; Paraguayan officials suspect some have links to HAMAS. Three Paraguayans—an attorney, a consular officer, and an Interior Ministry employee—also were arrested in connection with fraudulently issuing immigration documents to the 17 individuals.⁷¹

Hizballah in the Tri-Border region. Hizballah has long been known to operate a training camp in the region as well.⁷² Argentina alleges that a number of farms serve as Hizballah training centers.⁷³ One journalist who visited and reported back from the tri-border area found that at one of these centers, "young adults get weapons training and children are indoctrinated in Hizballah ideology."⁷⁴

In February 2000, Tri-border Paraguayan resident Ali Khalil Mehri, was arrested for selling millions of dollars worth of counterfeit Sega, Sony, and Nintendo software and funneling the money to Hizballah.⁷⁵ A search warrant of his home, came up with videos and CDs of known suicide bombers.⁷⁶ In June 2003, other counterfeiters associated with Hizballah were discovered.⁷⁷

In March 2006, CBS News reported that Tri-border resident Assad Amad Baraket was arrested, a Lebanese terrorist financier:

⁷⁰ Philip K. Abbott, "Terrorist Threat in the Tri-Border Area: Myth or Reality?" *Military Review*, Sept.-Oct., 2004.

⁷¹ "Eurasia Overview," www.state.gov/documents/organization/10291.pdf (p. 50)

⁷² Seper, Jerry. "Terror Cell on Rise in South America." *The Washington Times*, Dec. 18, 2002.

⁷³ "The Battle for Lebanon Explodes in Argentina." *Frontline World*, May 2003.

<http://www.pbs.org/frontlineworld/stories/lebanon/tl04.html>. Accessed Dec. 7, 2004.

⁷⁴ Goldberg, Jeffrey. "In the Party of God: Are Terrorists in Lebanon Preparing for a Larger War?" *The New Yorker*, Oct. 14, 2002 at p. 75.

⁷⁵ Testimony of Interpol Secretary General Ronald K. Noble before the House Committee on International Relations. "The links between intellectual property crime and terrorist financing." July 16, 2003.

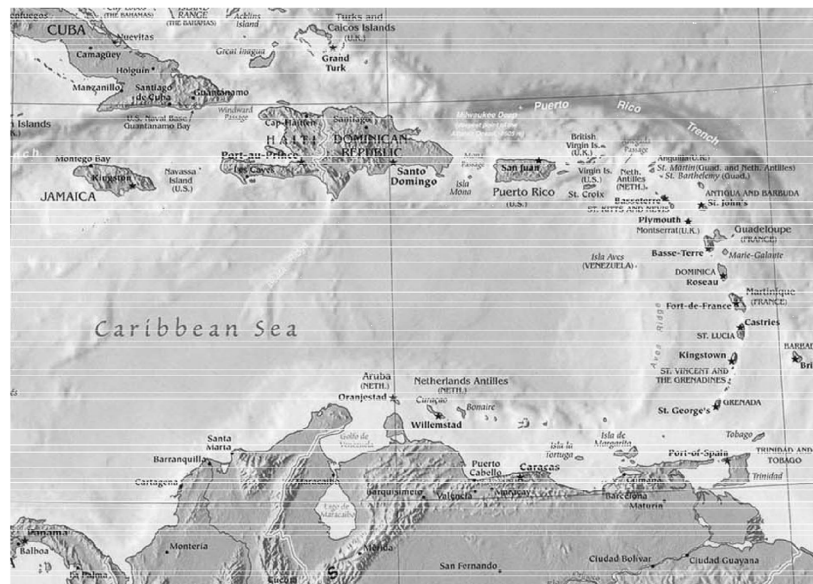
⁷⁶ Faiola, Anthony. "U.S. Terrorist Search Reaches Paraguay." *The Washington Post*, Oct. 13, 2001.

⁷⁷ "Document Seized in Ciudad Del Este from Alleged Hezbollah Financier Offices." *Agence France Presse*, July 4, 2003.

But they didn't nab him on charges that he contributed to terror organizations — because in Paraguay, that's legal. Instead, he faced much lesser charges of tax evasion. An examination of Barakat's bank records have led authorities to believe he wired as much as \$50 million to terror groups. He even got a thank-you note: CBS News secured a copy of a handwritten letter from the head of Hezbollah, Hassan Nasrullah, that personally thanked Barakat for his contributions.⁷⁸

Caribbean Sea Area: Trinidad and Tobago, Venezuela, and Antigua and Barbuda

Islamic fundamentalism in Trinidad and Tobago.⁷⁹ 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. Jama'at al Muslimeen, a radical Islamic group under the control of Yasin Abu Bakr, has a close relationship to Libyan leader Muammar al Qaddafi.



CLICK ON IMAGE TO ENLARGE. Trinidad and Tobago is on lower right. Below is Venezuela. Antigua and Barbuda is mid-right.

Abu Bakr is a former policeman who founded the violent Jamaat 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

⁷⁸ Trish Regan, "South America's Terror Connection." CBS News. March 7, 2006.

⁷⁹ Candyce Kelshall, "RADICAL ISLAM AND LNG IN TRINIDAD AND TOBAGO." Institute for the Analysis of Global Security, Nov. 15, 2004.

attempted a coup against the Trinidad government in 1990. He has long standing relations with Libya. 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.⁸⁰

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 Osama Bin Laden, Al Qaeda, the Taliban, a "Jihad" (Holy War) against the US and Britain and the setting up of an Islamic State here.⁸¹

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.⁸² In addition, two men with ties to Trinidad have been arrested in the United States. **Keith Andre Gaude**, a Jammah linked to bin Laden, 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."⁸³ GET FOOTNOTE

In 2002, Trinidad native⁸⁴ 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 United States 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."⁸⁵

⁸⁰ <http://64.233.161.104/search?q=cache:izni83BFbpcJ:www.answers.com/topic/yasin-abu-bakr+abu+bakr+trinidad&hl=en&gl=us&ct=clnk&cd=2&client=firefox-a>

⁸¹ http://72.14.209.104/search?q=cache:1Cvc0IXWcLYJ:www.trinidadand Tobago news.com/forum/wcbbbs_c onfig.pl/noframes/read/899+Waajihatul+Islaamiyyah+trinidad&hl=en&gl=us&ct=clnk&cd=4&client=firefox-a, Dec. 2, 2002.

⁸² Candyce Kelshall, "RADICAL ISLAM AND LNG IN TRINIDAD AND TOBAGO." Institute for the Analysis of Global Security. Nov. 15, 2004.

⁸³ Martin Edwin Andersen, "AL-QAEDA ACROSS THE AMERICAS." Insight Magazine. Nov. 7, 2001.

⁸⁴ "Trinidad immigrant Confession Entered In Alleged South Florida Jihad Plot

Authorities Say Pair Planned To Bomb Power Stations." NBC 6. July 25, 2002

⁸⁵ FBI Press Release, Miami Field Office, "SENTENCING IN CONSPIRACY TO DAMAGE PROPERTY BY EXPLOSIVES." Oct. 4, 2002.

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

Venezuela Venezuelan President Hugo Chavez is well known for his violent dictatorship-like leadership, affiliations with Cuba (where his troops are sent for training), and his support of FARC in Columbia (enhancing chaos and violence in that country). In 2001, he signed cooperation agreements with Libya, Iraq, and Iran. On 9/12/01, Chavez ordered government workers to burn U.S. flags in the streets to celebrate the attacks of 9/11.⁸⁶



What is less known is that in January 2003, Chavez's former personal pilot, having come to the United States after an attempt on his life and claiming political asylum, stated that immediately following 9/11, Chavez ordered the pilot (Venezuelan Air Force Major Juan Diaz Castillo) to "to organize, coordinate, and execute a covert operation consisting of delivering financial resources, specifically \$1 million, to [Afghanistan's] Taliban government. The purpose of the "donation" was to "assist the Al Qaeda terrorist organization," while, "making it appear as if humanitarian aid were being extended to the Afghan people."⁸⁷

According to Castillo's account, one million dollars was delivered to Afghanistan via the Venezuelan ambassador in India. The Taliban acknowledged receiving \$100,000 in "humanitarian aid." Castillo said the remaining \$900,000 went to al Qaeda.⁸⁸ Chavez never answered the allegations, despite public demands to do so.⁸⁹

According to the National Review, Castillo's allegations are consistent with remarks made by the former head of Venezuela's border security, *who stated that while in that position he was pressured to permit anonymous travel of Middle East and other terrorists passing through Venezuela and to deceive U.S. terrorism investigators.* "I quit my job

⁸⁶ Johan Freitas, in Caracas, "Chavez Maintains Silence: Will Not Explain His \$1M Al Qaeda Financing," www.militaresdemocraticos.com. June 5, 2003.

⁸⁷ Ivan Osorio, "Chavez Bombshell? A Defector's testimony links the Venezuelan strongman to international terror." *National Review*. Jan. 8, 2003.

⁸⁸ Ibid.

⁸⁹ Johan Freitas, in Caracas, "Chavez Maintains Silence: Will Not Explain His \$1M Al Qaeda Financing," www.militaresdemocraticos.com. June 5, 2003.

when I got tired of doing dirty work for Chavez with the Cubans looking over my shoulder," he said.⁹⁰

John Lee Mohammad in Antigua and Barbuda.⁹¹ John Lee Mohammed, the U.S. citizen responsible for 10 fatal shootings and 3 other near fatal shootings during a terrorist-style spree in the autumn of 2002, had financially survived prior to coming to the United States by selling forged U.S.-accepted travel documents—driver's licenses and birth certificates.

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. He 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 Barbuda 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, this Committee held a hearing on the topic.

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.

Conclusion

As I have testified on a number of occasions, our U.S. border security is in dire shape. However, there are a few bright lights. Along with entry portion of U.S. Visit and a new emphasis on increasing interior and physical border law enforcement under the Secure Border Initiative, the Western Hemisphere Travel Initiative is an essential step to fulfilling the first and foremost requirement of border security—to provide security at our borders against terrorist entry and embedding and cross-border terrorist travel traffic. That must be a high priority objective.

However, that does not mean it need be achieved to the exclusion of commerce; it need not be. In fact, facilitation of low risk travelers and commerce is a necessary step in enhancing border officers' ability to focus on higher risk applicants for entry into the

⁹⁰ Ivan Osorio, "Chavez Bombshell? A Defector's testimony links the Venezuelan strongman to international terror." *National Review*. Jan. 8, 2003.

⁹¹ Antigua and Barbuda Final Report of Task Force Investigation of John Allen Williams, a.k.a John Allen Mohammad. December 2003.

United States. I therefore applaud the work of the administration in moving ahead the Western Hemisphere Travel Initiative and hope that the Senate provisions are re-aligned with a recognition that the WHTI can be implemented with a proper assessment of how to align any variety of solutions.

As the terrorist conspiracy in Ontario with U.S. links and established cross border traffic between terrorists in the United States with Canada established, our national security may indeed depend on just that.

Mr. HOSTETTLER. Thank you, Ms. Kephart.
Mr. Harris?

**TESTIMONY OF DAVID HARRIS, DIRECTOR,
INSIGNIS STRATEGIC RESEARCH, INC.**

Mr. HARRIS. Thank you, Chairman Hostettler. I would also like to thank, if I may, the——

Mr. HOSTETTLER. Mr. Harris, could you pull the microphone a little closer to you there?

Mr. HARRIS. Thank you, Mr. Chairman.

Mr. HOSTETTLER. Very good.

Mr. HARRIS. I would thank the Subcommittee and also, of course, would like to thank the Canadian Coalition for Democracies that has sponsored me. I am a senior fellow for terrorism and national security with that organization.

In a previous appearance before this Subcommittee, shortly before 9/11, I cautioned that much would have to be done to fight Canada's drift into terror-haven status. Six years later, albeit with some refinements, including the Anti-Terrorism Act, Canada is heavily infiltrated by terrorists. Canada is a recruiting, planning, financing and launch point for international terrorism, and Canada is most certainly a target of terrorism.

Now, with particular reference to our leading terror threat, Islamic extremism, I will suggest why this has come about and note the glimmer of hope that has recently emerged.

In 1998, the CSIS director testified before Canada's Senate that 50 terror organizations, including the world's most notorious, were present in Canada. In terms of numbers of terror groups, this made us number two in the world, after the United States.

By 9/11, the previous 20 years had transformed Canada from a terrorist backwater to a significant piece on terror's international chessboard. Testifying before a Canadian Senate committee, a CSIS official referred to in earlier testimony, last week warned of Canadian residents who are "graduates of terrorist training camps and campaigns, including experienced combatants from conflicts in Afghanistan, Bosnia, Chechnya and elsewhere."

And he added that Canadian citizens or residents have been implicated in terrorist attacks and conspiracies elsewhere in the world. He referred to the young man, Mr. Khawaja, in Ottawa, who is the first to be charged under the new Anti-Terrorism Act legislation, a case that promises to draw world attention for its implications.

"Others," said the deputy director of CSIS, "have been involved in plots against targets in the United States, Lebanon, Saudi Arabia, Israel, Singapore, Pakistan and other countries." The examples are many. We have heard of the group Fatah Kamel. That helped make Montreal the hub of international GIA Algerian Islamic terrorist activity.

Even as a failed refugee claimant, GIA terrorist and group Fatah Kamel member Ahmed Ressam, of course, had prowled Canada, using false I.D. An alert American border guard in 1999 was the only obstacle between Ressam's explosives-packed car at the Canadian frontier and devastation at his target, L.A. International Airport. 9/11 would have come early.

Canada's immigration and refugee system has been a big part of the problem. In per capita terms, Canada takes in double the number of immigrants and three or four times the number of refugees as the United States. Canada cannot effectively, in my respectful view, screen and integrate such numbers, and we have seen the proof. Sober minds regard the immigration system as largely a corrupt vote-importing scheme.

But the problem has gone well beyond immigration and is metastasizing into the terrible phenomenon of home-grown terror. This term, of course, refers to longstanding Canadian residents and citizens who have turned traitor and marked their neighbors and society for death. The chilling possibilities emerged since Friday's massive police raids in the Toronto area, and these netted youthful Muslims who allegedly had three times as much ammonium nitrate fertilizer as was used in the Oklahoma City blast.

The Toronto detainees were Canadian residents and, for the most part, apparently Canadian citizens. Saudi money, Saudi-trained and inspired clerics, the Internet and other things, seem to help contribute to the risk of turning some Muslim youth against their fellow Canadians.

There are questionable organizations, like the Canadian Council on American-Islamic Relations, CAIR-Canada, a chapter of the controversial Washington-based Council on American-Islamic Relations, that have alienated many moderate Muslims with unreliable statistics and breathless allegations of anti-Muslim behavior.

In light of recent arrests, CAIR-Canada has apparently embarked now on a charm offensive. But 6 years after 9/11, it has yet to condemn publicly, by name, certain Islamic terrorist groups, not even Hezbollah, which has reliably said to have done targeting reconnaissance on Canadian sites.

We know that, at the operational level, there is great respect and cooperation between American and Canadian agencies and services. Political leadership, however, in Canada has been another story, and this goes far to explain our malaise.

For 13 years, the Liberal Party of Canada has been in power, playing up to, rather than mastering, radical interests. As finance minister, Mr. Paul Martin, later prime minister, attended with another cabinet minister a fundraising dinner put on by a Tamil Tigers terrorist front. There is concern that such groups have considerable political influence through increasing numbers and demographic shifts.

But now, for just over 100 days, the Conservative Party has been in power and there are signs of improvement. Although constrained by their minority-government status, the new government has acted decisively to ban the Tamil Tigers, bringing us into line with other jurisdictions. And the evidence is that the government is constructively releasing information about current risks to Canada, rather than denying it or hiding for fear of antagonizing terrorist-sympathetic voting blocs.

I will leave it at that—thank you, Mr. Chairman—and stand by for questions.

[The prepared statement of Mr. Harris follows:]

PREPARED STATEMENT OF DAVID HARRIS

**CANADIAN SECURITY CONCERNS
WITH SPECIAL REFERENCE TO THE THREAT OF ISLAMIC EXTREMISM**

**Notes for Remarks to Subcommittee on Immigration, Border Security, and Claims of the
United States House of Representatives Committee on the Judiciary:**

David B. Harris
Director, International and Terrorist Intelligence Program
INSIGNIS Strategic Research Inc.
Ottawa, Canada

Good morning.

My name is Dave Harris. I am a lawyer and Director of the Terrorist Intelligence Program of *INSIGNIS* Strategic Research Inc., Ottawa, and was formerly Chief of Strategic Planning of the Canadian Security Intelligence Service (CSIS).

As Senior Fellow for Terrorism and National Security with the Canadian Coalition for Democracies (CCD) (<http://www.canadiancoalition.com/>), I take this opportunity to thank the Coalition for their sponsorship of my appearance today. I also salute the Canadian Coalition Against Terror (C-CAT) (<http://www.c-cat.ca/>), an organization of Canadian victims of terrorism dedicated to alerting Canadians to the growing menace of terrorism in Canada and abroad.

In a previous appearance before this subcommittee shortly before 9/11, I cautioned that much would have to be done to fight Canada's drift into terror-haven status. Six years later, I must tell you that Canada is heavily infiltrated by terrorists. Canada is a recruiting, planning, financing and launch point for international terrorism. And Canada is certainly a target of terrorism. With particular reference to our leading terror threat – Islamic extremism – I will suggest why this has come about, and note the glimmer of hope that has recently emerged.

In 1998, the CSIS director testified before Canada's Senate that fifty terror organizations – including the world's most notorious – were present in Canada. In terms of numbers of terror groups, this made us number two in the world, after the United States. By 9/11, the previous twenty years had transformed Canada from terrorist backwater to a significant piece on terror's international chessboard.

Testifying before a Canadian Senate subcommittee, the Deputy Director Operations of Canada's intelligence service last week warned of Canadian residents who are "graduates of terrorist training camps and campaigns, including experienced combatants from conflicts in Afghanistan, Bosnia, Chechnya and elsewhere."

"As well," he added, "Canadian citizens or residents have been implicated in terrorist attacks and conspiracies elsewhere in the world. A young man" – Mr. Khawaja – "is now awaiting trial here in Ottawa because of his alleged involvement in a bombing conspiracy in the United Kingdom. Others have been involved in plots against targets in the United States, Lebanon, Saudi Arabia, Israel, Singapore, Pakistan and other countries."

The examples are many. Groupe Fatah Kamel helped make Montreal the hub of international GIA Algerian-Islamic terrorist activity. Maybe this is why France's chief counterterror magistrate spoke of Canada, in his report, in the same breath as he referred to Bosnia and Algeria.

Even as a failed refugee claimant, GIA terrorist and Groupe Fatah Kamel member Ahmed Ressaym prowled Canada. An alert American border guard in 1999 was the only obstacle between Ressaym's explosives-packed car at the Canadian frontier, and devastation at his target, LA International Airport. 9/11 would have come early.

Canada's immigration and refugee system has been a big part of the problem. In *per capita* terms, Canada takes in double the number of immigrants, and three or four times the number of refugees, as the United States. This is to say that thirty-one million Canadians each year welcome 230,000 immigrants. In addition, the 500 refugee claimants of 1977 have been transformed into 29,000 a year.

Canada cannot effectively screen and integrate such numbers and we've seen the proof. Sober minds regard the immigration system as largely a vote-importing scheme.

But the problem has gone well beyond immigration, and is metastasizing into the terrible phenomenon of homegrown terror. This term, of course, refers to longstanding Canadian residents and citizens – possibly even born and bred of Canadian-born parents – who have turned traitor, and mark their neighbors and society for death.

The chilling possibilities have been emerging this week with Friday's massive police raids in the Toronto area. These netted youthful Muslims who allegedly had three times as much ammonium nitrate fertilizer as was used in the 1995 Oklahoma City blast. The Toronto detainees were Canadian residents, and most, apparently, Canadian citizens.

Saudi money and Saudi-trained and inspired clerics and material, combines with the internet, to help turn some Muslim youth against their fellow Canadians. This might make sense of moderate clerics' complaints that 80% of North American mosques are under radical influence.

Questionable organizations like the Canadian Council on American-Islamic Relations (CAIR-CAN), a chapter of the controversial Washington-based Council on American Islamic Relations (CAIR), have alienated many moderate Muslims with unreliable statistics and breathless allegations of anti-Muslim behaviour. In light of recent arrests, CAIR-CAN is apparently embarked on a charm offensive, but six years after 9/11 it has yet to condemn publicly, by name, certain Islamic terrorist groups – not even Hezbollah, which is reliably said to have done targeting reconnaissance on Canadian sites.

At the operational level, there is great respect and cooperation between American and Canadian agencies and services. Political leadership in Canada has been another story, and this goes far to explain our malaise.

For thirteen years the Liberal Party of Canada had been in power playing up to, rather than mastering, radical interests. As Finance Minister, Mr. Paul Martin, later Prime Minister, attended with another cabinet minister a fundraising dinner put on by a Tamil Tigers terrorist front. The Liberals refused to ban the Tigers under the Criminal Code, owing, it is believed, to Tiger control of important Toronto electoral constituencies. And more, during the Liberal Party years in power, the government refused to ban Hamas and Hezbollah. They went so far as to defend their right to exist legally in Canada. Later the Liberals did ban these terror groups, but only after public outrage, and in one case, the threat of court action.

Now, for just over 100 days the Conservative Party has been in power and there have been hopeful signs. Although constrained by their minority government status, the new government

has acted decisively to ban the Tamil Tigers, bringing us into line with other jurisdictions. The evidence is that the government is constructively releasing information about current risks to Canada rather than denying it or hiding it for fear of antagonizing terror-sympathetic voting-blocs.

So in the end, will the Conservative government sustain the fight against Islamic radicalism and terrorism? In my view, if the government is sincere, it will do the following:

1. Consider a moratorium on immigration and refugee intake until we get a handle on our policies and process for mitigating related security risks;
2. Provide appropriate resources and training to the policing, security and intelligence community, including reliable travel-document and other identification systems;
3. Develop the wherewithal to effectively eliminate the risk of Islamic extremists and their sympathizers surfacing in strategic positions within the machinery of Government in Canada, and within our police, security and intelligence forces;
4. Bring an end to government – and especially police and security organizations’ – “outreach” with Arab or Islamic representative groups, where there is an inappropriate refusal on their part to condemn by name Hezbollah, Palestinian Islamic Jihad and similar supremacist terrorist organizations;
5. Eliminate Saudi Arabian funding of mosques, academic and other institutions; and,
6. Without fear or favour – or political correctness – tell it like it is to Canadians, about terrorism and its sources.

Let us hope that Canada’s new government will recognize the gravity of the situation facing Canadians, and live up to these requirements.

ATTACHMENT 1

Terror suspect accused of wanting to behead prime minister: lawyer
CanWest News Service
Published: Tuesday, June 06, 2006

BRAMPTON, Ont — A 25-year-old restaurant worker is accused of planning to storm Parliament Hill, behead Prime Minister Stephen Harper, take hostages and behead them unless the group's demands were met, according to his lawyer.

Gary Batasar, the lawyer for Steven Chand (also known by his Muslim name Abdul Shakur), emerged from court Tuesday saying Crown prosecutors had provided him with an eight-page "summary" of the charges against his client and 16 other men arrested last week.

"My client is being accused of plotting to storm the Parliament buildings, take hostages (and) make demands to remove Canadian troops from Afghanistan and to free Muslim prisoners," Batasar said outside the Brampton, Ont. courthouse.

"He is supposed to have planned to behead hostages if his demands weren't met ... and to want to behead the prime minister. The last thing was that they were going to storm the CBC building downtown (in Toronto) to take over communications to broadcast their message."

Chand is one of 17 men, all Muslims, who were arrested Friday and charged with planning a terrorist attack. Police said the men were planning to build a simple but effective bomb using fertilizer and diesel fuel.

Sources said the men were in an advanced stage of planning two attacks: a truck bombing to destroy a significant building and an attack involving opening fire on a crowded public place.

Fifteen of the accused, including five young offenders, appeared in court Tuesday under tight security for an initial hearing and to set dates for bail hearings.

Batasar would not comment on whether his client denies the accusations, but said: "Mr. Chand is certainly quite perturbed by these allegations."

In Ottawa, Harper brushed off the alleged death threats with a joke as he exited the House of Commons following the question period.

"I can live with all these threats as long as they don't come from my caucus," he told reporters.

At Tuesday's hearing, the accused shuffled into the crowded courtroom in three separate groups, handcuffed together and wearing white T-shirts and grey sweatpants. Friends and family of the men filled almost all of the available seats, with about 15 reporters lining the back rows of the court.

The men listened while their lawyers argued over their clients' treatment since they were jailed last Friday night, the inadequacy of Crown disclosure of evidence and their clients' inability to meet with their lawyers or family members.

Asad Ansari, 21, Fahim Ahmad, 21, Zakaria Amara, 20, Qayyum Abdul Jamal, 43, Amin Mohamed Durrani, 19, and Jahmaal James, 23, are to return to court June 12 for bail hearings, along with three of the young offenders, who cannot be identified.

Shareef Abdelhaleen, 30, will return on July 4 for a bail hearing. One of the youths will also have a bail hearing on June 16 and Saad Khalid, 19, is to be back in court on June 30.

"What we have received today is such bare bones, so little, that it's virtually impossible to comment on the authenticity of the synopsis that has been provided to us," said Arif Raza, the lawyer for Khalid.

He said his 19-year-old client is accused of attending a training camp in Ontario and was arrested at the time of the delivery of the tonnes of ammonium nitrate, which police had intercepted and replaced with an inert substance.

Donald McLeod, lawyer for Jahmaal James, said defence lawyers have complained their clients were being held in segregation, under 24-hour supervision and were not allowed to use the telephone or to speak to their family members.

He also complained of restrictions in his access to his client, including only being allowed to speak to him through a Plexiglas shield and then only with guards present. He added that the accused are being refused their religious rights.

"They're Muslim," McLeod said. "Clearly they'd like to be able to pray as a group. I'd like to facilitate that religious freedom they're entitled to."

Anser Farooq, who is representing a number of the accused men, questioned whether his clients would receive a fair trial, given the extensive media attention the case has drawn.

"My clients are entitled to a fair trial ... and to be treated the same way as anyone else who has been accused of an offence," he said. "They are presumed innocent — they are innocent until they are proven guilty in court."

ATTACHMENT 2

Alleged terror plot revives U.S. calls for fence along Canadian border

Sheldon Alberts

CanWest News Service

Tuesday, June 06, 2006

WASHINGTON - The discovery of an alleged homegrown terror plot in Canada sparked new calls Monday for a security fence along America's northern border and prompted a wave of U.S. media coverage questioning if Canada had become a "gateway for terrorists."

While White House press secretary Tony Snow expressed gratitude and "relief" at the success of the RCMP terror bust, a prominent Republican congressman said the plot underscores the need for physical barriers and the quick implementation of new border ID requirements for travelers entering the U.S. from Canada.

"Maybe this will help Canadians see the need for something like that, and not blame America, and not think of it being some antagonistic proposal on our part," Colorado Rep. Tom Tancredo said in an interview with Canwest News Service.

"The border is incredibly porous. Whether people like hearing it or not, it's absolutely true."

Tancredo was a leading proponent of strict immigration and border security legislation, passed in the House of Representatives last December, that would require the Department of Homeland Security to study the construction of a wall along the Canada-U.S. border.

The proposal lacks support in the Senate, and is currently in limbo, but has become a pre-occupation for Canadian diplomats in Washington who worry it could gain favour if U.S. lawmakers perceive a greater terror threat from Canada.

More worrisome to Canadian officials is the impact the terror arrests could have on their efforts to delay implementation of a border ID plan formally called the Western Hemisphere Travel Initiative that will require Canadians to carry passports or another form of secure ID at land borders by Jan. 1, 2008.

The Senate recently approved legislation to delay implementation by 18 months, to June 2009, but House conservatives want to press ahead with the plan on schedule, said Tancredo.

"I just would like to get this done so we can iron out any problems we encounter and get it going as soon as possible. I certainly don't think we should postpone it," he said.

"We are trying to forge a chain of security around America," said Tancredo, who said U.S. conservatives only want "physical barriers where it makes sense."

"It does not have to be terribly invasive and it doesn't have to bother people who are trying to come to America the right way."

The arrests continued to draw extensive U.S. media's attention Monday, but not all of the coverage was re-assuring for Canadian officials trying to convince Americans they are not at risk.

CNN dubbed one segment on the plot Security Watch: The Enemy North of the Border. On Fox News Channel, the headline superimposed over a report on the arrests read, U.S.-Canadian Border: Gateway for Terrorists.

Over the weekend, New York Rep. Peter King warned Americans to be concerned about Canada because its lax immigration policy had allowed the country to become a haven to a "disproportionate" number of al-Qaida members.

The sudden, intense U.S. scrutiny of Canada's performance in the war on terror provoked alarm from Liberal Leader Bill Graham, who rose in question period in the House of Commons to demand Prime Minister Stephen Harper take action to denounce "these inaccurate attacks on Canada's immigration policies."

Harper promised to "deal with the inaccuracies that are being perpetuated in some circles."

To that end, Canadian Ambassador Michael Wilson has written key members of Congress outlining details of the Ontario arrests and assuring U.S. lawmakers there was no threat to America.

"The ambassador says wants to get the facts out," said Bernard Etzinger, spokesman at the Canadian Embassy in Washington.

"What has been accurately reflected in the (U.S.) media is that this was a homegrown operation and limited to Canada."

The FBI said on Saturday the Canadian suspects had "limited" contact with two Georgia men, Ehsanul Sadequee and Syed Ahmed, who are accused of plotting terror attacks in the U.S. The two men allegedly traveled to Canada to meet with Islamic extremists in Toronto.

But Frances Townsend, the White House homeland security adviser, sought to downplay concerns that Canada was an incubator for al-Qaida-like terror cells.

"I don't know what a 'disproportionately' large number of al-Qaida is," Townsend said on CNN. "Do they have concerns (in Canada)? Absolutely, just as we do here, with individuals who are second, and third generation, who are radicalized and use local mosques and local centres to congregate and share radical ideas."

She downplayed the threat of terrorists slipping into the U.S. from Canada, saying the U.S. has spent \$120 million on advanced technology and tripled the number of border guards along the Canada-U.S. border. © CanWest News Service 2006

ATTACHMENT 3

Homegrown terrorists groomed for radical roles

James Gordon

CanWest News Service; Ottawa Citizen

Wednesday, June 07, 2006

OTTAWA - There is no consistent profile of a homegrown terrorist, but common factors such as "grooming" by an extremist mentor play a critical role, according to a British government report.

The recently released document attempts to dissect the radicalization of four U.K. citizens who carried out deadly transit bombings in London last summer.

The brazen attacks were all the more shocking because they were carried out by seemingly normal, well-adjusted youths who rarely caused trouble.

"Mentors may first identify individuals from within larger groups who may be susceptible to radicalization; then 'groom' them privately in small groups until the individuals in the group begin feeding off each other's radicalization," the report reads.

Last weekend, police here arrested 17 people - mostly young Canadians - alleging they took part in plot to bomb targets in either Toronto or Ottawa. None of the accusations has been proven in court.

The arrests come after years of repeated warnings from the Canadian Security Intelligence Service and senior politicians that second- and third-generation "homegrown" terrorists were increasingly eyeing targets here.

According to the British report, there are few characteristics common among domestic extremists discovered thus far. Some are well educated, some not. Many were single, but several had families and children. Stable upbringings and lives filled with trauma and abuse were both noted.

A handful of outside factors have occasionally appeared, however, including grooming of young extremists by an influential elder.

"In the early stages, group conversation may be around being a good Muslim and staying away from drugs and crime, with no hint of an extremist agenda," it says. "Gradually, individuals may be exposed to propaganda about perceived injustices to Muslims across the world, with international conflict involving Muslims interpreted as examples of a wide-spread war on Islam."

The next step, the document says, is to convince potential terrorists that there is justification for violent jihad in religious texts such as the Qur'an and the Hadith. If a suicide attack is required, time is spent discussing the importance of commitment to Islam through martyrdom.

"There is little evidence of overt compulsion," it says. "The extremists appear rather to rely on the development of individual commitment and group bonding and solidarity."

While mentors will often target places of worship to acquire new recruits, "evidence suggests that extremists are increasingly moving away from mosques to conduct their activities in private homes or other premises to avoid detection."

Use of the Internet for propaganda, grooming and training also continues to grow.

"Websites are difficult to monitor and trace," the report says. "They can be established anywhere and have global reach; they are anonymous, cheap and instantaneous and it requires no special expertise to set up a website."

CSIS frequently describes the threat from homegrown terrorism in internal intelligence reports, which are always heavily censored. Tidbits occasionally emerge, including warnings that domestic extremists are, "valued for their ability to blend into their communities and circulate freely without fear of detection, especially with western passports."

Last month, CSIS deputy director Jack Hooper said the threat from homegrown extremist is now equal to that posed by outsiders.

"We must be vigilant on two fronts: that which is coming to us from the outside environment and, increasingly, that which is growing up in our communities," he told a Senate national security committee.

Ottawa Citizen

ATTACHMENT 4

Alleged terrorist not that 'type of guy,' say schoolmates**Jeffrey Hawkins**

CanWest News Service; National Post

Wednesday, June 07, 2006

TORONTO - Students at Stephen Leacock Collegiate in Toronto were on edge Tuesday as reporters continued to search for information about a former student and two alleged terrorists.

Speaking on condition of anonymity, some students said they were "completely shocked" by the allegations against Amin Mohamed Durrani.

"He's just not the type of guy that the media says he is," said a student, who said he was a close friend of Durrani.

Most students declined to speak to reporters as per the instructions of watchful school officials. However, those who did said the allegations against Durrani, 19, "just don't make sense."

He has been charged with training and recruiting for a terrorist group.

"I never heard him talking about 9/11 or anything like that," said another student. However, those who said they know Durrani recalled the topic of terrorism and American politics came up in casual conversations since the terrorist attacks.

"But I don't remember Amin talking," said one female student. "If people started talking about 9/11, it would come from someone else and he would just stay quiet."

Other students recall the conversations as being very anti-American when Durrani was surrounded by a small group of teenage Muslims.

Two members of this group, described by students as "a grade or two" behind Durrani, are also in custody facing terrorism-related charges.

Fellow classmates say they noticed a change in Durrani towards the end of 2005 when he "stopped looking like the rest of us" and started hanging out with this close group of friends.

Preferring to wear more traditional Muslim garments, Durrani also started to skip class to pray with his friends at a nearby musalla, an informal place of worship, called Musalla-E-Namira.

"But I don't think that was a bad thing" said one of his former classmates. "I think he just wanted to be around people that he was starting to identify with."

Calls placed to the musalla were not returned. The entrance to the musalla was locked Tuesday with a hand-written note attached to the door stating: "Evening classes will be cancelled this week."

National Post

Mr. HOSTETTLER. Thank you, Mr. Harris.
Mr. Rosenzweig?

TESTIMONY OF PAUL ROSENZWEIG, ACTING ASSISTANT SECRETARY FOR POLICY DEVELOPMENT, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. ROSENZWEIG. Mr. Chairman, thank you very much for the opportunity to discuss with you today the Western Hemisphere Travel Initiative. Let me remind you of its background to frame our conversation.

Under current regulations, U.S. citizens and most Canadians and Bermudians who travel solely within the Western hemisphere do not require passports or any other specific documents to enter the United States. This is frequently referred to as the Western hemisphere loophole.

Our initiative is a plan to close that loophole and satisfy the legislative mandates of IRCBA. The plan will require U.S. citizens and those Canadians, Bermudians and Mexican citizens currently exempt from the passport requirement to have a passport or other authorized, secure documentation denoting citizenship and identity when entering the United States.

The security rationale for the Western Hemisphere Travel Initiative is robust and yet often unheard, particularly in regards to our northern border.

Perhaps most obviously, access to our nation is critical for a terrorist to plan and carry out an attack on the homeland. As the 9/11 Commission's final report says, for terrorists, travel documents are as important as weapons. 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. This last is critical.

From this, we know that there are certain moments when terrorists must surface if they wish to enter a country legally. Recurring opportunities to catch terrorists are rare, yet the process we follow to screen individuals who wish to enter the United States presents just such a limited opportunity. And our focus in the Western Hemisphere Travel Initiative is leveraging that opportunity.

Currently, DHS officers cannot fully capitalize on the opportunity because of the loophole, which allows travelers to enter the United States without documentation. Clearly, to protect our border, we must be able to inspect those who seek to cross it.

Right now, the system is not set up to our advantage, and we ought to make the system work for us. And we also ought to be grateful for the legislative tools that you have provided us that have motivated us to make these changes.

It is an enormous challenge. We have over 7,000 miles of shared border with Canada and Mexico. Each day, DHS and CBP officers inspect more than 1.1 million people. In fiscal year 2005, over 84,000 individuals were apprehended at ports of entry, trying to cross with fraudulent claims of citizenship or documents.

On an average day—an average day—CBP intercepts more than 200 fraudulent documents, arrests more than 60 people and refuses entry to hundreds, and all this accomplished with a system that al-

lows individuals to either make verbal claims to citizenship or present a myriad of identification documents.

CBP officers may be presented with over 8,000 different types of birth certificates, 50-plus varieties of State-issued driver's licenses, a variety of baptismal certificates, naturalization certificates. The list goes on.

They also look at dozens of foreign driver's licenses and foreign certificates. Frankly, many of these documents are illegible or unverifiable. These combined factors create a tremendous potential for fraud, and the system must change.

We need to limit the number of documents that are accepted and allow our inspectors to zero in on individuals who present the greatest threat to our country.

Some compare crossing the border with Canada and the United States to crossing the Potomac, and we agree wholeheartedly that we share a very close relationship with our Canadian neighbors, culturally and economically.

Yet we are two distinct countries that share similar values and have diverse populations, different immigration laws and different approaches. I think it is worth sharing with you the Canadian government's own assessment of the border.

The Canadian Senate Committee on National Security, in June 2005, said, "The border presents a rare opportunity for society, through government, to monitor and assess who and what comes and goes. Border crossings provide border inspectors a chance to go eye to eye with those individuals intent on causing harm. It isn't a perfect opportunity, but it allows trained officers to scrutinize border crossers. This opportunity should not be squandered." I couldn't agree more.

The initiative will help us reduce this vulnerability, whereas maintaining the status quo leaves a wide gap in our security. It is rarely recognized, but, as has already been discussed, both Canadian and U.S. agencies have acknowledged that there are terror groups operating in both of our countries. Besides Al Qaida, these include Islamic Jihad, Hezbollah, Shia groups, Hamas, Palestinian Force; the list goes on.

Indeed, while most of the public attention has been focused lately on individuals crossing to the southwest border from Mexico, we have empirical evidence that our northern border is being significantly tested. Our operational data show that in the land environment, the northern border has five times as many positive terrorist watch list matches as the southern border. To put that in context, and to be fair, both land borders trail our air borders with respect to such matches.

In addition to these threats from foreigners, the threat of home-grown terrorists is now a security issue as well, as is illustrated so poignantly by the arrests of 17 Canadian citizens in Toronto last week.

Let me speak to next steps, briefly. We need to develop a system of layers to protect our country. We cannot create new vulnerabilities. And this is particularly true as we move forward to implement the Western Hemisphere Travel Initiative.

For example, recent proposals for specific documents for infrequent travelers, commonly referred to as day passes, must be eval-

uated very carefully. We agree that a plan to deal with these travelers must be in place, but we must structure it properly through a rulemaking process.

Frankly, infrequent travelers often pose a greater security risk since we usually know so little about their background, travel history, itinerary or purpose. And since we must issue documents that denote identity and citizenship, it is potentially a risk to consider on-the-spot issuance of such documents to travelers.

Mr. Chairman, I believe I have run over my time. I will stop there and look forward to answering your questions.

[The prepared statement of Mr. Rosenzweig follows:]

PREPARED STATEMENT OF PAUL ROSENZWEIG

Chairman Hostettler, Ranking Member Jackson Lee, and other distinguished Members of the Committee, I am pleased to be here today to discuss how the Department of Homeland Security (DHS), in partnership with the Department of State (DoS), is working to thwart terrorist travel by strengthening documentation requirements for travel in the western hemisphere. The security rationale for the Western Hemisphere Travel Initiative (WHTI) is robust, and yet often unheard, particularly in regards to United States and Canadian citizens. Although secure travel for all of the Western Hemisphere is critical, we will focus here on the need for documentation for U.S. and Canadian citizens, because almost all other citizens (most Mexicans for example) are already required to present secure documentation at our borders that denotes identity and citizenship (such as a U.S. issued Border Crossing Card or visa as required for Mexicans).

Access to our nation is critical for a terrorist to plan and to 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."¹

Travelers by land are not, however, uniformly subjected to Government prescreening checks (such as the No Fly and Advance Passenger Manifest System checks) made when individuals travel by air or sea. DHS officers cannot fully capitalize on this opportunity because of the current standards for traveling within the Western Hemisphere, which allow certain travelers (those who claim to be U.S. citizens, most Canadians, Bermudians, and some Mexicans) to enter the United States without documents proving citizenship or nationality.

The Western Hemisphere Travel Initiative, through its requirement that individuals carry a passport or other acceptable document(s), will greatly reduce the opportunities for fraud or misrepresentation of one's true identity. Advanced technology imbedded in these travel documents with appropriate privacy protections will allow real time checks against terrorist and immigration databases. This automation will allow DHS to more effectively leverage our immigration system—specifically, the requirement for terrorists to "surface to pass through regulated channels to present themselves to border officials."² Clearly, to protect our border, we must be able to inspect those who seek to cross it. Through WHTI, we have an opportunity to increase security not only for the U.S., but for the rest of the Western Hemisphere as well.

This is an enormous challenge. We have over 7,000 miles of shared borders with Canada and Mexico, and each day DHS Customs and Border Protection (CBP) Officers inspect more than 1.1 million passengers and pedestrians. In Fiscal Year 2005, over 84,000 individuals were apprehended at the ports of entry trying to cross the border with fraudulent claims of citizenship or documents. Moreover, on an average day, CBP intercepts more than 200 fraudulent documents, arrests over sixty people at ports of entry, and refuses entry to hundreds of non-citizens, a few dozen of whom are criminal aliens.

At major ports of entry in particular, CBP inspectors face an enormous volume of travelers attempting to cross our borders, the vast majority of whom are legitimate. However, a DHS officer is today faced with either assessing an oral claim to

¹ 9/11 Commission report p.384

² Ibid.

citizenship, or scrutinizing the myriad forms of identification currently accepted—a time-consuming and challenging task. The number and types of documentation currently accepted—often a driver's license or birth certificate—are prone to counterfeiting and fraud and are obtainable by terrorists and other dangerous persons who wish to enter our country illegally. In addition, currently, over 8,000 different types of documentation are presented by travelers to CBP officers. Limiting the number and type of documents accepted will help our inspectors identify individuals who present the greatest threat to our country. Maintaining the flow of commerce is critical, but we must also be confident in our determinations of who is crossing our border.

OPPORTUNITIES AT INTERNATIONAL BOUNDARIES

It is important to bear in mind, when discussing our border with Canada, that it is a truly international boundary. We enjoy a very close relationship with our Canadian neighbors, culturally and economically. We were particularly grateful for the very close cooperation and coordination that occurred between Canada and the U.S. regarding their arrests of suspected terrorists last week. Yet we are two distinct countries that share similar values but have diverse populations and have historically employed different immigration laws.

In March 2005, President George W. Bush, Prime Minister Paul Martin of Canada, and President Vicente Fox of Mexico unveiled a blueprint for a safer and more prosperous North America when they announced the Security and Prosperity Partnership of North America (SPP) in Waco, TX. There, “they agreed on ambitious security and prosperity agendas to keep our borders closed to terrorists and open to trade. The SPP is based on the premise that security and our economic prosperity are mutually reinforcing, and recognizes that our three great nations are bound by a shared belief in freedom, economic opportunity, and strong democratic institutions.

Guided by a Leaders Statement and Action Plans on Security and Prosperity, Cabinet Secretaries and Ministers convened trilateral working groups to develop concrete work plans and specific timetables for securing North America and ensuring legitimate travelers and cargo efficiently cross our shared borders; enhancing the competitive position of North American industries in the global marketplace; and, providing greater economic opportunities for all of our societies while maintaining high standards of health and safety.”³

Although much work remains, it is important to recognize the work accomplished through the Security and Prosperity Partnership. Through the SPP, the Canadian and Mexican governments are working with us to identify best practices for screening travelers to North America and vetting those who wish to remain for permanent residence or citizenship in North America. In particular, we are working with Canadian authorities under the Security and Prosperity Partnership of North America on setting common standards for documentation that may be used to cross our common border.

EXTREMISTS EXPLOITING THE WESTERN HEMISPHERE

We greatly appreciate the outstanding cooperation between the United States and Canada in working to secure our common border. However, even as we work together to strengthen our borders, we are still faced with many challenges at home and at our borders. This is true in the United States, Canada, Mexico and our other Western Hemisphere neighbors.

Canadian Security Intelligence Service (CSIS) Deputy Director Jack Hooper recently informed a Canadian Senate national security committee that CSIS lacks the resources to vet a significant portion of the immigration cases referred to it. Mr. Hooper specifically noted that approximately 20,000 immigrants have come to Canada from the Afghanistan/Pakistan region since 2001.

Some extremists have demonstrated the ability to blend into a number of the large communities existing in major U.S. and Canadian cities. From such locations, extremists can conduct fundraising and other support activities, including proselytizing extremist ideals to segments of the youth population that they find susceptible.

In 2004, CSIS reported that terrorist representatives were actively raising money, procuring weapons, “manipulating immigrant communities” and facilitating travel to and from the United States and other countries. Besides al-Qaida, groups mentioned by CSIS include: Islamic Jihad; Hezbollah and other Shiite groups; Hamas; the Palestinian Force 17; Egyptian Al Jihad and various other Sunni groups from across the Middle East. CSIS has said the Irish Republican Army, Tamil Tigers and

³ www.spp.gov

Kurdistan Workers Party (PKK) and major Sikh terrorist groups also have supporters in Canada.⁴

The Government of Canada has shown that it is taking strong action to protect itself which also helps protect our citizens. Also, as with our own situation, the vast majority of persons who immigrate to Canada are law-abiding, simply seeking a better life for themselves and their families.

As populations increasingly mix and extremists recruit native-born youth and converts, travel documents become even more critical in identifying terrorists. Travel documents and travel patterns can provide inspectors with terrorist indicators—sometimes the only clue the government will receive.

EFFECTIVELY USING THE BORDER—A NATIONAL SECURITY PRIORITY

Border security is a cornerstone of national security and as President Bush and Secretary Chertoff's creation of the Secure Border Initiative and allocations of resources for border security demonstrate, the Administration considers securing the border a top priority. If we are to protect our homeland from terrorist attacks, we must use all of the tools at our disposal.

The Canadian Senate Committee on National Security and Defense has also recognized the opportunity at the border. In their 2005 report they stated, "The border represents a rare opportunity for society, through government, to monitor and assess who and what comes and goes. It should not be wasted. . . . Border crossings provide border inspectors a chance to go eye-to-eye with those individuals intent on causing harm. It isn't a perfect opportunity . . . but it does allow trained officers to scrutinize [border crossers]. This opportunity should not be squandered."⁵

Our international borders are extremely well run—so well run that they have been mistaken for much less than they are—our first line of defense. Some travelers have become used to crossing the border without identification—something that is done nowhere else in the world and a security vulnerability. We have an opportunity to install a system that will work to thwart individuals who intend to attack our citizens and our infrastructure. The WHTI will help make us safer. We are grateful to Congress given its legislative work in this area.

The WHTI will require all travelers to present secure documentation when crossing our border and will significantly increase security. It is important to bear in mind, however, that security and commerce are not exclusive of each other. In fact, standardized and automated travel documents will enable us to quickly, reliably, and accurately identify a traveler and his or her citizenship without having to review an assortment of documents and pursue a line of questioning to determine who the person is; this will facilitate the entry of travelers. To leverage this facilitation potential, DHS and DOS are developing plans to produce an alternative form of the U.S. passport for use at land border crossings. DHS and DOS realize that a traditional passport book may not be the most convenient or effective form of documentation for land border use, particularly for frequent crossers. Therefore, Secretary Chertoff and Secretary Rice jointly announced a proposed travel card for U.S. citizens. The DOS-issued travel card is envisioned as wallet-sized and convenient to obtain, costing the bearer substantially less than a traditional passport. DOS will determine eligibility for the passport card in the same way that it determines eligibility for the traditional book passport. The card will contain security features and will use technology to link the identity and citizenship of the bearer to a U.S. government database in a privacy protective manner.

Because of the need to ensure that frequent crossers and residents of border communities can obtain necessary documents to ensure continued cross-border travel, we are also reviewing a variety of document options for these travelers. In addition to the passport book and card which are authorized under law, we are also reviewing the Border Crossing Cards (BCCs) for Mexican citizens, and the expansion of "trusted traveler" programs, which would expedite low-risk travelers, particularly those who reside in border communities and make frequent trips across the border as a routine part of their daily lives.

Existing "trusted traveler" programs are also being evaluated for expanded use at our land borders. These include the NEXUS, Secure Electronic Network for Travelers Rapid Inspection (SENTRI), and Free and Secure Trade (FAST) programs. These programs facilitate the crossing of low-risk, frequent travelers and commercial truck drivers at the land borders through exclusive, dedicated lanes.

⁴ <http://www.policeone.com/news—internal.asp?view=116677>

⁵ "Borderline Insecure" An Interim Report by the Senate Committee on National Security and Defense, June 2005. p.5 & 6

THE WAY FORWARD

As we discuss options for alternative documentation consistent with our statutory mandate, we must not create new loopholes that could be exploited to undermine our border security. In particular, proposals for specific documents for infrequent travelers must be evaluated carefully. These travelers often pose a greater security risk since we know so little about their background, travel history, itinerary, or purpose for travel. Since the requirements of the statute are for documents denoting identity and citizenship, it is potentially a great risk to consider any sort of "on-the-spot" issuance of identity and citizenship documents to these travelers. At the same time, we understand that there are significant travel, trade, and tourism concerns associated with spontaneous travel and we will continue to assess these issues.

The WHTI will be implemented in two phases: first in the air and sea environments by 2007; and second, along the land borders by 2008. Completing this task on time as required by law will deliver significantly stronger security for the Homeland.

The United States and its Western Hemisphere neighbors continue to work together, sharing information and improving their security systems. Canada, in particular, has made significant strides recently, including the recent arrests of the suspected terrorists. Additionally, since December 2005, the Canadian court system has cleared the way for several successful and important Canadian-related terrorism cases to proceed. This progress is encouraging and we continue to move in the right direction of increasing identity document security, increasing information sharing, and deploying the necessary resources to protect our border. However, we must not become lax in our efforts and we need to complement these advances with smarter, more efficient and more secure document controls at the border.

I will close by echoing the Canadian Senate's sentiment that, "These [land border] crossings represent each country's last, best chance to scrutinize persons and cargo that should not be entering each other's territory."⁶ Strong borders are a pillar of national security, and the Western Hemisphere Travel Initiative is a cornerstone of border security.

The Administration will continue to work with Canada and Mexico, and our other Western Hemisphere neighbors, to ensure the successful implementation of this initiative.

Mr. HOSTETTLER. Thank you, Mr. Rosenzweig.
Mr. Dow?

TESTIMONY OF ROGER DOW, PRESIDENT AND CHIEF EXECUTIVE OFFICER, TRAVEL INDUSTRY ASSOCIATION OF AMERICA

Mr. Dow. Thank you, Mr. Chairman, I appreciate it, and Members of the Committee, I appreciate the time to address an issue that is of great importance to the U.S. travel industry. As you stated, I am head of the Travel Industry Association of America, but I also represent our strategic partner, the Travel Business Roundtable.

The U.S. travel industry is one of the largest retail sectors of our economy, employing 7 million U.S. citizens. The travel and tourism industry has a major presence in all 50 States and 435 congressional districts.

Just for the Members of the 16 congressional districts represented by this Committee, the travel and tourism industry represents \$19 billion in travel expenditures, \$5.3 billion in payroll and over a quarter of a million jobs. Nationally, we roll up to \$650 billion in revenue, and \$100 billion of that comes from outside the United States.

⁶"Borderline Insecure" An Interim Report by the Senate Committee on National Security and Defense, June 2005. p.6

Regarding the Western Hemisphere Travel Initiative, there has never been a question of why to implement this change or if it should be done. We totally support that. We strongly agree that customers and border protection officers should be in a position to examine fewer and more reliable travel documents for those entering and traveling in the Western hemisphere.

That said, there are two very critical things we should consider: one, when to implement the new travel document requirements and how to carry out this mandate.

We have 14 million visitors from Canada, which makes it the largest international travel market. It is growing, while other international markets have been shrinking in recent years. It is so important to get the Western Hemisphere Travel Initiative right and much more important than trying to rush to a market solution that may not work and that may cause a lot of confusion among travelers.

The recent issue of the deadline and the possible extension, the U.S. travel industry supports the legislative extension of the current deadline, because we need to—we certainly believe that the Federal Government cannot meet the WHTI deadline in time.

This is very similar to the recent requirement for the extension of the deadline of the biometric passports. Now, just as then, we seek a reasonable extension, not an indefinite delay. The Committee supported the extension of biometric passports, and we ask that they thoughtfully consider the same thing in this case.

Because extension alone is not a solution, TIA and TBR and others lay out many recommendations, which we have done in letters, congressional testimony and filings. I would like to highlight a few things that we advocate in addition to a single, unified document.

First, the creation of a single document for all ports and all modes of travel, to avoid traveler confusion that may lead to canceled trips.

Second, development of a low-cost, secure alternative to the passport that is convenient and done in full cooperation with the Canadian government.

Next, explore a possible use of the States' driver licenses under provisions of Real I.D., and examining how citizenship status can be included on a much more secure and consistent driver's license.

Absent a program to create a low-cost alternative travel document, Congress should authorize appropriate funds to permit the U.S. State Department to issue discounted U.S. passports. It is clearly important that we get passports in the hands of travelers.

Lastly, one key policy decision—once these key policy decisions are finalized, it is essential that the government launch a massive public information campaign aimed at travelers. The travel industry will use our resources to help support and help get that word out, because it is critical to have a consistent message.

Travelers are now making their purchase decisions for 2007. This is especially true for cruise lines, where only half of the cruise ship passengers presently carry a passport. The question is, what will happen less than 7 months from now on January 1, 2007? Travelers need certainty. They need reliable information to help make purchasing decisions.

Finally, let me address the recent events that occurred in Canada. The recent arrests in Canada of the suspected terrorists highlight the need for intensified law enforcement and intelligence-sharing by U.S., Canada and others. Cooperation and information-sharing we can only presume surrounded the recent arrests and argues for greater U.S.-Canada cooperation and the use of driver's licenses, pass cards and passports that are very secure and consistent for border crossing.

In closing, the U.S. travel industry wants to be a full and complete partner in reaching this critical decision. And it is fully important that we secure our borders and enhance travel in our economy, and both are not mutually exclusive.

Thank you very much.

[The prepared statement of Mr. Dow follows:]

PREPARED STATEMENT OF ROGER DOW



TESTIMONY OF

ROGER J. DOW
PRESIDENT AND CEO
TRAVEL INDUSTRY ASSOCIATION OF AMERICA

BEFORE THE

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CLAIMS

ON

THE NEED TO IMPLEMENT WHTI TO PROTECT U.S. HOMELAND SECURITY

JUNE 8, 2006

On behalf of the Travel Industry Association of America (TIA), along with its strategic partner, the Travel Business Roundtable (TBR), I ask that this written testimony be submitted for the record of today's hearing on the Western Hemisphere Travel Initiative (WHTI).

Chairman Hostettler and Ranking Member Jackson Lee, we thank you for your leadership in holding this hearing on a subject of great importance to the U.S. travel and tourism industry – implementation of the Western Hemisphere Travel Initiative, or WHTI.

On behalf of the \$650 billion U.S. travel industry and its 7.3 million direct employees, TIA and TBR wish to offer our views on this issue, which is critically important to all of our members as the U.S. government continues to grapple with finding the right balance between homeland security and facilitation of legitimate travel and trade.

While we have always wholeheartedly supported the security intent of Section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004, which aims to have U.S. Customs and Border Protection officers examining fewer and more secure travel documents, the implementation plan of WHTI still raises many questions and concerns.

First, we continue to believe the two-tiered deadline approach that would cover all inbound air and sea travel to the United States on January 1, 2007 may well create significant difficulties for travelers returning to the U.S. following a cruise vacation. We have consistently advocated for a single, unified deadline in order to prevent even more confusion, which can easily lead to cancelled trips and less travel spending in the U.S. While we would not expect there to be any significant impact on air travel since nearly all airlines are already requiring passengers to present passports for Western

Hemisphere travel into the United States, we remain concerned about the impact on cruise travel since many of those travelers are not currently required to carry passports. Many individuals are already purchasing cruises for 2007, well before the new requirement for sea travel is being publicized and certainly well before any alternative document besides a passport might be available for travelers.

Regarding the statutory deadline of January 1, 2008 passed by Congress, we are now distressed that with only 19 months to go, the federal government is unprepared to implement WHTI in a fashion that will both enhance our nation's border security and continue to facilitate legitimate cross-border travel and trade.

This past weekend's arrest of 17 individuals planning attacks on Canada clearly illustrates that terrorism still threatens to permeate our borders and reinforces the fact that border security must be heightened. However, the federal government must carefully implement security measures so that they do not strangle legitimate commerce and travel across our borders. A system whose technology is not fully developed nor sufficiently tested will aggravate and not alleviate border security concerns.

As the U.S. travel industry, our primary focus is on inbound Canadian travel since Canada represents our largest international travel market with over 14 million visitors in 2005. It is important to note that the impact on the U.S. economy from Canadian travel spans across the map. Florida, California and Nevada, states far from the physical border, are the top three U.S. destinations for Canadian travelers. With the knowledge that less than 40 percent of the Canadian population currently holds a passport, we are unsure how many business and leisure trips into the U.S. might now be cancelled due to a lack of the proper documentation, confusion over the rules, or an unwelcoming view of our nation.

We are also concerned about the impact on American travel to Canada, Mexico and Caribbean. We believe it is critical for Americans to travel abroad and experience other cultures and peoples. It is only through these encounters and exchanges that the U.S. can better understand and appreciate its neighbors in the Western Hemisphere. Just as high-tech documents and stepped-up border enforcement are essential for securing our nation's homeland, so are strong economic, social and cultural ties with Canada, Mexico, the Caribbean and beyond.

While we commend the very diligent and professional work of the leadership at the Departments of State and Homeland Security on this very serious matter, we also believe what is needed is, at times, some "out of the box" thinking in order to meet the dual mandate of securing America's borders while facilitating legitimate travel and trade.

The current joint trusted traveler program between Canada and the U.S., NEXUS, has provided valuable lessons about how a jointly developed program can enhance secure travel moving in both directions across the border. Since the passage of WHTI, we have hoped that the U.S. and Canadian governments would develop a similar program to meet this new requirement, but to date the U.S. has neither worked with the Canadians nor provided sufficient policy guidance or technical specifications to allow the Canadian government or provinces to develop travel documents that will work at U.S. border facilities.

In our filing of comments last fall, in our letters to Congress, and in various speeches given to industry groups and legislative staff members, TIA and TBR have offered numerous options that we believe will provide for a more workable solution with regard to the implementation of WHTI. These suggestions are also endorsed by several dozen other national travel and tourism organizations who are also very concerned about WHTI.

The travel and tourism industry's suggestions include:

- Creating a single, unified deadline for WHTI of January 1, 2008 – the only deadline Congress required via Section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004;
- Exercising broad discretion in determining which documents other than passports will be accepted;
- Developing, in cooperation with the Canadian government, low-cost alternative travel documents for both Americans and Canadians;
- Creating price incentives for the broader distribution of U.S. passports;
- Working with state and provincial governments on the possible use of enhanced driver's licenses for cross-border travel and/or the use of state issuance processes to enroll applicants and deliver federal identification documents to the public;
- Working with the private sector on an aggressive public outreach campaign; and
- Conducting a full cost-benefit analysis and economic impact study in order to determine how WHTI will affect the U.S. travel industry.

As you know, the Department of State (DOS) and the Department of Homeland Security (DHS) have announced the development of the PASS card as a means to provide a lower-cost, easier-to-obtain and easier-to-carry version of a passport. We believe PASS is part of the right model for meeting the WHTI requirement. However, the ability of DOS to issue a procurement, conduct testing, issue the cards to the millions of necessary recipients, ensure that the PASS cards can be read by new CBP readers, coordinate the use of PASS cards with existing programs such as NEXUS and FAST, and mount a public education campaign in the next 19 months, is highly suspect, even if the procurement and testing processes go smoothly.

As the limited time to meet the WHTI deadline has slipped away without a full compliance plan in place, TIA, TBR and a number of other travel and business organizations have wrestled with the question of whether or not the January 1, 2008 deadline should be extended in order to more properly implement some of the ideas listed above. While WHTI needs to commence at some certain date, it is more important to "get it right" than to simply begin on a date where the impact on legitimate cross-border travel and trade could be severe.

TIA and TBR have supported Senators Ted Stevens and Patrick Leahy's amendment to the Senate's immigration bill (S. 2611) that extends the WHTI deadline by 17 months from January 1, 2008 to June 1, 2009. We are also aware of and commend other policymakers for amendments and legislation that offer constructive solutions to avoid any disruption of cross-border travel and trade due to WHTI.

Ultimately we believe that an extension of the January 1, 2008 deadline is needed as is some very specific guidance regarding pricing of passports or alternative travel documents. In addition, the U.S. must work in a bilateral fashion with Canada on the development of such alternative travel documents and an outreach campaign to educate affected travelers.

Thank you, again, Chairman Hostettler and Ranking Member Jackson Lee, for holding this hearing, for your leadership on these issues, and for your understanding that we must endeavor to protect our borders while at the same time strive to increase travel with our key trade partners in the Western Hemisphere. We look forward to continuing to work with this subcommittee and other Representatives interested in a common-sense solution to a very critical issue for the U.S. travel industry and the nation as a whole.



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Mr. HOSTETTLER. Thank you, Mr. Dow.

At this time, we will turn to questions from the panel.

First of all, Ms. Kephart, are you aware of any identity document in Canada, other than a passport, which would provide an equivalent level of verification of citizenship status and would be as secure as a passport?

Ms. KEPHART. I can't imagine what would be. Mr. Harris would be more familiar with what kinds of documents are available in Canada.

However, the internationally recognized travel document around the world is the passport. The passport has the security features, it is run against databases, et cetera.

What that means for the terrorist is a terrorist has to choose, if you have WHTI in place, between going to a passport office and applying for a passport in Canada or not and trying to come in illegally. It forces them into a corner.

So whatever else might be out there, it is not going to be as secure a choice for us as the passport would be.

Mr. HOSTETTLER. So you wouldn't have any idea of what other type of document Canadian officials are talking about when they suggest in press accounts that they are not concerned about the WHTI?

Ms. KEPHART. From my understanding, there have not been alternatives put forward by the Canadian government to deal with the issue at this point. But Mr. Harris might be able to answer that.

Mr. HOSTETTLER. Very good.

Mr. Harris, would you be able to?

Mr. HARRIS. Thank you. I am not aware of any alternatives, although I do know—

Mr. HOSTETTLER. Could you—

Mr. HARRIS. Sorry. I am not aware of any alternatives, although I do know that the focus has predictably been on the passport possibility because of its universal nature and the whole issue of data checking and so forth. So I think the passport would be the focus.

Thank you.

Mr. HOSTETTLER. Very good.

Mr. Rosenzweig, as we mentioned, Canadian officials have made some public statements that they have no plans to issue a Canadian pass card like the one planned for U.S. citizens, because they claim that Secretary Chertoff has told them U.S. inspectors will accept other Canadian documents.

Is that true or do you know of a deal that we are unfamiliar with here in Congress that has been struck?

Mr. ROSENZWEIG. I have been in this town many years, Mr. Chairman, and I think the only thing I am certain of is that all press accounts should not be treated as holy writ. I personally participated in the meetings between Secretary Chertoff and Minister Day, and the Secretary made no secret deals.

I believe that Minister Day later issued a clarification of the original press account that reflected much more accurately the nature of the discussions. We are indeed in discussions with our Canadian colleagues as to which, if any, additional documentation from Canada would be accepted.

When and if any additional documents are added to the list, they would be documents of equivalent security and validity as a passport, much as we on our side are contemplating, as the secretary has announced, a passport card, which would be a smaller, cheaper, but equally secure and based-upon-vetting card, kind of a driver's-license-size card, as opposed to the normal passport book.

That might be a possibility that we would encourage our Canadian colleagues to think about. They are on their side having to work through the issues of their own legislative and production. But I can assure you there was no secret deal to accept baptismal certificates.

Mr. HOSTETTLER. Right. The pass card is a new type of document, but it is your understanding that there is no document currently, other than the passport, that gives the secure features of a passport in Canada?

Mr. ROSENZWEIG. As was Ms. Kephart, I don't have a full visibility into what Canadians issue. We do have some excellent programs with Canada relating to trusted traveler programs that issue cards—NEXUS and FAST are the two programs—whereby individuals who carry them are vetted by joint U.S.-Canadian investigations and are issued a secure document card.

And that card—those types of trusted traveler cards are being considered as alternates like the pass card. But they, too, meet the high security and vetting standards that are equivalent to the passport issuance process on both sides of the border.

Mr. HOSTETTLER. Okay. Let me ask you real quickly, will DHS meet the deadlines for 2007 for sea and air ports and then for 2008 for land ports? Are we on schedule to do that?

Mr. ROSENZWEIG. We have every anticipation of meeting those deadlines. It is only in Washington that 19 months before a deadline is a crisis.

To be sure, there are many challenges ahead of us. There are regulations to be promulgated. There is technology to be put out at the border, cards to be developed.

But at this juncture, though we have a few of those steps ahead of us, we have every confidence that we will be able to meet the deadlines. And we are certainly working almost literally day and night to make sure that that happens.

Mr. HOSTETTLER. Thank you. Without objection, I will grant myself an additional minute for an additional question of Mr. Dow.

Mr. Dow, we just heard about being able to meet that deadline, and you in your testimony suggested that—observed that travelers are making plans for 2007. At this time, is there any thought to somehow through the ticket purchasing process facilitate educating the public as to the need for a passport?

For example, when someone is going to buy their tickets online, as sophisticated as that is, that they are required to, for example, provide a passport number, and in so doing a traveler today, going to their P.C., would find out that there is a bit of information that they don't have, without which they can't get a ticket for a January 2nd cruise.

Is that possible, or is there—or would there be a problem with that, with something like that?

Mr. DOW. Well, there is a—the issue is not only being able to communicate it, but to be able to have the information from the passport. Just like today, when I make reservations, my passport is at home, but I make airline reservations. So there is a difficulty there.

What our industry is proposing is a stepped-up and huge communications campaign. It is critical, because there is so much confusion right now, whether it is the December 31st of this year or it is December 31st of next year, what is land and sea, what is air and sea versus land.

So we have got to get a single date, and we have got to do everything we can to communicate it. And I think your suggestion of having communication with when people make reservations for cruises is critical. But right now there are people who have made those reservations for cruises that do not have a passport, and there is going to be a real problem coming up in 6 months.

Mr. HOSTETTLER. Thank you.

The chair recognizes the gentlelady from Texas for questions.

Ms. JACKSON LEE. Thank you very much. I would say to the panel that crises in Washington are defined by different time frames, but I would consider this an important hearing for information and to give guidance.

I would also, Mr. Chairman, like to offer a disclaimer that, in fact, we are not unconcerned about security and ensuring, as Mr. Dow has said, that we do have the right kind of documents and secure documents that will help us facilitate travel in the Western hemisphere.

At the same time, let me say on the personal perspective is my comments on security and wanting to probe and dig deeply into what kind of document we can have is no affirmation of support of a national I.D. card. So I think that we can function with security in a way that tells the American people we mean business, but at the same time be responsible on our liberties and the free flow of traffic.

Mr. Chairman, let me briefly indicate that I have an opening statement that I would like to, in its entirety, submit into the record. I ask unanimous consent.

Mr. HOSTETTLER. Without objection.

[The prepared statement of Ms. Jackson Lee is available in the Appendix.]

Ms. JACKSON LEE. And just briefly acknowledge the existence of the Western Hemisphere Travel Initiative, which requires the Department of Homeland Security to consult with the Department of State—a good partnership—to develop and implement a plan to require a passport or other document or combination of documents deemed to be sufficient to establish identity and citizenship status for travelers entering into the United States.

So this is truly to continue the friendship that we have with countries such as Canada, Mexico, Central and South America, the Caribbean and Bermuda, which most Americans will realize that there has been a continuous, ongoing relationship and opportunities.

I might also note that I consider the Caribbean and Bermuda our third border initiative. And we have comparable activities there to ensure the safety of both commerce and travel.

I think that, though this is not the jurisdiction of this Committee, but it is of the Homeland Security Committee, I am, for example, supportive of identifying and labeling all cargo that comes into the United States.

But I think we can find a way with this WHTI to have an orderly, effective and secure process that will provide the travel documents that are necessary. And I hope that DHS and DOS will have the time and initiative to be able to do so.

I would also say that, whatever technology is chosen, that it should be the highest caliber.

And I will just go on record, Mr. Chairman—again, this may not be our jurisdiction—let us make sure that the contractor that engages in doing this work will be the kind of transparent process, contract that gets the job done.

Let me pointedly ask Mr. Rosenzweig, if I have it correctly, almost, I assume—and it is good to see you again. Let me ask you, let me pointedly ask you, about this deadline. Even though you have, I think very pointedly, tried to respond back, but people are concerned.

We have contractual problems in the Department of Homeland Security. We have had failures in technology in terms of contracts that have been let and failures to that extent. What is your guarantee that this time frame works for you? Because, needless to say, we have looked over the past days, even, and see that even on the northern border and southern border, the Western hemisphere, we have problems.

What is it that gives us comfort that DHS is on track for these particular documents?

Mr. ROSENZWEIG. Thank you very much. And it is indeed a great pleasure to be back here. Thank you for welcoming me again.

In life, there are only two certainties: death and taxes. There are no guarantees. That having been said, we are indeed, in our judgment, on track for both of the release of the air-sea rule that will govern travel after January of this year and of the land border rule, which of course does not have to take effect until the statutory deadline of January 1, 2008.

To be sure, a technological deployment of this nature is a challenge. It is a challenge we met with respect to the US-VISIT program, for example, which was similarly one that many people thought would be a potential train wreck in its deployment, leading, we were told, to long lines at our ports of entry.

I think that in retrospect everybody is—any fair-minded observer is compelled to acknowledge that that deployment went quite well, not without any hiccups at all—

Ms. JACKSON LEE. Is a contractor in place? Is a design of the type document in place?

Mr. ROSENZWEIG. With respect to the documents going forward as opposed to the technology, a decision on precisely which technology to use has yet to be made. I anticipate that being made in the very near future. And that will allow the Department of State,

who will indeed be the issuing authority, to let the contract for the production of the passport cards.

I should add that, you know, as of today, any American is free to get a passport. We have been doing that for many years. My colleagues at the Department of State know how to do that, and they show great graphs about how millions more are actually applying in anticipation of this.

With respect to the technology deployment at the borders, which is the other side of that, that is a contract that we at DHS will have to let. That, too, has not been let yet, again, because the precise technology decision as to what type of card, what access, what it will read, what it will contain, hasn't been made.

Again, I expect that to be made within a matter of weeks. And I believe that 18 months will be more than enough time to promulgate, propagate that technology out—

Ms. JACKSON LEE. Chairman, may I have an additional 30 seconds so that I can ask Mr. Dow a question, please?

Mr. HOSTETTLER. Without objection.

Ms. JACKSON LEE. Mr. Dow, good words from Homeland Security. I will ask him next, if we gave him more time, would he utilize it.

But on your end, obviously a focus on trade and commerce; some would say not concerned about security. Why don't you respond to that?

Mr. Dow. Our industry, on September 11th, was dropped to its knees in a matter of minutes. Anything that would happen that would have to do with terrorism to our industry would drop it to its knees again. No one is more concerned about security and the safety of our country than our industry. We are the most vulnerable.

And that is why I have thought, once again, your wisdom of the words efficient and secure, because we all know the realities of getting things done. We want security, but we want it done on a timely basis to communicate it and to distribute the cards.

Ms. JACKSON LEE. I appreciate it. Thank you very much.

Mr. Dow. Thank you.

Ms. JACKSON LEE. I yield back.

Mr. HOSTETTLER. The chair recognizes the gentleman from Arizona for purposes of questions.

Mr. FLAKE. I thank the chair, and I thank the chair for scheduling this hearing.

Mr. Rosenzweig, you had mentioned—and I want to hit on this deadline again. You mentioned it is only in Washington that 19 months before a deadline that people think there is a problem. I would submit that because it is Washington, we know that there might be a problem. I think that we have been down this road before plenty of times, and I would like to—I would think that there are some benchmarks that have to be hit as we go along to give us some confidence that we are going to get that deadline, or reach that deadline.

Can you give us that confidence by telling us what measures are being taken now, specifically? Is there procurement going on right now? Is there testing of these machines or readers? Is there a pub-

lic education awareness campaign? We have already heard that that is really not going on.

If these aren't rolled out before we get to that deadline, we are not going to get to that deadline.

And I would like Mr. Dow's comments after I hear yours.

Specifically, procurement, is it under way?

Mr. ROSENZWEIG. As I said in response to Ms. Jackson Lee, the procurement contract has not been let, precisely because the technology has not been chosen.

With respect to testing, that is being done. We have done time and motion studies in order to assess which technologies to choose. I would say that many of the technologies we have chosen, or that we are considering, are fairly common in use today. There has been a suggestion, for example, that we might include a proximity chip in the pass card. If you have traveled on Metro, you have used a proximity chip.

So we are not in this going to propagate technologies that are new. The machine-readable zone is on every passport.

Mr. FLAKE. Understood.

Mr. ROSENZWEIG. So we have been doing that.

On the public education, I guess I would have to respectfully disagree with the assertion there hasn't been. I am serving in an acting capacity. I know that my predecessor has spent days on the road up in the northern tier, educating people as to the coming requirements. I know that the department has put together and will be rolling out within the next month or so a Web site, flyers, public education.

Again, however, many of the implementation there has been awaiting the last, final, precise definition of what is going on, because it makes no sense to tell the public of a coming issue without also telling them precisely what steps they should be taking: "You must go and buy this." And we have to define what "this" is.

And, as I have said, as I participate in this problem, I wish that the meetings that I know are planned in the very near future were just a week ago, so I could answer you better.

Mr. FLAKE. Before I go to Mr. Dow, let me just say, at what point can we expect to hear from you if that deadline is not going to be reached? How long before the deadline?

Because the last thing we want is to see some half-baked effort right near the end where it is a rollout that really isn't a proper rollout. So we want to know long before when that deadline has to be put back until, or what we need to do.

At what point can we expect to hear from you?

Mr. ROSENZWEIG. I don't have a precise date to give you an answer on that, but I would expect that if we hold this hearing 1 year from now, you will be exceedingly comfortable with the progress we have made. And I would expect that if you are not, that would be an appropriate time for us take action.

But, as I said at the start, I have every confidence, given what I know to be entrained, that we are on track to meet the deadline, and that if we are not, there will be ample time for this Congress to act as it sees fit.

Mr. FLAKE. I would just say that there are certain procurement—there are certain time periods that are there in statute that you

have to go through. And so it is going to be obvious at some point. We would just like to know that you know that it is obvious, instead of, you know, coming right up near and doing some half-baked rollout.

Mr. Dow, do you have any comments, sir?

Mr. DOW. Yes. I think you have stated it very well. And with all due respect, the "this" has not been defined. Clearly, the technology has not been defined. The vendor and supplier has not been defined. And we all know the difficulties of communicating this, not only to 14 million Canadian travelers, but to an equal and greater number of U.S. travelers.

So we are talking about—we cannot in days of visits identify and help people understand a change in a process for 30 million visitors. We again support a realistic deadline that we can do all the right things and do this right, rather than half-baked.

Mr. FLAKE. If the gentlemen will indulge for one follow-up question.

Mr. HOSTETTLER. The gentlemen is recognized, without objection.

Mr. FLAKE. There has been some talk with the Real I.D. Act and with driver's licenses, a lot of the same provisions that go into that are going into this program, that there has been some discussion of perhaps maybe having additional requirements with Real I.D. or whatever else, but being able to use the license for U.S. visitors going out and coming back in.

Have you—has there been any discussion within DHS about that?

Mr. ROSENZWEIG. Yes, there has. In this, I am somewhat constrained because to speak too much about what is happening within a regulatory process before it becomes formal risks the process itself. There are many legal limitations.

Speaking at a high level of generality, I can say that that is an attractive option that we would like to consider. It is also, however, one that poses some substantial operational difficulties, not the least of which would be how we would allow—how a State driver's license issuance agency would be enabled to adjudge U.S. citizenship.

Today, the only people who judge U.S. citizenship are the Department of State for purposes of passport issuance and our CIS, our immigration services, for its purposes. The States are not equipped that way. So we would need to work at figuring out how that could happen, and that is by no means an insoluble problem, but it is also by no means a trivial one.

Mr. FLAKE. Let me just state that with Real I.D. we do have some of those concerns to take care of.

Thank you, and I thank the chair.

Mr. HOSTETTLER. Thank the gentleman.

The chair recognizes the gentlelady from California for purposes of question.

Ms. WATERS. Thank you very much, Mr. Chairman. I thank you for holding the hearing.

And I must tell you that I feel a bit of frustration, given we are in the middle of an immigration reform and all of the complications of that and the recent information about terrorists on the northern border in Canada, and an Administration who has made fighting

terrorism its number-one priority, and yet we have two departments, Homeland Security and State Department, that can't seem to get its act together to implement that which has been adopted by the Congress of the United States.

And now we have two senators and others—I guess senators from the northern border side and the southern border side, saying this program must be delayed, that there are too many kinks, that it would be a mess, that it is going to create all kinds of problems at the border.

What can I ask, except—where is the State Department, by the way, Mr. Chairman? Is the State Department here?

I want to hear from Homeland Security and State Department about why you can't get this stuff together. That is all I want to know.

Mr. HOSTETTLER. Well, if the gentlelady would yield, we are limited to the number of witnesses that we have available to us. Mr. Rosenzweig is here from the Department of Homeland Security and can speak to the Department of Homeland Security perspective on that issue, and at a later time, we may be able to have the Department of State here.

But, at this time—and obviously you can make inquiry outside of this Subcommittee hearing, but right now these are the witnesses that we have very ably testifying before us. And Mr. Rosenzweig—

Ms. WATERS. Well, let me ask Mr. Rosenzweig, do you—does Homeland Security and Department of State work together on this issue?

Mr. ROSENZWEIG. I have to say that I am almost literally joined at the hip with Mr. Frank Moss at the Department of State.

Ms. WATERS. How long have the two of you, joined at the hip, been working on—

Mr. ROSENZWEIG. Well, I am relatively new in my current position.

Ms. WATERS. Who was joined at the hip before you?

Mr. ROSENZWEIG. Ms. Elaine Dezenski, who left—

Ms. WATERS. How long were they joined at the hip?

Mr. ROSENZWEIG. They have been joined at the hip since the passage of the Intelligence Reform Terrorism Prevention Act in December of 2004. We began working on this—

Ms. WATERS. Did anybody tell you before you got joined why they could not get it all worked out?

Mr. ROSENZWEIG. I am not sure I understand what they could not—what you are referring to.

Ms. WATERS. Okay, are you familiar with Senator Leahy and his concerns and the amendment that he has introduced for a delay?

Mr. ROSENZWEIG. Yes.

Ms. WATERS. Well, I am concerned about the same thing he is concerned about. Do you understand that?

Mr. ROSENZWEIG. I do.

Ms. WATERS. All right. Then why have you not been able to address the concerns, as clearly identified by Mr. Leahy, that I shouldn't have to repeat to you?

Mr. ROSENZWEIG. Well, the department—the Government, the Administration, has taken no position on the Leahy bill itself. How-

ever, as I have expressed to Congressman Flake and to Congressman Hostettler and to Ms. Congresswoman Jackson Lee, I don't share the same high degree of concern that Senator Leahy and others have that we are not going to meet the statutory deadline.

To the contrary, from my perspective, every day of delay is another day of risk at the northern border. And we are working mightily, as fast as we can, to close the Western hemisphere loophole in conformance with the statutory deadline.

I was asked if I could guarantee that, and, you know, unlike many who would perhaps hazard that guarantee, and I won't, but I have every degree of confidence that we actually have in place the program management, the drafts of the appropriate regulations. We have narrowed the technology questions down to a very few that need to be answered in the next couple of days. And if we hold this hearing again in a year, or even in 6 months, the lack of necessity for an extension will be even more apparent.

Ms. WATERS. So, you would object to any representations that there are going to be border delays, there will be problems implementing this program at the border?

Mr. ROSENZWEIG. On the contrary. I am sure that there will be some delays in the immediate aftermath, as with any new program—

Ms. WATERS. No, train wrecks. Mr. Leahy says a train wreck—

Mr. ROSENZWEIG. I would disagree with that.

Ms. WATERS [continuing]. On the horizon for the northern border and lack of coordination with the Canadian government. So you disagree with all of that?

Mr. ROSENZWEIG. Yes, ma'am. On the contrary, I would say that, when fully implemented, the Western Hemisphere Travel Initiative, with its technological deployment, will actually speed and facilitate cross-border traffic, by allowing our CBP inspectors the ability to more rapidly access information about travelers and thereby reduce the delay times at the border.

I also would dispute the characterization of a lack of coordination with our Canadian colleagues. To the contrary, as recently as this morning I was speaking to them. We at the Department of Homeland Security are in close consultation with them on a regular, ongoing basis.

We have many issues to work through. I would not say that we have reached full agreement with them on everything, by any means. But I would say that, as exemplified by the close coordination that we have had on intelligence and law enforcement matters relating to the recent arrest, that the working relationship we have with our Canadian colleagues is amongst the best I have with any foreign nation.

Ms. WATERS. Okay, all right.

Mr. Chairman, I would request just 30 more seconds to ask about—

Mr. HOSTETTLER. Without objection.

Ms. WATERS [continuing]. The technology difference that you have with—the two of you have. The technology favored by DHS is an open-UHF system that would possibly make our border less secure. In addition, DHS has yet to request a single dollar for the infrastructure required, needed, with whatever card is deployed.

Is there a difference in what kind of technology is going to be used between the two departments?

Mr. ROSENZWEIG. I am aware of public reports of such differences—

Ms. WATERS. No, I don't need you to tell me about the public reports. Is there a difference between the two departments about it?

Mr. ROSENZWEIG. Inasmuch as neither the Department of Homeland Security nor the Department of State has reached a final decision as to which technology either of them supports, there can't be a difference. There have indeed been ongoing discussions between us as to whether or not—

Ms. WATERS. So you have been discussing this since 2004 and there is not a difference?

Mr. ROSENZWEIG. We have been discussing this since 2004 and exchanging ideas as to which of the ones would be most—

Ms. WATERS. And you have not agreed for 2 years on what kind of technology is to be used?

Mr. ROSENZWEIG. We haven't reached a final decision.

Ms. WATERS. Okay, so there is a difference.

Mr. ROSENZWEIG. No, I did not say that.

Ms. WATERS. Oh, I did.

Mr. ROSENZWEIG. Yes.

Ms. WATERS. No, I have concluded that, based on the way you have tried to mince your words. 2004, you have been in discussion for 2 years. You have a difference. You are not able to conclude. That is my conclusion.

Okay, thank you very much, Mr. Chairman.

Mr. HOSTETTLER. The chair recognizes the gentleman from California for purposes of questions.

Mr. BERMAN. Thank you very much, Mr. Chairman.

I thank the panel for being here, and glad to see the Administration doesn't automatically eliminate people from consideration based on who they have associated with in the past.

I had one—there was only one particular area that—I have never been on a cruise. It is one of the few forms of travel I haven't yet taken advantage of. But I didn't know until yesterday that if you go on a cruise to other—where you end up stopping at other countries, you don't need to have a passport to get back in, as long as you have identification, a driver's license, something like that, and that this is going to change based on laws that we have passed.

So, for people who don't have a passport and they want to do these cruises, they are going to have to go get a passport. Apparently, there are some relatively low-priced, relatively short-term cruises for which the cost for a family of four of getting a passport becomes a very substantial percentage of the cost they are paying for the cruise.

And the question I had is, given that this pass card apparently is going to be a passport alternative for land travel, why couldn't that presumably much cheaper pass card be the basis for implementing this in the context of cruises?

Because I do think, and it just seems to me, if you rely simply on some State documents, the potential for somebody joining that cruise in the middle of that cruise, coming back with a phony document, is a hole in the system that should be plugged.

But, balancing all these things, could the pass card be an alternative to the passport for this program?

Mr. ROSENZWEIG. You place me in a difficult position, because I am constrained by the rules relating to ongoing rulemaking from giving you a definitive answer one way or the other as to why or why not a pass card would be acceptable.

I believe I don't trench on those rules by telling you that the pass card alternative, along with other registered traveler-type card alternatives, are being considered in the context of the rulemaking that will accompany the air and sea border. That is not to say that they will necessarily be accepted or not.

But, as part of this, we are going through that analysis of all of the plausible alternatives and trying to determine with some degree of rationality why certain particular ones ought to or ought not to be permitted. That NPRM has not been published in the Federal Register, and if I say too much more I risk a lawsuit.

Mr. BERMAN. Then I am not the first person in Government who has ever suggested that. The possibility of this as an option is being considered by the Administration?

Mr. ROSENZWEIG. Absolutely.

Mr. BERMAN. Okay. I won't—without probing into what are the different factors, and I am a little curious about why something that is okay for a land border crossing wouldn't be okay for a cruise ship re-entry, but unless you have something quick to say on that, I—

Mr. ROSENZWEIG. I will just highlight the factors.

The passport, which is to an ICAO standard, is the gold standard. You know, so in an idealized security world, we might think of passports for all citizens across all borders.

Mr. BERMAN. Right.

Mr. ROSENZWEIG. Plainly, on the northern and southern borders, that creates very great facilitation issues, because the same factors that you have alluded to are, with respect to travelers, and that Mr. Dow has spoken to, exist ramped up to an Nth degree on either border. So what we are trying to assess as we go forward is the tradeoff between that and how much facilitation benefit we get, how much cost we get and how much security risk we are running. That is no automatic formula.

Mr. BERMAN. Great. Okay. I get it. Thank you. Good to see you here.

Mr. ROSENZWEIG. Good to see you.

Mr. HOSTETTLER. The gentleman's time is expired. We will now turn to a second round of questions.

Mr. Harris, on a somewhat related note, in my conversations with Canadian officials since taking over the chair for this Subcommittee, we have had discussions regarding the border situation and the desire for Canadians and, honestly, the U.S., to facilitate efficient, effective travel and commerce.

There have been understandable frustrations voiced on the part of Canadian officials with things that have happened since 9/11. It has gotten a little better, the longer we have gone.

My question is more of a public opinion, public relations question, and that is: Do Canadians understand the extent to which the border situation will most likely change if 9/11 repeats itself and

if that repeat is somehow perceived to be facilitated by the historical nature of Canada's government's dealing with terrorist organizations and citizens?

And I commend the Canadian government for what has most recently happened with the arrests, but is it—it seems that your testimony reflects this disconnect, maybe between the U.S. and the Canadian government, some officials in the Canadian government, as to the profundity of this issue and our approaches to it.

Do Canadian citizens understand the depth to which the United States citizens feel about this issue and the possible consequence, the probable consequence, of a terrorist attack, another terrorist attack, if it should happen in the future?

Mr. HARRIS. Well, Mr. Chairman, I think the short answer is not particularly. Canada and Canadians have tended to be a highly protected species. We have existed under the U.S. defensive umbrella, as it were, for more than a generation certainly, and we haven't tended to view ourselves as being immediately threatened.

We have considered that we are the world's helpful fixer. In a sense, we have been described as the Boy Scout of peacemakers, and we revel in that inclination. And it is very hard for such a people—and this is a difficulty shared by many Western countries—to perceive that they could be the object of a rabid hatred, an irrational hatred.

From that, then, comes an inclination not perhaps to appreciate the nature and scope of the threat we face. Indeed, I have said publicly that I do believe that Canadians are at least a generation behind in understanding that nature and scope.

So that deals, I would say, with the first part of your question, sir.

As regards the understanding of the implications if Canada should have some major adverse terrorist development on its soil, particularly implicating the United States, I don't think that that has been fully digested. It is a process that is beginning. There has been a good deal of talk about this in the light of the arrest of the 17 alleged terrorists in the Toronto area recently. But it is very much a process that is in development.

And it remains to be seen whether the public will be galvanized appropriately enough to move their own government. The auguries, as I noted, with the new government are really rather good, rather promising. But there must be a focus maintained, because there are sources of inertia, not excluding bureaucracy.

Mr. HOSTETTLER. Thank you.

Mr. HARRIS. Thank you.

Mr. HOSTETTLER. Ms. Kephart, the Congress has placed into law requirements that we significantly increase the number of Border Patrol agents in CBP and there has been, as I mentioned in my opening statement, as is obvious, a concentration of emphasis on the southwestern border.

Is it your belief, is it your perspective, with what we have witnessed recently in Canada, that we need to significantly alter our focus not away from the southwestern border, but to include significant discussion about the northern border and a deployment of significant Border Patrol presence on the northern border?

Ms. KEPHART. Thank you, Mr. Chairman. Yes, absolutely, I agree with you. There has been an emphasis since 9/11, like there was pre 9/11, almost wholly on the southwest border. The two borders, northern and southern borders, really represent two different kinds of challenges.

You have over the Southwest the prospect of alien smugglers being used by terrorists to come across the border, but really that is more of an illegal question. South of the border, you certainly have significant terrorist activities, reciprocity with visas that make it very easy for movement that way, but really, in Canada, you have a different kind of issue.

You have second-generation jihadists, as they are called, born and bred in Canada, brought up, part of the 350 that Canadian intelligence talks about now, that are being watched, that have been born and bred there. Therefore, they are citizens, they have access to passports.

Right now, though, they don't need to go through the process to show a passport. So you have got a different kind of problem. Now, if we squeeze on the land borders, there is going to be a problem with the physical borders, which is what you are getting to. Absolutely, the Border Patrol on the north side has always been second tier.

In fact, when I was on the commission, on the 9/11 Commission, one of the simple little math stats I did was I crunched how many border agents there were on the southern border, per mile, versus the northern border, and it has not changed much today. On the southern border, there was one Border Patrol agent every quarter mile. On the northern border, one Border Patrol agent ever 13.5 miles.

That is a pretty big disparity and one that we certainly should consider closing. Hopefully, the Secure Border Initiative will help close some of that gap, but we haven't seen exactly what the Government intends to do with that yet. The procurements are out on that right now.

Mr. HOSTETTLER. Thank you, Ms. Kephart.

The gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you, very much, Mr. Chairman.

Before I pose some questions, I would like to ask unanimous consent to include into the record a statement from Representative Brian Higgins, a statement from Representative Louise Slaughter on the impact of WHTI and a statement from the Business for Economic Security, Tourism and Trade, with the comment that the statement does mention the driver's license reform as in the Real I.D. Act that I would take issue with.

But I ask unanimous consent that these three statements be submitted into the record.

Mr. HOSTETTLER. Without objection.

[The information referred to is available in the Appendix.]

Ms. JACKSON LEE. Let me also applaud Ms. Kephart. I don't have a question, but I do want to say that the more we can talk about both borders, the more effective we will be on securing the homeland.

And I am of the opinion, inasmuch as enhancement penalties from my alien smuggling bill got into, I believe, the results of the

9/11 Commission legislation that was named any number of names. But, in any event, it passed about 2 years. I think that we had followed the 9/11 Commission with the enhancement of the Border Patrol at both borders, today, 2006, we would be far better off than where we were.

So I thank you for your leadership on these issues.

I would offer to say that there is some Achilles heel to the Real I.D. Act or the idea of a national identity card, because in both Canada and the United States, I would offer to say, that if these individuals were citizens who were perpetrating terrorist acts, the card or any kind of situation like that would not be relevant, because they would have identification and they would already be here in the country.

So I think that intelligence has to be the key. We know that the recent fall in terrorists, if you will, that has brought great appreciation to the United States military today, Mr. Chairman, came about through absolute precise intelligence that I think is key to our war on terror.

So I ask that, Mr. Harris, let me pose this question to you about a moratorium on immigration refugee intake until Canada gets a handle on its policies. Of course, you mentioned about funding from Saudi Arabia, I guess of mosques inside of Canada. I don't see where those elements have to do with providing secure documents for travel back and forth, but I would welcome your discourse on that issue.

I do think, again, that we have the obligation, as Mr. Rosenzweig has said, to have the best documents we possibly can have, and we will be scrutinizing any contractors that are falling down on the job. But I would be interested in your comments on that.

I would like to follow up with Mr. Dow, in particular, to give me his assessment on the pass cards as the right model for meeting the WHTI requirements and what we can do to ensure that that card works and, to Mr. Rosenzweig, again, we coming back, but if we gave you an extension, would you welcome it and be able to utilize it in an effective way.

Let me go to Mr. Harris.

Mr. HARRIS. Thank you very much, Congresswoman Jackson Lee. I suppose there are a number of questions implicated in this.

First of all, the issue of a possible immigration and refugee moratorium, One of the most useful things I might do is point to a masterwork on the issue of security inadequacies in Canada, produced by former Canadian ambassador Martin Collacott at the Fraser Institute in British Columbia, Canada. He has done considerable work tying the immigration and refugee and related questions into the larger concern about national security.

I would say that the immigration side presents us with two fundamental and pressing challenges. First of all, the numbers involved, 230,000 people being welcomed by 31 million people each year, and then a refugee that has seen increases from 1977, when there were 500 refugee claimants, to the tens of thousands we welcome each year, these days presents us with some filtering problems that may be insuperable and are very definitely compelling as issues.

Deriving from this is the sheer question of absorptive capacity of the Canadian context. Can we—are we in a position, if not economically, then in broader terms, able to welcome people as they should be welcomed, with full integration?

And this has become difficult, in some respects, because there are, of course, some strains of newcomers from certain parts of the world, narrow strains to be sure, who are not familiar with the liberal, pluralist, tolerant, democratic context that we expect from our country.

And we like to consider ourselves somewhat progressive. Perhaps we have flattered ourselves in that sort of respect. But we would like to keep it that way, if we can, and what we have increasingly seen is that with considerable numbers of people, who may include those who are somewhat radical and intolerant, it is very difficult then to dilute some of those tendencies.

Rather, the opposite can occur. We can see enclaves develop and so on. So there is a risk to the tolerance of Canada, broadly speaking.

Ms. JACKSON LEE. But you don't want to close your doors to legitimate refugees who you have been so gracious in welcoming as they have been fleeing enormous persecution.

Mr. HARRIS. And that is—I am terribly sorry. That is indeed one of the issues, and as Ambassador Collacott has pointed out, that is precisely what we are doing now in the form of absurdly loose interpretations of what a convention refugee is.

Our interpretation in operational terms is so incredibly broad it has virtually nothing to do with what the United States, Britain, France, any number of Western countries would consider a refugee. And, therefore, the tremendous mass and backlog of refugee applicants, claimants— asylum seekers, as we would say in the United States—is quite literally preventing those people in genuine danger, who would genuinely qualify as convention refugees, from making application and getting in.

Mr. HOSTETTLER. The gentelady's time has expired.

Ms. JACKSON LEE. May I just have the two gentlemen answer the two questions quickly?

Mr. HOSTETTLER. We will go to another round of questions, but if we could move on to another question from another questioner, but we will come back and I will have a question myself.

So, the chair recognizes the gentleman from California for purposes of questions.

Mr. LUNGREN. Thank you very much, Mr. Chairman.

This is an important issue, and my previous absence does not reflect a lack of interest in it. It is just we have competing requirements in this House.

Mr. Dow, as I read the testimony, the organizations continue to support the program we are talking about, the Western Hemisphere Travel Initiative, despite what appear to be failures by DHS to prepare for implementation.

What advice would you give or what do you think that Secretary Chertoff should do at this point to get this moving to implementation?

Mr. Dow. Well, you are absolutely right. We totally support this initiative. It is just a matter of the advice we would give is to issue

clear timetables that will not change when we can deliver. That is why we support what Senator Stevens and Leahy have put as a date of June 1st, 2009. We believe that is doable and we think we should do it right.

So I think it is let us get the clarity. Let us get State and Homeland Security to agree on technology and let us put it in with the proper communications, and we think it is the right way to go.

Mr. LUNGREN. I don't want to pick on any particular country, but do you think that the events that we have seen unfold in Canada over the last 10 days would change what you have just said about the date?

Mr. DOW. No, I don't, because the concerns that we have about the date are the reality of getting it done. As was said earlier, this has been legislation for 2 years. We are presently still talking about the technology, about the vendor, about the procurement, and it is the reality.

Mr. LUNGREN. I hate to ask you this question, but my late father, 62 years ago on this date, was preparing to enter Normandy, and as a front-line medical officer later earned a Purple Heart because his medical aid station was so close to the front lines. And I always recall that it took a shorter period of time for us to land on the beaches of Normandy and get to Berlin than it does for us to do a pilot project.

What makes you think that Department of Homeland Security is going to be ready on that date in 2009?

Mr. DOW. I do not know. We believe they will. We have been watching their operations, their intentions, we have just been watching the progress and are putting the reality of the date. I think December 2009 is a reasonable and rational date, and that is what we are asking for, is for some rationale here.

Mr. LUNGREN. I just hope the terrorists decide to wait until that date as well.

Mr. Harris, you have talked about the fact that Canada is now the target of terrorism, a view supported by public statements by Canadian security officials. Are you satisfied Canada has done what it needs to do to increase security measures. In the past, it appeared that many Canadian politicians were opposed to the improved document security required by this program we are talking about there today.

In the aftermath of this most recent plot uncovered in Canada, do you believe that we are going to see an improvement in Canada's homeland security?

Mr. HARRIS. It is an impossibly difficult question to respond to, Congressman, because even as we have seen some gradual improvement—we have seen some money put into the challenge over the last few years since 9/11, to be sure. We seem to see promise of further. We have the new Anti-Terrorism Act brought in and so on.

The problem is that we appear to be presenting ourselves with a near-insuperable challenge in the form of the immigration and refugee situation, which, as I have indicated, now seems to be spinning into home-grown and extended threats.

We are a very, very open country on a number of levels, including psychologically, so we have not been on the alert and we have

not been an effective constituency as a national public for the very kinds of priorities that we should be pursuing.

So, the short answer is, a good deal has been done but it is far from clear that we are anywhere reassuring in the safety we offer our people.

Mr. LUNGREN. I am sorry I wasn't here to hear your testimony earlier, Mr. Rosenzweig, but where are we in DHS with this? I mean, you may have answered this, but just for me, could you tell me where we are?

I am happy with a lot of things that have been done, but I am dissatisfied, as I observe the Congress and the Administration, with the lack of urgency I have seen in the 16 or 17 months or 18 months since I returned to the Congress about really getting serious about some of this stuff.

This was a specific congressionally mandated program, one we think has a basis in fact for creating it, and now we are up against the criticisms of it not being implemented for all these reasons. And so we are in the conundrum of do we give up and say, "Oh, my God, we cannot put this tremendous obstacle to the kind of commerce we want and the travel we want?"

We are not looking to punish those folks, but at the same time, do we just give up and say, well, that was a great idea, Congress, but it is just too tough for us to be able to implement it, so with a lot of your other good ideas, we just put them on the shelf or we postpone them to 2009, or maybe 2010, or 2011 or 2012. What do we do?

Mr. ROSENZWEIG. I share your urgency. Indeed, every day of delay is a dangerous day. I know that some members of the staff have received a classified briefing that can elaborate on that in far greater detail. It is far too early to declare defeat.

I have every expectation that we will hit the deadlines, notwithstanding Mr. Dow's skepticism. We began this process with an advanced notice of proposed rulemaking that was out last year precisely because we understood that it was a complex process, also because we wanted to provide the people who travel and who are going to have to adjust their behaviors the greatest degree of advanced notice of likely changes that will be coming down the pike.

So that is an unusual step, but we took that precisely because it was a complex decision and we achieved that. We will have a decision on precisely which technologies we are going to be deploying within a matter of weeks, I anticipate. We are going to then be in a position to go forward with the procurements that are necessary.

We are going to have fielded a notice of proposed rulemaking on the air and sea portions of this, as we have discussed, in more than enough time to have the final rule issued before the currently scheduled implementation date of January 1, 2007.

We are going to then turn to the more interesting and difficult and, candidly, challenging, problem of defining exactly what requirements we are going to have to put in place on the land borders, where more than a million people transit each day. And we are going to hit that mark as well.

I said earlier that a good checkup in 6 months or a year from now, or both, would I think verify that. And if we don't hit those marks, you will rightly be in a position to look at us and ask us

if we really can make the great. But, at this point, 19 months in advance of the statutory implementation date, to say that we can't go from where we are, which is a great deal of the way, to the final resolution in that time frame, is just a premature declaration of inadequacy.

Mr. LUNGREN. I thank the Chairman for his indulgence.

I would just say that I would much rather have a hearing 19 months prior than what we have often done with some of the marks on DHS, which is 19 months after and being told that we still can't hit that mark.

Thank you, Mr. Chairman.

Mr. HOSTETTLER. Thank the gentleman. Point well taken.

I have just one more question.

Mr. Harris, our 5-minute requirement for opening statements, I cut you short, and I noticed at the conclusion of your written testimony, you offer some solutions with regard to the Canadian government to deal with this issue that we are talking about in general, and terrorism and its effect on Canada and its neighbors.

Would you take the time to elaborate on those recommendations?

Mr. HARRIS. Yes, thank you, Chairman Hostettler.

I said that, in my own view, if the new Conservative government is promising, as it does appear to be, is sincere in coming to grips with the dire problem we now have in Canada, it will do several of the following. First of all, consider a moratorium on immigration and refugee intake until we get a handle on our policies and processes for mitigating related security risks.

Second, provide appropriate resources and training to the police and security and intelligence community, including reliable travel document and other identification systems. And, third, develop the wherewithal to effectively eliminate the risk of Islamic extremists and their sympathizers surfacing in strategic positions within the machinery of the government of Canada and within our police, security and intelligence forces.

Also, bring an end to government and especially police and security organizations' outreach with Canadian Arab or Islamic representative groups where there is an inappropriate refusal on their part to condemn by name Hezbollah, Palestinian Islamic Jihad and similar supremacist terrorist organizations.

I would also call, fifth, for the elimination of Saudi Arabian funding of mosques, academic and other institutions. And then finally, without fear or favor, the government should, without political correctness, either, tell it like it is to Canadians about terrorism and its sources. If the government can meet these requirements of a report card, if you will, I think we will be doing extremely well.

If I might just finish, Mr. Chairman, by saying that with regard to the possibilities of extension, as a Canadian, I am acutely aware of the potential damage that any kind of early imposition of some of the contemplated arrangements might make. Canadians rely quite desperately for trade with the U.S., naturally enough.

However, as they always told us in law school, you have got to go back to first principles. We are in a life and death struggle and we are in a race against time, as the evidence of recent arrests might suggest. I would therefore respectfully suggest that it is pre-

cipitous at this time to think too seriously about granting an extension.

Thank you.

Mr. HOSTETTLER. Thank you, Mr. Harris. Sound advice, not only for Canada, but to the extent that other nations have not taken your advice, we should do it as well.

The chair recognizes the gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Mr. Rosenzweig, might I pointedly ask the question again, if we were give you a gift of an extension, would that help the Department of Homeland Security in making sure that the process and technology were hand in glove? Because, listening to Mr. Harris and the burdens that he believe Canada now faces, we should not ignore it.

I don't know whether we can entertain the reform of Canadian immigration laws in this committee, but I do expect being on notice of their concerns, we have to be diligent for the northern and southern border. And I might add that, again, I will agree with Ms. Kephart, and I am not asking you questions for any other reasons other than you have laid out, certainly, a very, very strong argument for bringing back the 9/11 Commission and having them be our continued partner.

But the time frame, would that be helpful to you?

And, Mr. Dow, you were going to comment on the pass document. And I don't consider you an immigration, if you will, specialist, but you do have travel and commerce on the northern border. You might comment on the concerns of Mr. Harris, just as you heard them here today, because I think it is important that the travel industry should not be labeled as not having concerns, but that you are looking for a way that we can facilitate our security with the slow ingress and egress of people and trade.

But, Mr. Rosenzweig, your willingness, if someone was to give an extension on this 2007, 2008 date?

Mr. ROSENZWEIG. If Congress were to pass an extension, my goal would be not to use it. Every day of delay is a day of danger. That isn't a prediction, but Congress has in its wisdom moved to close this loophole very good and sufficient reasons, so well laid out by the 9/11 Commission, and we are working as fast as we can to close it as rapidly as possible. And our intention would be to promulgate rules and technology that close it on the first day we are capable of that.

Ms. JACKSON LEE. I like that answer, because you have said keep the pressure on, if we provide that extension, it will be of absolute necessity and crisis.

Mr. Dow, quickly, as I understand the hearing is coming to a close. Mr. Dow, thank you very much for your testimony.

Mr. DOW. Well, thank you for your support of this industry. I know how important it is for Texas. I support just what this gentleman has said. We want to see this done correct and right and we believe the timing will be there.

We do support a pass card, an alternative, cheaper document that is secure and has all the parameters of what a passport would have. So we support that, we think it is the right thing to do. We just think the timing for the machinery that has to be put in place, the technology and the issuance and the distribution, if Mr.

Rosenzweig delivers early, that is terrific, it gives us the time to get the communications out that are critical.

Ms. JACKSON LEE. Thank you.

And, Mr. Harris, thank you.

I assume that you want to make sure that we are safe on both sides of the border, Mr. Dow, as we travel back and forth.

Mr. DOW. It goes without saying, one incident will destroy our industry.

Ms. JACKSON LEE. Thank you.

I yield back. Thank you.

Mr. HOSTETTLER. Thank the gentlelady.

I want to thank our panel of witnesses for appearing today, for enduring and your contribution to the record on this very important issue.

All Members will be given 5 legislative days to make additions to the record.

The business before the Subcommittee being completed, without objection, we are adjourned.

[Whereupon, at 1:40 p.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS, AND RANKING MEMBER, SUBCOMMITTEE
ON IMMIGRATION, BORDER SECURITY, AND CLAIMS

The Immigration and Nationality Act (INA) requires all U.S. citizens to bear a valid passport when entering and departing the United States, but it gives the President the authority to make exceptions. This authority has been used to waive the passport requirement for U.S. citizens traveling between the United States and any country, territory, or island adjacent thereto, in North, South, or Central America, excluding Cuba.

Exceptions also have been made to the INA passport requirements that apply to nonimmigrant aliens seeking temporary admission to the United States. For example, Canadian citizens, British subjects from Bermuda, Mexican citizens using Laser Visas, and certain aliens from other islands may enter the United States without presenting a passport.

The 9/11 Commission recommended eliminating the Western Hemisphere Exception for security reasons. I do not think it is necessary to eliminate the exception, but we do need to enhance the security of the documents that are used as alternatives to passports. This is illustrated by an oversight hearing we had three years ago on "John Allen Muhammad, Document Fraud, and the Western Hemisphere Passport Exception." In addition to being a sniper, Muhammad made and sold fraudulent documents for entering the United States as a U.S. citizen. He was able to make U.S. drivers' licenses and corresponding birth certificates in his home with a computer, a scanner, a template for the driver's license and for the birth certificate, a photograph, and a laminating machine.

The need for more secure alternatives to passports was addressed by the Intelligence Reform and Terrorism Prevention Act of 2004. Section 7209 of this Act established the Western Hemisphere Travel Initiative (WHTI), which requires the Department of Homeland Security (DHS), in consultation with the Department of State (DOS), to develop and implement a plan to require a passport or other document, or combination of documents, deemed to be sufficient to establish identity and citizenship status for all travelers entering the United States. The deadline for fully implementing the WHTI is January 1, 2008.

On September 1, 2005, DHS and DOS submitted a proposal to implement section 7209 in two phases. On December 31, 2006, it will be applied to all air and sea travel to or from Canada, Mexico, Central and South America, the Caribbean, and Bermuda. Then, on December 31, 2007, it will be extended to all land border crossings as well as air and sea travel.

Section 7209 also includes provisions to expedite the admission of frequent travelers by establishing a registered traveler program. On January 17, 2006, DHS and DOS announced plans to implement a new registered traveler program by the end of the year that will be known as the "People Access Security Service" (PASS) system. It will utilize a wallet-sized identification card known as the "PASS-card" that will have a biometric identifier.

I am concerned about whether the current WHTI deadlines of January 1, 2007, for air and sea travel, and December 31, 2007, for all other travel, provide DHS and DOS with enough time to implement the Initiative properly. Whatever technology is chosen, designing, developing, testing, and evaluating the card and reader system will take time. And, when a card and related equipment are deemed suitable, DHS and DOS will need to develop and implement operating procedures and policies to issue and inspect the cards.

I also am concerned about the impact that the WHTI might have on tourism and trade in the United States. It is difficult to predict what that impact might be. Many

frequent travelers already have passports, and no one knows how citizens without passports will react to the new requirements. DHS is in the early stages of studying costs and benefits, but much more work is needed.

It is apparent that permitting people to enter the United States as American citizens on the basis of drivers' licenses and birth certificates does not provide an acceptable level of security. WHTI would require and make available more secure documents, but this Initiative needs to be implemented properly, which includes taking care to secure the border without unduly delaying or discouraging people from traveling between the United States and the other Western Hemisphere countries.

Thank you.

PREPARED STATEMENT OF THE HONORABLE LOUISE M. SLAUGHTER, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman and Ranking Member Jackson Lee, I commend the Judiciary Committee's Subcommittee on Immigration, Border Security, and Claims for holding an oversight hearing on the Western Hemisphere Travel Initiative (WHTI). WHTI is of critical concern to the district I represent, and is quickly surpassing softwood lumber as the top issue in U.S.-Canada relations.

WHTI should not be viewed in a vacuum; it is essential that Congress understand the long-standing ties between the U.S. and Canada. The two countries are bound by shared values, culture, history, and geography. My constituents do not think of Canada as another country, but as one community closely intertwined. A constituent of mine likened it to crossing the Potomac River from D.C. into Northern Virginia.

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 5.2 million jobs and generates tens of billions of dollars in annual revenue. Western New York includes five bi-national bridges, including the Peace Bridge in Buffalo, which is the nation's second busiest border crossing. \$160 million in trade and 20,000 vehicles cross the Peace Bridge each day.

In addition to its importance to international trade, the Niagara frontier is a gateway for millions of tourists every year. Tourism is the fastest growing industry in Buffalo-Niagara. Our economy is heavily dependent on Canadian visits to our sporting events, cultural institutions, and local wineries. A loss of just a fraction of Canadian visitors to Buffalo-Niagara would cripple an already fragile Western New York economy.

Therefore, our border security policies must take into account that the northern border is a vital conduit for travel and trade. Let me make it clear that I support the intent of WHTI. In the post 9/11 world, it is imperative that we know that those entering our country are who they say they are, mean us no harm, and have the secure documents to prove it. But there are ways to implement WHTI that are smart and secure, and make certain that our border remains open for business.

Regrettably, I am convinced that the Department of Homeland Security (DHS) and the Department of State's (State) proposed plans for WHTI will unintentionally close our borders and be economically disastrous for the U.S. economy.

While we still have more questions than answers at this point, it is clear that DHS and State's proposed WHTI regulations fail to appreciate the close cultural and economic ties between the U.S. and Canada. Further, the Bush administration's vision for WHTI ignores recommendations of the 9/11 Commission and key provisions of the Intelligence Reform and Terrorism Prevention Act of 2004. Consequently, WHTI does not effectively improve our border security and will severely curb legitimate trade and travel. The reasons are twofold: first, the documents DHS and State want to require cross-border travelers to carry are prohibitively expensive, take weeks to obtain, and do nothing to help Canadian visitors travel to the U.S.. Secondly, DHS and State are failing to improve programs that expedite low-risk travelers through the inspections process—a cornerstone of the 9/11 Commission's border security recommendations.

I first will address the problems with the documents that DHS and State want travelers to carry. DHS and State continue to insist that U.S. travelers will need to show a passport or an alternative yet-to-be-defined travel card—dubbed the People Access Security and Service (PASS) card—to re-enter the country from Canada. I understand from DHS and State that the development of the PASS card is an attempt to give travelers a low-cost alternative to a passport. However, the agencies expect that the card will still cost around \$55 dollars and take 4–6 weeks to obtain.

My constituents have made it clear that \$55 is too high a cost for travel into Canada. We cannot expect a family of four on a tight budget to spend over \$200 to cross into Canada for a day-trip. In addition, we know that families decide to visit Niag-

ara Falls, on average, 14 days before a trip. Yet the PASS card will still take 4–6 weeks to obtain, meaning that tourists and spontaneous travelers will stay home or vacation elsewhere.

But do not take my word on it. According to a Zogby International poll commissioned by the Business for Economic Security, Tourism & Trade Coalition, only 30 percent of Americans are willing to pay more than \$25 dollars for a card that will only be good for travel to Canada or Mexico. Put another way, 80 percent of U.S. northern border residents have signaled that they will not buy a new \$55 dollar card to simply travel into Canada.

The PASS card is an unrealistic option for border residents and tourists because of its costs, limited utility, and long application process. While DHS continues to insist that the U.S. is working with Canada in unison to develop the PASS card, the Canadian government has publicly stated that they have no plans to reciprocate the card for their residents.

I was in Ottawa yesterday to testify on WHTI before the Standing Senate Committee on Banking, Trade and Commerce. I met with Public Safety Minister Stockwell Day, Canadian Ambassador to the U.S., Michael Wilson, and a group of Canadian Senators and Members of Parliament. In each of these meetings, officials made it clear that they have no intention of creating a PASS card for their residents. In fact, Prime Minister Harper publicly declared last week that Canada will not reciprocate with a PASS card at this time.

I cannot blame Canada for its reluctance to join us in this endeavor because DHS and State continue to disagree on the technical specifications of the PASS card. DHS prefers that the PASS card be embedded with one type of radio-frequency technology (RFID), while State is pushing for the technology currently included in e-passports. Complicating matters is the fact that a subcommittee within DHS' Privacy Office just released a draft report critical of DHS' push to put RFID technology in the PASS card. The subcommittee writes, "RFID appears to offer little benefit when compared to the consequences it brings for privacy and data integrity. Instead, it increases risks to personal privacy and security, with no commensurate benefit for performance or national security." The subcommittee concludes, ". . . we recommend that RFID be disfavored for identifying and tracking human beings." These interagency disputes on the PASS card must be reconciled before we can credibly expect Canada to follow our lead by creating their own card.

In sum, DHS and State are moving forward with two documentary options—a passport and the PASS card—that American and Canadian residents have made clear they will not purchase or cannot obtain. This should be a wake-up call to DHS, State and to Congress.

The 9/11 Commission and Congress certainly did not intend for new documentary requirements to bring international travel and commerce to a halt. In fact, their report noted that, "[o]ur border screening system should check people efficiently and welcome friends. Admitting large numbers of students, scholars, businesspeople, and tourists fuels our economy, cultural vitality, and political reach."

The 9/11 Commission understood the importance of border policies that improve both our homeland security and economic security. DHS and State need to follow suit by developing alternative documents that are low-cost, easily obtainable, and do so in formal consultation with the Canadian government.

However, documentation concerns are not the only problems with WHTI. DHS and State are also ignoring key provisions in the Intelligence Reform and Terrorism Prevention Act of 2004 that were designed to expedite the border inspections process for low-risk and frequent travelers.

The 9/11 Commission urged Congress to improve programs for frequent travelers. They noted, "[p]rograms to speed known travelers should be a higher priority, permitting inspectors to focus on greater risks. The daily commuter should not be subject to the same measures as first-time travelers. An individual shall be able to preenroll, with his or her identity verified in passage."

Accordingly, Congress included a number of provisions in the Intelligence Reform bill that stressed the importance of frequent traveler programs. Section 7208 (k) of the bill reads, in part, "the process of expediting known travelers across the borders of the United States can permit inspectors to better focus on identifying terrorists attempting to enter the United State."

Expansion of existing frequent traveler programs should be an easy and important step forward in ensuring that we have a smart and secure northern border. For example, the NEXUS and FAST programs are joint ventures between the U.S. and Canadian governments, and are designed to simplify border crossings for pre-approved, low-risk travelers and commercial truck drivers. Applicants undergo a federal background check more stringent than the checks for a passport, and must complete an in-person interview with a Customs and Border Patrol (CBP) officer.

Accepted travelers get access to expedited border crossing lanes, and do not have to stop to be inspected. The NEXUS and FAST programs help frequent travelers and truckers get across the border quickly, while allowing our border inspectors to use their limited resources to better inspect high-risk travelers.

While DHS continues to insist that the expansion of NEXUS and FAST is a priority, the fact remains that a number of problems have kept the programs from being effective.

First, NEXUS and FAST are only available at a small number of border crossings; 11 for the NEXUS program and 10 for the FAST program.

Secondly, NEXUS and FAST have a cumbersome application process. Applicants must travel to an enrollment center for an in-person interview with a CBP officer, but there are only a handful of enrollment centers spread out across the northern border. In Buffalo, an applicant must travel to Canada just to apply. The Niagara Falls Bridge Commission has offered space for a center, but CBP continues to resist opening more facilities. The application fee of \$50, like the proposed PASS card fee, is prohibitively expensive for many applicants, and has been credited by my local Chambers of Commerce with keeping enrollment in the NEXUS and FAST programs unacceptably low.

DHS has also been reluctant to market NEXUS in the U.S., and efforts by the private sector to market NEXUS have been met with resistance. For instance, the Buffalo and Fort Erie Public Bridge Authority installed signs advising drivers to ask for a NEXUS application at the inspection booth, but the CBP agents would not hand them out.

Finally, the timeframe that NEXUS and FAST lanes are open needs to be extended. NEXUS lanes are not open 24 hours and in some instances are not available until 11 AM, making the NEXUS card all but useless for daily commuters.

DHS has yet to address any of these issues, and has not requested adequate funding in the FY 2007 budget to expand the programs. Further, DHS refuses to even acknowledge that NEXUS and FAST will be acceptable under WHTI. Not only has DHS declined my requests to confirm that these programs will be acceptable alternatives, they have also refused to give Canadian officials any assurances that NEXUS and FAST will continue to be viable options for their citizens as well.

According to the State Department, 48 percent of the annual northern border crossings are made by just 400,000 people. These are the frequent travelers that DHS and State need to get enrolled in frequent traveler programs. Yet NEXUS enrollment currently stands at just 75,000. Even worse, CBP expects to only enroll 50,000 more individuals in the NEXUS program through 2011.

Congress must insist that DHS follow through with the Intelligence Reform bill's mandate to expand the NEXUS and FAST programs. The barriers for entry must be reduced so that NEXUS and FAST are as synonymous with cross-border travel as E-ZPass is with thruway travel.

Last year, the House accepted an amendment I offered to H.R. 1817, the Fiscal Year 2006 Homeland Security Authorization bill, that streamlined the NEXUS and FAST application process, merged the NEXUS highway and NEXUS Air programs, and encouraged greater public outreach for the programs. But more must be done if NEXUS and FAST are to reach their full potential imagined by the 9/11 Commission. For these reasons, I have introduced H.R. 5286, the Secure Traveler Improvement Act of 2006. My legislation breaks down the barriers of enrollment for frequent traveler programs, and expands NEXUS and FAST across the northern border. Key provisions include:

- Sets the price of a NEXUS/FAST card at \$20 and waives the first-time renewal fee.
- Requires that NEXUS/FAST be acceptable documents under the Western Hemisphere Travel Initiative, as well as acceptable for re-entry into the U.S. at any border crossing.
- Requires NEXUS/FAST technology to be installed at additional crossings in North Dakota, Michigan, New York, Montana and Minnesota.
- Establishes a minimum of six new enrollment centers across the northern border, and creates new mobile enrollment centers that will sign up applicants in low-participation areas.
- Harmonizes the enrollment and security requirements for NEXUS and FAST.
- Creates an online-application process and requires DHS to carry out a public awareness campaign.

I hope that members of this Committee will support H.R. 5286. The bill was developed in close consultation with the CAN/AM Border Trade Alliance and has been

endorsed by the American Society of Travel Agents and the Binational Tourism Alliance.

We are not alone in our calls for comprehensive changes to WHTI. Former 9/11 Commissioner, Senator Slade Gorton, denounced DHS and State's WHTI plans last week. In his testimony in front of the Senate International Relations' Subcommittee on International Operations and Terrorism, Senator Gorton concluded that, "[u]ltimately both sides of the border stand to lose by current plans to implement the Western Hemisphere Travel Initiative."

Senator Gorton also confirmed that DHS and State are not properly implementing the Intelligence bill's provisions and calls into question the security benefits of WHTI. He recommends that "[g]reater emphasis [must] be placed on securing the Western Hemisphere perimeter and weeding out troublemakers . . . we cannot afford to inconvenience and deter innocent visitors to our country because we suffer from a case of mono-vision."

A 9/11 Commissioner is not the only authoritative voice troubled with WHTI. At my request, the Government Accountability Office (GAO) has been tracking implementation of WHTI since January 2006. On 25 May they established in a letter to me that DHS and State face significant problems in developing a workable WHTI plan.

GAO wrote, "[a]chieving the intended security benefits of the Travel Initiative by the statutory milestone date, without simply requiring all travelers to carry a passport, appears in jeopardy, given the volume of work that remains." GAO observes that DHS and State have made very few programmatic decisions and did not request WHTI-related funds in the FY 2007 budget. More alarming is that GAO believes DHS has yet to reach a common understanding of how WHTI links to the overall strategy of securing our borders.

It should be of great concern to all of my colleagues that DHS and State are pursuing a deeply flawed WHTI plan. Congress must step-in and insist that DHS and State change course, otherwise our border security will remain weak and the U.S. economy will suffer the consequences.

The challenge becomes how best to secure our northern border while appreciating the important cultural and economic ties between the U.S. and Canada.

I have a few ideas that I think answer this challenge and improves WHTI. They are wrapped into legislation I introduced this week with Congressman John McHugh called the Protecting American Commerce and Travel Act (PACT Act).

The PACT Act has two parts. The first extends the WHTI deadline from January 2008 to September 2009. An extension will give the U.S. government the time necessary to implement smart and secure border policies. GAO has made clear that the 2008 deadline will not likely be met; it is now up to Congress to send DHS and State back to the drawing board with specific instructions. In that regard, the second part of the PACT Act is designed to ensure that any alternatives to a passport are secure, low-cost and easily obtainable, and that these alternatives are worked out together by the U.S. and Canadian governments.

First, the extension. As you are likely aware, the Senate adopted an amendment to their immigration bill that extends the deadline until June 2009. My bill echo's this extension but moves the deadline until September 2009. While the Senate agreed on June 2009, I do not think it makes a whole lot of sense to implement new crossing requirements in the middle of the summer tourist season.

Just as importantly as an extension, I believe it is imperative that Congress gives DHS and State concrete expectations for the implementation of WHTI. An extended deadline does little on its own to get WHTI "right." It could just be more time for the agencies to drag their feet as communities on both sides of the border guess about when and if WHTI will go into effect.

For these reasons, the PACT Act lays out a series of qualifications and benchmarks that DHS and State must meet in implementing WHTI. It also requires that DHS formally work with the Canadian government to develop alternatives suitable for residents of both countries.

First, the PACT Act requires DHS to evaluate existing documents—such as driver's licenses—and determine the feasibility of improving these documents so that they might work under WHTI. My bill conditions implementation of WHTI on DHS developing standards for securing driver's licenses with the necessary security features to be adequate to cross the border. We should not waste taxpayers money and create new cards if small fixes to a document most folks in the U.S. already have—a driver's license—will work just fine.

If DHS and State are serious about the PASS card, then they must understand that the card will only be an attractive option if it is inexpensive and easy to obtain. My legislation sets the cost of the PASS card at no more than \$20 and requires that

an applicant receive the card within 10 business days of mailing in their application.

This legislation also encompasses the provisions in my Secure Traveler Improvement Act. More broadly, NEXUS and FAST provide a model for how the U.S. and Canada can work together to achieve stronger security while facilitating low-risk trade and travel. With all that is at stake for our border economies, both governments should use the NEXUS and FAST programs as a blueprint for formally working together on WHTI.

In addition, the PACT Act requires DHS and State to develop a plan to re-admit into the country U.S. travelers who do not possess a passport or an acceptable alternative document. This provision will allow a spontaneous traveler—such as Aunt Tilly from Kansas—the ability to drive over to Niagara Falls, Ontario for a couple of hours before heading back to Kansas, without having to go to the expense of purchasing a new document.

Finally, the PACT Act requires DHS and State to complete a cost-benefit analysis of their final WHTI plan before implementation. A cost-benefit analysis will help DHS evaluate secure and cost-effective options for implementing WHTI, while avoiding adverse effects on legitimate travel and trade with Canada. This analysis will have to prove that the benefits of WHTI outweigh the costs to commerce and travel. This is a high threshold for DHS and State to meet, but is an analysis that is required by Executive Order 12866.

These are just a few key features of the PACT Act. It is a bipartisan effort to bring common-sense solutions to this critical problem. I hope my legislation will be useful to this Committee in its evaluation of WHTI.

In closing, Congress faces a critical decision. We cannot allow the current WHTI proposal to unnecessarily destroy the economic and cultural ties between the U.S. and Canada. If we do not move to fix it, DHS and State will continue down this course that will be disastrous for both countries. We can simultaneously achieve both strong border security and economic security with Canada, but only if Congress acts soon.

Again, thank you Mr. Chairman and Ranking Member Jackson Lee for holding this hearing. I look forward to working with you on this important issue.

LETTER FROM COREY P. SAYLOR, GOVERNMENT AFFAIRS DIRECTOR, COUNCIL ON
AMERICAN ISLAMIC RELATIONS (CAIR)

In the name of God, the Compassionate, the Merciful

CAIR

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June 12, 2006

Hon. Sheila Jackson-Lee
Rayburn House Office Building
Washington, D.C. 20515-1408

Dear Representative Jackson-Lee:

I am writing to express my outrage at remarks made about the Council on American-Islamic Relations (CAIR) and the Council on American-Islamic Relations-Canada (CAIR-CAN) on Thursday, June 8, 2006 during the Subcommittee on Immigration, Border Security, and Claims hearing titled "The Need to Implement WHTI to Protect U.S. Homeland Security." I hope that after reading our refutation of Mr. Harris' remarks, you will take action to either remove his baseless allegations from the hearing's record or enter this letter to balance the record.

In his remarks, Mr. David B. Harris, Director of the International and Terrorist Intelligence Program, referred to CAIR-CAN as "questionable" and CAIR as "controversial." Mr. Harris then went on to allege that we have "alienated moderate Muslims" with "unreliable statistics" and "breathless allegations of anti-Muslim behaviour."

The myths that Mr. Harris presents can be easily refuted without even going beyond our activities in 2006, and I appreciate the opportunity to highlight for you the good work of both CAIR and CAIR-CAN.

Myth #1: Harris asserts that the Canadian Council on American-Islamic Relations (CAIR-CAN) and the Washington-based Council on American Islamic Relations (CAIR) are "questionable" and "controversial."

Facts About CAIR:

- A representative of CAIR-CAN met with Canadian Prime Minister Stephen Harper on June 11, 2006. This meeting was subsequent to a press conference held by CAIR-CAN discussing youth extremism and how the Canadian government and law enforcement officials can support Muslim and Arab communities in dealing with the issue.¹ This press conference took place at the same time as Thursday's hearing.
- As recently as May, 2006 the Canadian Security Intelligence Service (CSIS), Mr. Harris' former employer, invited CAIR-CAN's former Chair, Dr. Sheema Khan, to give a lecture to its personnel on the experience of Canadian Muslims after 9/11.²

¹ See CAIR-CAN: "Canadian Muslim, Arab Groups to Seek Summit on Extremism"
<http://www.cair.com/default.asp?Page=articleView&id=2176&theType=NR>

² See "Former CAIR-CAN Chair Speaks to Canadian Security Agency"
<http://www.cair.com/default.asp?Page=articleView&id=2147&theType=NR>

In 2006 CAIR has met with numerous organizations and individuals that would not associate themselves with the organization were it as Mr. Harris alleges:

- Our National Legal Director met with Supreme Court Chief Justice John Roberts.
- Several of our staff met with FBI Deputy Director John Pistole.
- A CAIR Board Member addressed more than 1,000 cadets, staff and faculty at the U.S. Military Academy at West Point, NY.
- We offered religious and cultural sensitivity training about Islam and Muslims to soon to be deployed military personnel at the Marine Corps Air Station Yuma and at the Marine Corps University in Quantico, VA.
- CAIR representatives have participated in meetings with FBI and DOJ officials in at least California, Ohio and Idaho.

CAIR promotes volunteerism among Muslims through its Muslims CARE campaign and gives away free educational material about Islam to help foster understanding. In the wake of the publication in Denmark of cartoons insulting Prophet Muhammad, CAIR condemned both the cartoons and the violent reaction overseas. CAIR then organized numerous interfaith events in the US and Canada to foster tolerance and understanding.

Myth #2: Harris asserts that "...organizations like..." CAIR and CAIR-CAN "...have alienated many moderate Muslims with unreliable statistics and breathless allegations of anti-Muslim behavior."

Facts About CAIR:

The results of our statistical research parallels that of other reputable organizations:

- The results of CAIR's "American Public Opinion About Islam and Muslims," released in March, 2006, are not significantly different from those in a similar Washington Post and ABC News poll released at the same time.³

Citing only a partial list from 2006, our "breathless allegations of anti-Muslim behavior" have involved:

- Raising concerns about bullets being fired into a Maryland mosque; vandals torching the van of a Douglasville, Ga., Muslim family and spray-painting "Killers Go Home!" on a wall of their home; pipe bombs exploding in front of a Cincinnati mosque; and calling for increased efforts to promote racial and religious tolerance following a recent assault on a female Muslim student at Baylor University.
- Joining a federal lawsuit challenging the constitutionality of a secret National Security Agency (NSA) surveillance program that targeted American citizens without court authorization.

The actual substance of our work results in the recognition and appreciation of the larger non-Muslim community:

- Our St. Louis chapter received a 2006 "What's Right with the Region" award from FOCUS, an organization that honors individuals and organizations who make the St. Louis area a better place to live.

³ See "Two New Polls Show Negative Image of Islam in the US"
<http://www.cair-net.org/default.asp?Page=articleView&id=2047&theType=NR>

- Hamza El-Nakhal, president of the Sacramento Valley office of the Council on American Islamic Relations (CAIR-SV) received the 2006 University of California, Davis Chancellor's Award for Community and Diversity. El-Nakhal received the award for proactively reaching out to the community through various interfaith dialogue, community and diversity promoting efforts.

Myth #3: Harris asserts that we have "apparently embarked on a charm offensive" and that we do not adequately condemn terrorism.

Facts About CAIR

CAIR and CAIR-CAN have not only condemned terrorism and other acts of extremism, the groups take steps to combat extremism in all its forms. As noted above, CAIR-CAN has just called for a Canadian summit on extremism.

In 2006 CAIR has condemned an attack on Egyptian resort, burnings of Nigerian churches, vandalism of a Chicago synagogue, an attack on a Shia procession in Pakistan and an Iranian Cartoon Contest that threatened to make light of the Holocaust. Our "Not in the Name of Islam" online petition against extremism has more than 600,000 signatures. Last year, we coordinated a fatwa, religious ruling, against terrorism.

In even a brief survey of our website you will find dozens CAIR statements of condemning suicide bombings by Hamas and other acts of terrorism.

For example, after the heinous Passover massacre on March 20, 2002, CAIR immediately issued a press release entitled "CAIR condemns attacks on civilians" which emphasized that, "... This attack is of particular concern coming as it did during a religious observance in which the focus is remembrance of God.."

More recently, you will find is more categorical condemnations, including our decriing the bombing and assassination of Shi'ite cleric Ayatollah Mohammed Baqir al-Hakim. In the statement, CAIR said in unequivocal terms: "This unspeakable crime could only have been perpetrated by those who have no regard for moral or religious values."

We are deeply offended that Mr. Harris sought to use a congressional platform as a means to grind a personal ax: he has been sued by CAIR-CAN.

Mr. Harris speaks as if our community has not been victimized by terrorists. Muslims are among the primary victims of the terror attacks of the last few years.

- Terror attacks in Iraq routinely claim Muslim victims.
- There have been a string of terror attacks in Egypt's Sinai Peninsula over the past 18 months. Many of the victims were Muslims
- Many of the innocent bystanders who died in the 1998 Al-Qaeda attacks on the US Embassies in Kenya and Tanzania were Muslims.
- Famed filmmaker Mustapha Akkad was killed in a terror attack in Jordan that targeted a wedding party; at least 18 people were killed in that attack.
- Section 102 of the USA PATRIOT Act acknowledges the contributions of American Muslims and condemns acts of violence against the community. The section also praises the sacrifice of "Mohammed Salman Hamdani, a 23-year-old New Yorker of Pakistani descent," who died trying to save others at the World Trade Center. In 2005, the remains

of two more American Muslim victims of the 9/11 attacks were returned to their Virginia-based families.

CAIR, America's largest Muslim civil liberties group, has 32 offices, chapters and affiliates nationwide and in Canada. Its mission is to enhance the understanding of Islam, encourage dialogue, protect civil liberties, empower American Muslims, and build coalitions that promote justice and mutual understanding.

I look forward to hearing from you in the near future on this issue.

Sincerely,

Corey P. Saylor
Government Affairs Director

Cc: Members of the Immigration, Border Security and Claims Subcommittee

PREPARED STATEMENT OF BUSINESS FOR ECONOMIC SECURITY,
TOURISM & TRADE (BESTT)



**Written Testimony for the Immigration, Border Security and Claims Subcommittee
of the House Committee on the Judiciary**

**Regarding the Oversight Hearing on "The Need to Implement WHTI to Protect
U.S. Homeland Security"**

**By
BESTT Coalition
June 8, 2006**

BESTT Coalition, co-chaired by the Detroit Regional Chamber, the Buffalo Niagara Partnership and the Bellingham/Whatcom (WA) Chamber, is a northern border coalition comprising some 100 businesses, chambers of commerce, associations, government entities and others representing 10 states and 5 provinces in the U.S. and Canada. BESTT seeks smart implementation of the Western Hemisphere Travel Initiative.

U.S./Canada Tourism and Trade Relationship

The United States and Canada share the largest trading relationship in the world. This relationship is felt not only along the 5,500 mile long border region, where 55 millions Americans and 30 million Canadians reside, but in every State in the Union. The movement of people and goods over the border adds \$1.2 billion a day to the US economic engine, and supports 5.2 million jobs.

Trade between the two countries has climbed at nearly double-digit rates each year since NAFTA implementation in 1994, and economic development means more cross-border employment, tourism and recreation. By trade volume alone, the Ambassador Bridge is the busiest border crossing in the world, carrying 25% of the value of trade between the U.S. and Canada. Along the U.S. northern border, crossings in Michigan, New York and Washington combined account for nearly 90% of total northern border volume. Respectively, the Detroit, Niagara and Cascade crossings account for \$450 million, \$160 million and \$40 million in U.S./Canada trade value per day.

2004	Passenger cars	Commercial vehicles	Total
	Volume (in millions)	Volume (in millions)	Volume (in millions)
Detroit River/			
St. Claire River	15.87	5.33	21.20
Niagara River	12.21	2.31	14.52
Cascade Gateway	7.12	1.12	8.24

It is clear that northern border counterparts have a lot at stake in the Western Hemisphere Travel Initiative debate. What may be surprising is the extent to which non-northern-border states benefit by crossings that take place—75% by land—along the northern border: In 2005, the three of the top four beneficiaries of Canadian visits and spending were Nevada, California and Florida, with Florida receiving more than double that of any other state. All told, last year Canadians made over 53 million visits to the U.S. and spent (conservatively) over \$10 billion. (See attachment for a state-by-state list of visits and spending by Canadians.)

State (2005)	Visitations	\$ impact
Washington	5,751,500	\$496,944,400
Michigan	8,293,300	\$646,414,600
New York	8,501,200	\$1,002,875,500

State (2005)	Visitations	\$ impact
Nevada	849,800	\$652,301,300
California	1,167,100	\$848,901,700
Florida	2,040,800	\$2,103,146,300

Adding to this data the *national* daily value of trade with Canada, which totals \$1.2 billion and sustains roughly 5.2 million jobs, paints a better picture of the important economic relationship between the two countries.

Beyond A Monkey Wrench

The terrorist attacks of September 11, 2001 necessitated a change in American thinking and relationships vis-à-vis even its closest neighbors. The December 2004 adoption of the Intelligence Reform and Terrorism Prevention Act, including the Western Hemisphere Travel Initiative, in many ways reflected recommendations made by the 9/11 Commission on how to prevent future such attacks. WHTI calls for the requirement of

“... a passport or other document, or combination of documents, deemed by the Secretary of Homeland Security to be sufficient to denote identity and citizenship, for all travel into the United States...”

While we appreciate and are supportive of a move towards a common identification standard at the land borders, we question whether the currently proposed PASS Card is the optimal solution for ensuring border security while simultaneously protecting flows of people and goods across the border. Much of what has been proposed by the Department of Homeland Security and Department of State read more into the Congressional mandate than what is really required.

Unfortunately, it has only been recently that the departments have actively sought to engage such partners as the Canadian government and the U.S. Department of Commerce in WHTI implementation plans. Neither was involved in developing the proposed PASS Card solution: The result is that the Canadian government has stated it has no plans to reciprocate the proposed PASS Card solution. This means Canadians will have no alternative option for crossing into the U.S. but a passport, a costly document that must be renewed twice as often as the American version. Those most likely to be harmed by this are American businesses that rely on Canadian visits: According to a Zogby International poll conducted in February 2006,¹ more than 1/3 of American non-passport holders (34.5%) and nearly 1/3 of Canadian non-passport holders (29.2%) say they will be less likely to cross the border if they need a passport or other secure document to do so.

Failure to carefully implement WHTI not only threatens travel and tourism: it also threatens industries like manufacturing, which, at the cost of over \$1 million per hour (roughly \$23,000 per minute), cannot afford disruptions in just-in-time inventories due to a poorly executed passenger travel program. Our analysis of past history and current action to date are evidence that various implementation problems are likely to arise:

- **Lack of awareness=lack of preparedness:** According to the Zogby International poll, neither Americans nor Canadians are familiar with proposed documentation changes along the border. Of Americans, 87% say they are either not familiar (59%) or somewhat familiar (28%) with change in requirements. Of Canadians, 82% are say they are either not very (40%) or somewhat familiar (42%). Non-passport holders from both countries are least likely to be at all familiar.
 - If people are not aware of the policy requirement, they are likely to attempt crossing the border without proper documentation, delaying themselves and those behind them, including trucks carrying time-sensitive shipments.
 - Day passes have been proposed to circumvent problems with spontaneous travelers, who are least likely to be aware of border policy changes. The busiest northern border crossings do not have the physical facilities to the accommodate substantial numbers of people—especially at already space-limited secondary inspection sites—who would need to apply for such passes. Moreover, there is concern that having to stop at secondary to

¹ The poll spoke to northern border residents in the U.S. and Canada. The U.S. sample focused on likely voters, who tend to be more informed than the general public about public policy matters.

complete forms will be considered a hassle, increasing the perceived difficulty of crossing the border and reducing the propensity for cross-border travel. Further, it is unclear whether a simple 24-hour document will facilitate most spontaneous travel. More than half of those crossing the border travel over 100 miles to their desired destinations and often plan overnight trips. Finally, *it is unclear how a day pass can be sufficiently secure as to meet the spirit of the WHTI requirement.*

- **Lack of time = lack of quality:** WHTI gave implementers three years to put in place new documentation plan that covers nearly 8,000 miles of border (northern and southern) and affects millions of people. The current intent is to implement air and sea components of the requirement by January 2007 and the land-border crossing elements by 2008.
 - *The dual implementation dates are confusing* to those who do not understand the intricacies of the plan, and lack of ongoing private sector involvement and communication perpetuates the problem. Recently AMTRAK announced (and then renounced, upon being informed following efforts of a BESTT supporter) that all passengers would need passports to cross the land border, thinking this was the policy that would be in place by the end of the year. Neither the policy announcement nor the timing was correct.
 - Another concern is that, taking into account the scope of the WHTI project and the DHS track record with other, arguably less-major projects, *it is very unlikely they will be able to put in place such an ambitious program without implementation gaps and cost overruns:*
 - *NEXUS* is a federal frequent traveler system that has been in place in select northern border areas for around three years. To date enrollment is around only 80,000, compared to millions of frequent travelers who could qualify for the program. NEXUS cannot be used as an ID card, so currently people still have to carry other documentation with them. Frequently the embedded reader technology fails (it is known to degrade over time), so human review of the card often is necessary. Further, NEXUS technology has been deployed in only limited lanes, which tend to be open only during rush hour, making the card useless throughout the day.
 - *Federal Government SMART Card*—this document for government workers is being rolled out across various federal departments and with various timelines (WHTI will require a single roll out with up to two timelines). Despite this, the program has faced delays and great debate of technology capabilities. The cards originally were issued to millions of Department of Defense workers but with no technology to actually read them. We fear similar outcomes along the U.S./Canada border, where policymakers are able to meet the letter of the law (documentation

issuance) without meeting the intent (technology readers, trained personnel, etc.).

- *Transportation Worker Identification Credential (TWIC)*—cards are intended for 850,000 port, dock, transit and other transportation workers. DHS Recently announced it is seeking contractors after months of delay. This project began three years ago and had opportunity for two prototype evaluations. WHTI has no opportunity for a pilot or testing of prototypes.
- *The e-passport program last year was granted by Congress a one-year extension.* Just recently the Department of State completed a pilot project involving 1,800 travelers—no where near the millions of people we are talking about along the U.S. borders. Still there are debates about the technology in this card—the source for much of the timing problems.

These are just a few of many examples where DHS and/or DoS have encountered implementation problems with broad-based programs. There are many others that may or may not relate to identity but certainly to national security. Given this history we have no reason to believe that the PASS Card program can actually be fully and thoughtfully deployed under currently mandated time frames, and there is no mechanism for reporting to policymakers any difficulties that may be encountered along the way.

- ***Lack of time = lack of options and information:*** Because of the short mandated time frame in which to implement WHTI, DHS and DoS have been unable to thoughtfully consider alternatives to the PASS Card or conduct thorough economic or cost/benefit analysis of possible alternatives:
 - *Integrating REAL-ID (security-enhanced driver licenses) and WHTI* has been touted on numerous occasions by DHS and DoS as a possible long-term solution to border crossing identification cards. However, the alternative cannot be considered now because WHTI implementation must take place five months before REAL-ID. Further, REAL-ID allows for extension of timelines if they cannot be met as set forth in the law. States like Michigan that have offered to use their own resources in combination with federal resources to pilot a REAL-ID/WHTI alternative (as soon as December 2007—see attached letter) are ignored because there is no call or time for consideration of such ideas under the current WHTI law. The Canadian government request to explore a joint solution cannot be entertained for the same reasons.
 - *Economic analysis:* Numerous federal, state and local policymakers, as well as businesses, associations and others have submitted letters to the Office of Management and Budget calling for a comprehensive economic/cost-benefit analysis of WHTI, including exploration of various alternative implementation options. So far there has been no known

response to these requests. We know that DHS and DoS have commissioned an economic analysis for land crossings, though the information will not be released until the Notice of Proposed Rules is made public sometime in late fall, and the likely content is questionable: First, how can an economic study be reliable if it is being developed prior to or at the same time as the proposed policy it is meant to examine, and how can we be sure of economic consequences if there are no serious alternatives for comparison? Second, the study vendor recently contacted BESTT members for more detailed results from the Zogby International poll because there is no funding in their budget for primary research, including market analysis.

- *Technology considerations:* Recent press articles allude to a debate between DHS and DoS over the type of Radio Frequency Identification (RFID) that should be included in the PASS Card (vicinity versus proximity—longer distance versus shorter distance). There are several questions about even using RFID for identity cards. A white paper by Axalto, Inc., a leading secure technology provider notes:

"RFID, in its simplest form is insecure, allows privacy intrusion and permits tracking of individuals. RFID should be directed to appropriate low-security applications such as tracking pallets or products. It should not be used for tracking or identifying people."

A major concern is that a person will be able to obtain someone else's border crossing card and move back and forth without notice unless human contact is involved. We must not forget that a potential terrorist who wanted to destroy the L.A. airport was apprehended only because an alert border agent in Port Angeles, Washington noticed that the suspect, who had a passport, was acting strangely. We question claims that a PASS Card with RFID or similar technologies can truly speed the border-crossing process if human interaction at the border, which appears to play a crucial role in security, still is part of the process. On the other hand, if direct human interaction is not involved, we strongly question security.

- *Program marketing:* Above we mentioned that nearly 90% of Americans and 80% of Canadians are unaware that WHTI is coming down the pipeline. Proposed marketing plans for the PASS Card has been sparse—so far we have seen a 3X5 green and white flier that indicates a change is coming. This does little to reach the general public and raise awareness nationwide of this unprecedented shift in policy. Overcoming such an information gap even beginning now would be a tremendous undertaking, and to date we know of no plan for a well-executed plan (such a plan should assess baseline awareness and track improvements in that measure with a clear goal for overall awareness). Without such efforts, even the best-implemented plan is useless if people do not take advantage of it.

REAL-ID Alternative

The Detroit Regional Chamber is fully supportive of the REAL-ID/WHTI alternative. We believe it is essential that a new border-crossing program involve documents that people already carry with them. Otherwise, many will not be inclined to go through the hassle or cost of an alternative. Further, we understand through various conversations that the Canadian government is eager to explore alternatives to the PASS Card, with a drivers' license concept among them.

We believe it is more logical to focus resources—human and budgetary—to helping states more quickly become REAL-ID compliant, rather than create a redundant program that requires exactly the same information at duplicative cost. There is precedent for state and federal governments working together on citizenship and identity issues (e.g., alien entitlement programs, Social Security information and more). There is little reason in our mind why a system could not be established to allow states to denote citizenship for those who volunteer to do so on a drivers' license, which then could serve as a border crossing card. And with digital capture and transmission of information, there is no reason the federal government could not maintain jurisdiction over citizenship adjudication, if so desired.

Even documents like the Passport and PASS Card are fundamentally flawed unless we improve the foundation documents upon which those programs rely: this means doing more to ensure successful and rapid implementation of REAL-ID (again, including appropriate federal funding support), particularly in border states where the great majority of crossings occur.

The BESTT Coalition strongly supports a more secure entry and exit process along the northern border, but we want this process to be smarter than is currently being proposed. We thank Chairman Hostettler and the subcommittee on Immigration, Border Security and Claims of the House Committee on the Judiciary for their attention to this important matter.

PREPARED STATEMENT OF THE HONORABLE BRIAN HIGGINS, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NEW YORK

Members of the committee, thank you for the opportunity to be here today on behalf of my constituents in New York's 27th congressional district. I have the honor of representing New York's Erie and Chautauqua counties, which include Buffalo, New York and the Peace Bridge crossing into Canada.

The people of Western New York have had close relationships with our Canadian neighbors for hundreds of years. Our communities are woven together and our economies are interdependent. Seventy-eight years ago this cooperative spirit resulted in the construction of the Peace Bridge between Buffalo, New York and Fort Erie, Ontario. Our mutual investment in the Peace Bridge has paid dividends many times over, producing commercial and economic development that would never have been possible if citizens of each country did not have easy access to the other side of the border. In fact, the Peace Bridge and its easy flow of traffic to Canada is largely responsible for saving jobs as demonstrated recently by Ford, which spared the Buffalo Stamping Plant in its latest round of closings because of its proximity and collaboration with Ford's Assembly Plant in Oakville, Ontario.

The Peace Bridge is the second busiest passenger vehicle crossing and the third busiest commercial crossing between the United States and Canada. The commerce facilitated by this bridge is absolutely critical to the vulnerable Western New York economy.

The easy flow of people over the border is equally as important as commerce. Many of the students in my district go to universities along the Canadian shoreline, and Canadian students comprise a major component of our local colleges. Canadians support Buffalo's arts and culture—they visit our zoo, shop our stores, and go to our local theaters; they are a large percentage of the fans in the seats at Bills, Sabres, and Bisons games. In Western New York, crossing the international border is no different than crossing the 14th Street Bridge here in Washington, DC to get to Virginia—we do it to go to church, to buy groceries, and to visit our families and neighbors.

In short, the Western Hemisphere Travel Initiative would decimate the economic viability and cultural and social fabric of my district. While I believe strongly that our first responsibility is protecting national security, I fail to see how requiring the use of one form of a passport or PASS card is more secure than the documents currently required for cross-border travel. It should be noted that the recent apprehension of a terror cell in Canada hinges on the fact a number of the suspects had previously been stopped and apprehended for gun-running on the northern border—under current requirements, which do not require passports, these men were successfully stopped and apprehended.

Additionally, the Department of Homeland Security recently cut in half the funding due Buffalo under the Urban Area Security Initiative. That loss in federal funding will have to be absorbed by the city and county through local taxes. So citizens of Western New York will pay three times for the national security of the entire nation: they will pay their taxes for which New Yorkers receive less from the federal government than they put in, they will pay raised local taxes to supplant the loss in federal funds for this high threat city, and they will pay a border tax for simply living along our peaceful border with Canada. Why should citizens in border communities bear the economic burden of this policy; if this is truly a matter of "national security" then the entire cost for this program should be borne by the U.S. Treasury, not solely by border communities like ours.

The Department of Homeland Security and the Department of State argue that the WHTI is mandated in the Intelligence Reform bill, passed two Decembers ago. But the language in the bill directs DHS and State to "develop and implement a plan as expeditiously as possible to require a passport or other document, or combination of documents, deemed by the Secretary of Homeland Security to be sufficient to denote identity and citizenship, for all travel into the United States." Additionally, DHS should conduct a cost-benefit analysis on a plan as significant as this in order to ensure that our community does not suffer from the strangling of legitimate trade and travel with Canada.

The most efficient and effective flow of traffic between the U.S. and Canada is of paramount importance for the national security, economic development and life quality of my district. The proposed passport requirement, as well as the PASS cards, will unnecessarily create delays that will stifle our local economy and place an undue burden on my constituents.

Given the hundreds of years of excellent cross border relations between the United States and Canada and the strong interdependence for commerce, culture, entertainment, universities and quality of life, I continue to believe that the WHTI

should be waived until the establishment and enactment of a new form of identification that will prioritize faster and less expensive passage instead of the slower and cost-prohibitive proposal on the table today.

Thank you again, I look forward to working with all of you on this issue.

PREPARED STATEMENT OF THE HONORABLE JOHN CONYERS, JR., A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF MICHIGAN, AND RANKING MEMBER, COMMITTEE
ON THE JUDICIARY

I am pleased that the Subcommittee is holding this important hearing on the Western Hemisphere Travel Initiative (WHTI). This program has not been implemented yet, but already numerous problems and controversies have arisen regarding how, when and for whom new secure border crossing documents will be required crossing our borders.

Widespread concern has grown over the impact WHTI will have over trade and tourism, particularly as it affects trade and tourism on the U.S.-Canadian border. This border is one of the largest, most peaceful and profitable borders in the world. It is the conduit for \$1.2 billion in trade every day, and it supports 5.2 million jobs. Canadians spend over \$10 billion in the United States annually, with 75% of its tourists crossing land borders into the U.S. Border communities are not the only one's that stand to lose from Canadian tourism—California, Florida and Nevada are the most popular spending destinations for Canadians.

However, it does appear that border communities could suffer acutely. As home to the two busiest border crossings in the country, my home state of Michigan relies heavily on Canadian tourism, travel, and trade. Each year 1 million Canadians travel to Michigan, with an impact on the state's economy to the tune of more than \$166 million. Approximately 200,000 vehicles cross between the U.S. and Canada every day carrying tourists, manufacturing goods and farm products. The Ambassador Bridge alone supports 25 percent of U.S.-Canadian trade, and in 2004, U.S. automotive trade with Canada was \$116 billion.

Michigan could lose more than \$100 million in revenue if spontaneous travel to Canada is hindered by a complicated border crossing identification policy. The Detroit Regional Chamber estimates that the Detroit metropolitan area could lose \$86 million annually due to reduced levels of Canadian travel into our city for shopping, sporting events, and to visit restaurants or cultural attractions. In light of the significant manufacturing job losses Michigan has suffered, we are obviously seriously concerned about any further blows to the economy.

Many questions remain about this program: Is it cost efficient and practical to issue new border crossing cards for the Canadian border when modified driver's licenses under the enhanced REAL ID standards may serve the same purpose? Are passports the best option despite the high price and low percentage of Americans who hold passports? What is a realistic time frame for rolling out a new program given the complicated logistics of picking an identity document, its features, and manufacturer, and ensuring that readers can be identified and ready to use seamlessly? Most importantly, how can the federal government move forward with this program without understanding the true costs and economic impacts involved?

I believe that the Administration must move forward with conducting comprehensive cost-benefit analysis considering our state and national reliance on travel, tourism and trade with Canada. Given the current economic climate, this cost-benefit analysis would provide a thorough explanation as to how WHTI will impact the economy. In addition, such an analysis would provide an explanation of the cost of creating and obtaining new travel documents and equipping all ports of entry with new card readers. Overall, this analysis would provide further guidance to ensure that the implementation of the WHTI would have the most benefit and least detriment to our state's economy.

It is clear that Congress and the Administration must investigate these issues thoroughly to ensure that we can meet our homeland security objectives while protecting our economy from detrimental impacts in trade and tourism. I look forward to hearing the testimony of today's witnesses as we seek to achieve that goal.

PREPARED STATEMENT OF THE HONORABLE TED POE, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF TEXAS

I believe the WHTI is an unnecessary bureaucratic program and reduces our security at our borders.

The Intelligence Reform and Terrorism Prevention Act of 2004 mandated that the U.S. Secretaries of Homeland Security and State develop and implement a plan to

require U.S. citizens and foreign nationals to present a passport or other appropriate secure identity and citizenship documentation when entering the United States.

For many years U.S. citizens, and some citizens of other countries in the Western Hemisphere including Canadians, have not been required to present a passport or other specific forms of secure identification to enter the U.S. Instead, many were admitted by verbally stating they were from a country that didn't require documentation or by presenting a wide variety of less secure documentation.

The 9/11 Commission in their Report highlighted that terrorists will seek to exploit our vulnerabilities. Closing the loophole that allowed people to enter the U.S. without documentation of citizenship was one such vulnerability and I'm glad Congress took action on this issue. However, it seems as if we are going further and further away from the intent of this legislation due to the bureaucracy within the Department of Homeland Security and The State Department who are implementing this law through the Western Hemisphere Travel Initiative.

The Western Hemisphere Travel Initiative continues to spend large amounts of time and taxpayer money to come up with all kinds of "alternative documents" to comply with this law. Congress also has held numerous hearings on this matter. The answer today is why? We already have a document that is being used today for the very reason of identifying citizenship and identity from those who travel to and from the United States from countries outside the Western Hemisphere. It is called a passport.

The Department of Homeland Security and Department of State continue to say a passport is the "gold standard" of identity and citizenship documents because of its security features. Yet, these agencies continue to promote such acronyms as the PASS card, BCC, SENTRI, NEXUS or FAST—all documents under consideration for acceptance into the travel initiative to satisfy a select constituency; mainly those traveling to and from Canada. At a time when we are already overburdening our border agents, why give them even more documents to inspect or run the risk for more fraud?

People will give a number of arguments against a passport only approach, some of the common ones are that it would cost too much. To that I say that having a passport costs less than \$10 a year. Maybe it could cost even less if we weren't paying for a redundant bureaucracy trying to undermine its universal use. I also hear that it will stifle travel and commerce; leading to long lines at the border. Now I've been to the border numerous times and have seen the border agents presented with literally thousands of different documents. How does a policy of accepting one document slow commerce as opposed to a policy of accepting numerous documents? It doesn't. In recent testimony given before the Senate Committee on Foreign Relations, Paul Rosenzweig, DHS' Acting Assistant Secretary for Policy Development said, "Currently, there are thousands of different documents that a traveler can present to CBP officers when attempting to enter the United States, creating a tremendous potential for fraud. Standardized documents eliminate the time-consuming, manual process of reviewing and validating a host of distinct, and sometimes illegible and unverifiable, birth certificates and other identity documents." As we bring more documents into use, we have to train our border agents in them and we increase the chance of fraud associated with them.

Instead of spending precious resources creating discriminatory documents that only benefit one nation and its travelers, we should use our resources to expand passport use into the U.S. VISIT program by using its security features to enable automated reading and vetting of the information so we know who is entering and departing our country. With the recent arrests over the weekend of suspected terrorists operating in Canada, can we really afford to allow a program to continue that leaves our country more vulnerable to attack?

