

**The House Judiciary Subcommittee on Crime, Terrorism and Homeland Security:
“Secure Identification: The Real ID Act’s Minimum Standards for Driver’s Licenses and
Identification Cards” United States Congress**

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Retired: Department of Homeland Security, 1 April 2011

Testimony of Darrell Williams

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Chairman Smith, Ranking Member Conyers, and distinguished members of this Subcommittee I am pleased to be here today to discuss the importance of the REAL ID Act’s Minimum Standards for Driver’s Licenses and Identification Cards.

From December 2006 until 1 April 2011 I served as the Director for the Department of Homeland Security (DHS) REAL ID Program Office, later renamed the Office of State-Issued ID Support. During my tenure, I established the REAL ID Program Office, planned and executed the program’s budget and selected each member of the REAL ID program office team. In addition, I lead the development the of REAL ID Regulation, REAL ID Program’s Concept of Operations, and the REAL ID Implementation and Expenditure Plans which were both approved by DHS and submitted to Congress. I specifically communicated the program’s requirements, implementation progress and expenditures to DHS executive leadership, Office of Management and Budget and Congress. I also worked with other Federal agencies and developed an outreach program designed to establish and maintain a long-term partnership with all U.S. States and territories Department of Motor Vehicle (DMV) leadership, the American Association of Motor Vehicle Administrators (AAMVA) and specific document identity data verification system managers. My goal was simply to assist states to enhance the security, integrity and trustworthiness of their driver licenses and identification cards, facilities and processes to comply with the requirements of the REAL ID Act and implementing regulation.

A brief synopsis of the primary requirements are located in Section 202 of the REAL ID Act which reads, “Prohibits Federal agencies from accepting State issued driver's licenses or identification cards unless such documents are determined by the Secretary to meet minimum security requirements, including the incorporation of specified data, a common machine-readable technology, and certain anti-fraud security features. In addition, Section 202 also sets forth minimum issuance standards for such documents that require: (1) verification of presented information; (2) evidence that the applicant is lawfully present in the United States; (3) issuance of temporary driver's licenses or identification cards to persons temporarily present that are valid only for their period of authorized stay (or for one year where the period of stay is indefinite); (4) a clear indication that such documents may not be accepted for Federal purposes where minimum issuance standards are not met; and (5) electronic access by all other States to the issuing State's motor vehicle database.”

Prior to managing the REAL ID program, I served as the Senior Program Manager for the DHS's Secure Border Initiative Program, several U.S. Coast Guard Command, Control and Communications programs and numerous Department of Defense major weapon system acquisition and support programs. Lastly, among other degrees, I have a MS Degree in National Security Strategy from The National War College.

Although I am be delighted to discuss or address any questions the Committee may have regarding the REAL ID Act or Regulation, I will focus my written testimony and opening remarks on the program's implementation activities.

Under my direction the REAL ID Program Office, later renamed the Office of State Issued Identification Support, was responsible for REAL ID program development, REAL ID Rule development, REAL ID related grant oversight, development of an identity documentation electronic verification capability and implementation of the REAL ID Act. The regulatory scope of the REAL ID Act and regulation include the following:

- Approximately 240 million holders of State driver's licenses and identification cards
- 56 jurisdictions, including the 50 States, the District of Columbia, and five U.S. territories
- Approximately 2,200 State DMV offices and facilities employing about 30,000 state employees and contractors
- Millions of commercial airlines travelers and visitors to the Federal facilities
- Multiple Federal agencies to include Department of Transportation, the Transportation Security Administration (TSA), Federal Protective Service (FPS), the Nuclear Regulatory Commission (NRC), and other Federal entities managing access to Federal facilities.

In December 2006 one of the most formidable REAL ID challenges facing DHS was direct opposition by the states and specifically each state's DMV Offices. During this time frame, the states DMV administrators collectively considered DHS an absolute adversary and as result the few discussions that occurred between representatives from the state DMV offices and DHS were quite contentious and non-productive. However, I'm delighted to report that upon my retirement in 2011, numerous DMV staff members and specifically DMV administrators from across the country and the US territories emailed, phoned and sent letters to thank me for my efforts that led to establishing and maintaining an open and honest REAL ID implementation partnership.

The benefits of this partnership which began in the spring of 2007 eventually resulted in the DMV administrators teaming with AAMVA to become the REAL ID Program Office's most supportive implementation advocate. The implementation success that will be discussed later in this testimony would have not been realized without the DMV administrators and AAMVA support.

An example of this support was first realized in the spring and summer of 2007, when AAMVA agreed to host four regional meetings in the cities of Baltimore, Chicago, Los Angeles and Atlanta which allowed me to conduct 4 four hour meeting with all the DMV staff members in each region to discuss DHS plans regarding the proposed REAL ID rule and address the numerous misconceptions, false information and reduce the DMVs fear of this unknown rule's impact on how they conduct their day to day business with their respective customers.

In addition to support, AAMVA and the state DMV's funded their personnel expenses to attend and participate in these meetings. These meetings resulted in a tremendous amount of clarity for the states. This initial series of regional meetings reduced the state's high anxiety by clarifying the rules intentions, removing misinformation and asking the states to share their operational insight.

While at these meetings I also conducted several side-bar meetings with DMV regional leaders. From the follow-on side bar meetings I recruited numerous state DMV staff members to partner with DHS to form several working groups. Early in 2007, I realize that I did not have the program funding or adequately trained staff to properly understand all the relevant operational aspects of the state DMV driver's license issuance processes, facilities and IT capabilities. To quickly acquire the technical expertise needed, I partnered with the DMV leadership to develop several DMV process-focused technical working groups comprised primarily with the DMV and AAMVA staff members. AAMVA agreed to host the working group meetings. Without belaboring the point, I bring this information forward to stress that virtually all the implementation progress made to date has been greatly facilitated with state DMVs and AAMVA technical, administrative assistance and in some cases financial support.

States have been fully engaged in improving the security, integrity and trust worthiness of their respective state issued driver's license and identify cards. Many of these security improvements either exactly meet or are consistent with the requirements of the REAL ID Act or Rule. States have made these improvements primarily because they were well aware prior to September 2011 that their driver's license and identity card issuance processes, cards and facilities had numerous security deficiencies. In addition, states have long wanted to develop a capability that allows each state's DMV to electronically verify all applicant's identity documents (birth record, passport, out-of-state's driver's license, immigration documents) information prior to issuing a driver's license or identity card.

States have and continue to make significant implementation progress consistent with requirements of REAL ID. A February 2011 Driver's Information Verification System (DIVS) report shows the results of a state-based questionnaire where states self-report their driver's license and identity card security progress as follows:

- 82% of states have improved their card security
- 96% of states provide fraudulent document security recognition training
- 89% of states perform background checks on employees
- 78% of driver's license agencies have improved the physical security of their facilities
- 96% of states have instituted IT hardware and software that links a given license issuer with a given issued license
- 71% of states access USCIS data to verify US issued immigration documentation
- 84% of states coordinate driver's license and identity document expiration date to an applicant's US-issued immigration documentation.

The above DIVS report indicates the great progress states have made absent clear and consistent DHS guidance. DHS vacillation on support of PASS ID vs. REAL ID temporarily delayed numerous states from making progress and resulted in an untimely delay in states utilizing their grant funding to make security improvements. In 2010, numerous states expressed concern that if they continued to expend their 2008 and 2009 grant funds to comply with REALID

requirements, those funds would not be available if the requirements were changed to align with PASS ID. In absence of clear and consistent guidance, numerous states delayed grant fund expenditures and thus REAL ID implementation enhancements. States remain unclear if DHS will, yet again, postpone the compliance deadline beyond January 2013, continue to pursue PASS ID or another alternative, or if they should march full speed ahead to continue to improve and enhance their driver's license and identity card issuance processes to become comparable to or consistent with REAL ID requirements.

In addition, states continue to express concern about REAL ID Rule Subpart E.37.51 that says "States must have met the REAL ID Rule standards of subparts A through D or have a REAL ID program that DHS has determined to be comparable to the standards of subparts A through D." To date, DHS has not provided states clear guidance on what constitutes comparable and must do so as soon as possible to allow states time, if they so elect, to pursue a comparable alternative lead time away from the established compliance deadline of January 15, 2013.

In addition to the above, below you will find a list several other implementation issues that should be resolved as soon as possible to provide all willing states a realistic opportunity to achieve a successful REAL ID program implementation.

- DHS must establish clear pass/fail criteria that states can use to measure and determine when they comply with the REAL ID or comparable program compliance requirements.
 - Until such clear guidance is provided, states do not have the ability to determine if they have met all the requirements for compliance.
 - In addition, DHS will need the pass/fail criteria to perform future compliance audits
- Per REAL ID rule section 37.55, 37.59 and 37.61, DHS must establish a state compliance audit process to conduct future compliance audits. A compliance audit process is required to verify if a state has met or is meeting the required initial or recertification compliance requirements per the REAL ID rule.
 - Subpart E – Procedures for Determining State Compliance, section 37.55 indicates that DHS will make a final compliance determination. Subpart E – Procedures for Determining State Compliance, section 37.59 indicates that DHS will review to determine whether the state meets the requirements for compliance.
- DHS must develop a REALID enforcement strategy that clearly conveys how the REAL ID Act requirements will be enforced beginning January 15, 2013.
 - Enforcement strategy must include at minimum the Federal Protective Service, Transportation Security Agency and other Federal facilities as covered by the REAL ID Act and implementing regulation.
- DHS must develop a grant funding financial audit review strategy to ensure the grant funds awarded to states are being expended in accordance with the grant application and approval.
 - Currently, DHS lacks the process to know and ensure accountability for REAL ID grant funds expenditures
- To vastly improve the quality of program implementation, strongly encourage the REAL ID program be transitioned to an operational environment that has acquisition, program management, system engineering, at a minimum, as core competencies. Although the

DHS Office of Policy may be well intended, the office is not equipped with the experience or expertise to oversee the design and development of an operational program. The Office of Policy is especially not capable and does not have the expertise to oversee the design, test, implementation and initial operation of the multi-million dollar REAL ID Driver's License Information and Verification (DIVS) Program which is currently in the design phase. This REAL ID electronic document verification program, developed with Congressional appropriated funds, is currently in the design phase. The REAL ID program has been in the implementation and system development stage for several years. For example, for past three years the Office of Policy has overseen and managed the requirements generation process, which will lead to the design, development, testing and fielding of an operational IT system expected to process millions of daily state to state DMV transactions. The DIVS system is expected to complete the design phase in 2014, testing in 2015 and become operational and deployed by 2016. Just as policy should not be developed in an operational environment, an IT focused system's design, development, test, initial operation and full system deployment should not be led by a Policy Office.

- REAL ID's Greatest implementation assets:
 - All DMV leadership is aware of the critical need to improve the security, integrity and trust worthiness of their driver's license and identity card processes and they are willing to take action.
 - State's continue to make significant progress to enhance the security of their cards, systems, processes and facilities

- REAL ID's Greatest implementation impediments:
 - Retaining the design, development, testing and fielding of an operational program in a Policy making environment will continue to delay the program's implementation. The program must be transitioned to an operational environment.
 - Lack of DHS clear and consistent guidance to states.
 - The program lacks clear pass/fail compliance criteria
 - The program lacks clear guidance on what constitutes a comparable program
 - The program lacks clear guidance on how enforcement will be implemented and if enforcement will begin January 15, 2013
 - Lack of DHS executive level engagement and support
 - States DMV leadership remain uncertain and unconvinced that DHS executive leadership is committed to REAL ID implementation