U.S. SENATE COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND HOMELAND
SECURITY

HEARING – 'KEEPING TERRORISTS OFF THE PLANE: STRATEGIES FOR PRE-
SCREENING INTERNATIONAL PASSENGERS BEFORE TAKEOFF'

SEPTEMBER7, 2006

<u>OPENING STATEMENT OF SENATOR JON KYL</u>

Good afternoon. I want to thank our distinguished

witnesses for joining us today.

Paul Rosenzweig (ROSEN SH WHY IG) is Counselor to

the Assistant Secretary for the Policy Directorate in the

Department of Homeland Security. He is also a law professor

and published author with a background in litigation and public

policy.

Jay Ahern (UH HERN) is the Assistant Commissioner in the Office of Field Operations at U.S. Customs and Border Protection. He was appointed to the position in March 2003, and oversees an operations budget of $ 2.4 billion and 24,000 employees. He has been in public service for over 30 years.

Jess Ford is the Director of International Affairs and Trade at the Government Accountability Office (GAO). During his over 30 years of service with GAO, he has directed the completion of numerous studies on national security and border issues for Congress, and is a familiar and welcome addition to the panel.

I will leave the introduction of Mr. Leon Laylagian (LAY LAG IAN) to Senator Feinstein, but I want to thank you, sir, for traveling from New Hampshire to be with us today.

If you want a reminder of what's at stake in the war on terror, visit the international arrival gate of any large airport in the United States. The arrivals board will show incoming flights from places like Mexico City, Tokyo, Paris, Sydney, Rio, Manila, Tel Aviv, Montreal, and London. There will be a crowd of people waiting outside the security area to pick up passengers from those flights. The crowd will be made up of many different kinds of people, all carefully watching the stream of passengers for a familiar face, whether it's a grandparent, mother or father,

child, friend, or business associate. It's a place of reunions, embraces, and laughter.

Of course, if terrorists had their way, none of these people would make it to the gate alive. Given the chance, they would detonate explosives aboard aircraft, or seize control of aircraft and drive them into targets on the ground.

We have to be clever in this war on terror. We have to know how to improve the security of international flights without unnecessarily disrupting travel for the many millions of people who fly into the United States each year, and without unnecessarily interfering with the work that commercial air carriers perform so well.

Obviously, one of the best places to start is by simply keeping terrorists off of airplanes. How do we do that? How well do we do it? And what do we need to do to improve it?

DHS has three primary tools at its disposal to screen passengers before they get on international flights. Each of these tools is in transition or experiencing problems. The first of these is Passenger Name Record (PNR) data. In the Aviation and Transportation Security Act of 2001, Congress mandated that air carriers share PNR data with U.S. border officials so they can get a look at the information collected when a passenger is booking a flight, run that data against terrorist and criminal watchlists, and assess risk. Unfortunately, the European Parliament has successfully challenged DHS' agreement with the

EU Commission to obtain PNR data on flights originating in Europe, and DHS and the EU are up against a September 30 deadline to reach a new agreement.

The second tool is the Advanced Passenger Information System (APIS). The information transmitted to DHS by air carriers using APIS includes biographical data from passports presented by travelers, which CBP bounces off its terrorist and law-enforcement databases. The problem is, under the current regulation, air carriers are permitted to transmit that data up to 15 minutes after takeoff. That's 15 minutes too late if you have terrorists like those apprehended in the London bomb plot in August, who want to simply blow the aircraft up in flight. The Intelligence Reform and Terrorism Prevention Act of 2004

required DHS to issue regulations allowing for pre-departure vetting of passengers. DHS has published that regulation for comment, but it won't take effect until sometime in October, or later.

The third tool is DHS' Immigration Advisory Program (IAP), which places CBP officers in foreign airports to examine the travel documents that passengers are carrying, and advising airlines who's not likely to be admitted to the U.S. They apparently do a very good job of weeding out travelers with invalid or expired visas and fake passports, and could play an important role in deterring terrorists. However, there are presently only three IAP teams stationed abroad in London, Amsterdam, and Warsaw, with Tokyo set to come on line in

October. That's too few airports, and DHS needs to aggressively

expand the Program.

We'll also discuss the Visa Waiver Program (VWP) today.

The VWP allows approximately 16 million foreign nationals

from 27 countries to enter the United States each year without

first obtaining a visa. The Program is extremely beneficial to the

United States and our friends in the international community, but

it poses a security vulnerability because visa waiver travelers are

not interviewed and fingerprinted by consular officials before

getting on planes, as those getting a visa are. Just this week, the

Government Accountability Office (GAO) issued a report raising

serious issues about DHS' oversight of the Program. We'll want

to examine what steps DHS is taking to mitigate risks in the

Program. Fortunately, countries participating in the VWP will be required, after October 26, to issue their nationals improved "e-passports" which are machine-readable, tamper resistant, carry a digital photograph and an integrated chip. On the downside, plenty of old grandfathered passports – some of them probably stolen or altered -- will continue to be accepted for international travel.