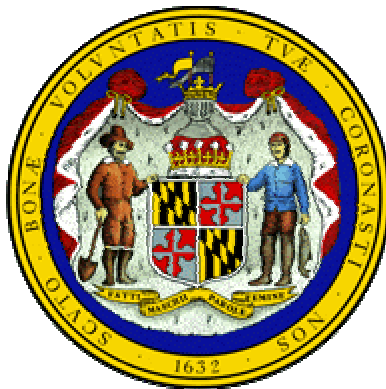


Final Minority Report of the  
Task Force to Study Driver's Licensing  
Documentation (HB 838)

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Annapolis, Maryland  
December 2004

**The Maryland General Assembly  
Annapolis, Maryland**

December 2004

The Honorable Robert Ehrlich  
Governor of Maryland

The Honorable Thomas V. Mike Miller, Jr.  
President of the Senate

The Honorable Michael Busch  
Speaker of the House

Gentlemen:

The undersigned members of the Task Force on Driver's Licensing Documentation hereby submit a Minority Report that includes extensive research and supplementary findings and conclusions not provide in the Majority Report. Our Minority report addresses important public policy issues regarding driver identification and licensing documentation that were brought to the attention of the Task Force but are ignored in the Final Task Force Report. Our recommendations more broadly aim to promote a safer, more secure driving environment and at the same time address critical national security concerns

The twelve-member Task Force was established in the fall of 2003 pursuant to Section 2 of House Bill 838, which was signed into law by the Governor in April 2003. This Bill charged the Task Force with studying Maryland's driver's licensing documentation requirements and the feasibility of establishing appropriate process and procedures for reviewing foreign documents. Specifically, we were asked to address nine Study Questions and report our findings and recommendations to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly by December 1, 2004.

Our well-researched, comprehensive document was originally distributed with the support of a majority of members of Task Force Members, intended as a substitute to a document drafted by the Chairman and the Motor Vehicle Administration (MVA) representative. The Chairman, however, did not provide an opportunity for the Task Force Members to review and discuss its content or to vote on its recommendations during our final Task Force meeting. As a group of members not in agreement with the Chair's final version of the Task Force Report, we were directed to prepare a Minority Report. By doing so, we hereby clearly state that we neither adopt nor agree with the reasoning, findings, and conclusions presented in the Chairman's Final Task Force Report.

This Minority Report is not offered as a complete repudiation of the Majority's recommendations as amended. Both the Majority and Minority Reports demonstrate full agreement by all Task Force members that there is no need for the General Assembly to take legislative action regarding driver's licensing documentation. There is also agreement that

the MVA should comply with current Maryland driver's licensing laws and regulations as found in the Code of Maryland Regulations (COMAR), and should follow applicable administrative law requirements and procedures when seeking to improve its internal foreign documentation verification processes. Similarly, both Reports strongly support the establishment of a multi-step administrative and judicial appeal process for applicants denied driver's licenses by the MVA, as well as a process for foreign-born students to submit school records as proof of identity when applying for a learner's permit.

We fear that such positive recommendations fall short of recognizing the validity of existing opportunities that would ensure that our State driver's licensing laws continue to serve the best interest of all people in Maryland by promoting public safety on our roads and highways while protecting our nation's security.

Our Minority Report examines these complex topics in a context that reflects their seriousness, and we are grateful for the opportunity to provide guidance to the General Assembly on these very important issues.

Sincerely,

Mr. Nicholas Gomez

Delegate Ana Sol Gutiérrez

Denise Hammond, Esq.

Delegate Victor Ramírez

## **Task Force to Study Driver Licensing Documentation (HB 838)**

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## **EXECUTIVE SUMMARY**

The Minority Report of the Task Force to Study Driver Licensing Documentation presents supplementary findings and recommendations to the Chair's Task Force Report. Our recommendations aim to promote a safer, more secure driving environment by addressing important public policy issues regarding driver licensing documentation that were brought to the attention of the Task Force but are not addressed in the Final Task Force Report.

The Maryland General Assembly and Governor Ehrlich established a twelve-member Task Force upon passage of HB838 in April 2003. The scope of the Task Force as defined in Section 2 of the Bill called for its members -- legislators, government officials, immigration professionals, business and community representatives-- to bring forth their various perspectives and address specific Study Questions defined therein related to both domestic and foreign documentation required for obtaining driver's license in Maryland.

Both the Majority and Minority Reports state that all Task Force members are in full agreement that there is no need for the General Assembly to take legislative action regarding driver's licensing documentation. There is also agreement that the Motor Vehicle Administration (MVA) should comply with current Maryland laws and regulations and follow proper established regulatory change procedures to improve its foreign documentation verification processes. Both reports include proposals requiring the MVA to establish a formal multi-step administrative appeal process for foreign-born applicants who are denied drivers licenses, and for foreign-born students to use school documents as proof of identity. There are, however, significant differences in the Minority Report's content, coverage, findings, and conclusions based on testimony, evidence, and other information presented to the Task Force but ignored in the Final Task Force Report.

This comprehensive report was originally prepared to represent the majority view (six out of eleven members) and was proposed as a substitute to the version drafted by the Chairman and the MVA representative. However, the Task Force members did not have the opportunity to review and deliberate on its content or to vote on its recommendations. After amending and voting exclusively on the Chair's recommendations, several Task Force members were in disagreement with the narrow, MVA-centric content of Chair's Task Force report and chose to submit its more comprehensive report as the Minority report. In doing so, the minority members clearly state that they neither adopt nor agree with the reasoning, findings, and conclusions presented in the Chairman's Final Task Force Report.

While driver's licensing documentation for foreign-born individuals has become a highly charged issue in recent years, the signatory members of the Minority Report conclude that the General Assembly should separate fact from emotion and support meaningful driver's licensing documentation reform. We conclude that such reform begins by promoting the establishment of clear standards and effective processes by the MVA to ensure that an identity document is both reliable (i.e., the document accurately establishes that the presenter is the person claimed) and secure (i.e., the document is resistant to tampering and counterfeiting).

- Such standards will first promote public safety by increasing driver competency and road safety on Maryland's highways, which are the primary purposes of the driver's license.
- Secondly, standards will meet the needs of Maryland's growing economy, which employs significant numbers of national and foreign workers who need to drive to work, school, church, and elsewhere, everyday, as most Maryland residents do.
- Lastly and most importantly, these standards will strengthen our national security and law enforcement by properly identifying more persons and their place of residence within our State, whether documented or not. The effect of these standards will be to force those who mean to do us harm to choose between identifying themselves and their place of residence to state authorities, or to go without a Maryland driver's license.

Our key recommendations to ensure document reliability and security call for the MVA to strengthen or establish the following:

- Documentation verification and security standards that will require more reliable proof of identity and mechanisms for verification by the issuing authority; identifiers such as a photograph, signature, date of birth, or other official stamps to verify the holders identity; multiple security features to prevent counterfeiting or forgery; additional training and closer collaboration with a broader number of reliable verification sources
- Minor modifications to the Code of Maryland Regulations (COMAR) establishing more comprehensive and rigorous applicant documentation and residency requirements based on verifiable documentation standards
- Formal administrative appeal process for applicants including supporting internal policies and operating procedures
- Improved customer services satisfaction measures and monitoring processes
- Guidelines to interface more effectively with official federal agencies and foreign representative offices to assist in the verification of documents, to safeguard individual privacy, and to expand fraud detection efforts and training
- Strengthen procedures to investigate the fraud potential in driver's licensing internal processing, to ensure the conduct of regular audits to detect internal fraud, and to train its staff in effective fraud detection and prevention measures.

In making the above recommendations, the Minority Report echoes one of the fundamental recommendations made by the 9/11 Commission: that reducing our vulnerability to further terrorist attacks requires us to focus on the *gaps* in intelligence-gathering and information-use that allowed the hijackers to enter and live undetected in the United States. The standards and enhanced MVA internal processes that are recommended will lead to more Maryland residents being properly licensed through improved and more rigorous documentation review processes. This will turn our current licensing system, which is incomplete, ineffective, and vulnerable, into a critical tool in the war on terror while maximizing public safety on our roads and highways.

## **BACKGROUND**

### **Introduction**

To provide the reader background information relevant to driver licensing issues that were considered by the Task Force, this introductory section provides a summary of the legislative mandate and provisions contained in HB838, key driver's licensing concepts and issues, a review of Maryland laws that apply to driver licensing, including a related opinion issue by the Attorney General, and a brief description of the role of the Maryland Motor Vehicle Administration (MVA) and its current practices.

Study findings, conclusions, and recommendations made by the Task Force are presented in subsequent sections of the report. A *Glossary* of terms and acronyms used throughout this report is provided in *Appendix A*.

### **Legislative History and Task Force Mandate**

As originally introduced in the House of Representatives in 2003, HB 838<sup>1</sup> authorized the MVA to establish more rigorous documentation requirements to ensure the validity of an applicant's age, identity and residence. It also criminalized the presentation of fraudulent documentation in obtaining a driver's license, and reaffirmed current Maryland law, which states that a driver's license may not be denied because an applicant is unable to prove lawful immigration presence.

In view of the post 9/11 security concerns, the General Assembly revised and passed HB838 to establish a task force to study a number of important issues related to driver's license documentation. The final Bill further required that an applicant for a driver's license to provide his or her social security number or a statement<sup>2</sup> attesting that he or she does not have a SSN; and that a person could not use a false, fictitious or fraudulently altered document to obtain a driver's license. *Appendix B* summarizes the final version of HB83, lists sponsors, and provides other relevant information and references.

In the Fall of 2003, a twelve-member task force was established, pursuant to HB838, to examine documentation requirements for acquiring a driver's license in Maryland and the feasibility of establishing appropriate process and procedures for reviewing foreign documents.

Specifically, the Task Force was asked to study nine questions listed in the table below and report its findings and recommendations to the Governor and the General Assembly by December 1, 2004.

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<sup>1</sup> Full text available at <http://mlis.state.md.us/2003rs/billfile/HB0838.htm>

<sup>2</sup> \* Vehicle Laws – Driver's Licenses – Licensing Documentation - HB 838 (Chapter 452, Laws of 2003). Requires a driver to provide their social security number when applying for a driver's license, unless the applicant does not have one. If the applicant does not have one, the applicant must certify that fact on the application. A violation would be a misdemeanor subject to a maximum fine of \$500 or imprisonment of up to 2 months, or both.



**Task Force Study Questions (HB838)**

Q-1	Study domestic and foreign documents that prove age;
Q-2	Study domestic and foreign documents that prove identity;
Q-3	Study domestic and foreign documents that prove Maryland residence;
Q-4	Extent documented or undocumented immigrants residing in Maryland may not be issued drivers' licenses because of current documentation requirements;
Q-5	Extent to which individuals in the State who do not have driver's licenses because of the lack of valid documentation actually drive on our highways;
Q-6	Potential security risks posed by providing identity documents to individuals residing in the State notwithstanding their violation of US immigration law;
Q-7	The feasibility of developing a process for the MVA, in consultation with the Maryland State Police, to review driver's license applications by noncitizens to determine whether they pose a danger to homeland security because of a membership or association with a foreign terrorist organization designated under the USA Patriot Act;
Q-8	The feasibility of developing a process for the MVA, in consultation with the Maryland State Police, to review drivers' license applications to determine whether the applicant poses a danger to public safety because of his or her membership or association with a domestic terrorist organization;
Q-9	The feasibility of developing a process for the MVA to review driver's license application documentation verified by a foreign embassy or other foreign national representative within the United States; and
Q-10	Recommendations to the General Assembly

To carry out its mandate, the Task Force held twelve meetings in the Lowe House Office Building in Annapolis, Maryland, and one at MVA headquarters in Glen Burnie for demonstration of recently acquired documentation fraud detection equipment and services. Task Force members heard testimony and commentary provided by a number of invited guests, subject matter experts, and representatives of various organizations. Among the issues considered by the Task Force at its meetings were: Maryland laws and regulation (as documented in the current Code of Maryland Regulations or COMAR) applicable to driver's licensing, State vs. Federal driver's licensing authority, impact of MVA practices and Maryland's changing demographics, security and law enforcement perspectives, national and consular identification document, insurance, and several others. Supplementary sources considered by Task Force members included: government reports, policy papers, news articles, publications, statistical data, survey results, and research studies/papers by various organizations.

The Task Force did not hold pre-scheduled hearings around the State calling for testimony from impacted individuals, businesses, and/or advocacy organizations. Such open hearings were discouraged by the Chair as constituting "anecdotal" evidence. However, at the invitation of the BEACON-Bienvenidos Group at the University of Salisbury, the Task Force members traveled to the Eastern Shore to hear a presentation of a recent economic study as well as survey results identifying local area service needs. Members also heard testimony from law enforcement, business owners, non-profit organizations, and individuals and gained insight into the transportation needs of rural counties, agro-industries, and the area's growing immigrant workforce. Volume II of this Report provides a listing of testimony, presentations, and other resources considered by the Task Force.

## Key Concepts and Issues Regarding Driver's Licensing

**General Purpose of Issuing Driver's Licenses.** Historically, driver's licensing laws are designed first and foremost to ensure highway safety. This safety goal is achieved by delegating authority to state departments of motor vehicles to establish requirements that demonstrate that applicants are qualified to drive. Generally, licensing regulations establish an applicant's identity, age, and residency requirements and test the applicant's knowledge of laws that ensure public safety on our roads and highways prior to granting a license.

**State Licensing and Federalism.** In accordance with the principles of Federalism, the issuance and production of the driver's licenses are activities solely within the purview of the states. State legislatures have maintained that the authority to issue and produce driver's licenses should continue to remain within the domain of state authority. Given the number of previous federal demands on state departments of motor vehicles, States have traditionally opposed the outright and unwarranted intrusion of state authority that compelled states to be mere administrative arms of the federal government. Previous Federal attempts to strip states of their autonomy to issue driver's licenses have been rejected or repealed and found to be in violation of the 10th Amendment to the U.S. Constitution. Currently, the federal government lacks the power to authorize state licensing agencies to act in a particular fashion.

According to the National Conference of State Legislators (NCSL) and their Transportation Review publication on Driver's Licenses and Identification Cards<sup>3</sup>...

“ The states and the District of Colombia license more than 191 million drivers, who represent roughly 88 percent of those eligible for a license. Since as early as 1903, when Massachusetts and Missouri enacted the first state driver's licensing laws, states and territories have administered their own driver licensing systems. Since 1959, all states have required an examination that tests actual driving skills and traffic safety knowledge before a license is issued. Examining drivers and issuing licenses, however, is no longer the sole concern of state licensing agencies. Because the driver's license has assumed a role beyond traffic safety, where both government and private entities rely on the license for personal identification, state legislatures and driver's license agencies are concerned about the safety and security of the license as an identifier. In 2003, 45 states considered legislation aimed at keeping the license secure in its function as an identifier.

The federal government is not directly involved in state procedures for licensing of recreational drivers. It is, however, involved in the licensing and oversight of commercial vehicle (CMV) drivers. Commercial drivers are issued a commercial driver's license (CDL). CDLs have different qualifying criteria than noncommercial driver's licenses. The CDL is also governed by different rules and procedures in which the federal government, in contrast to other driver's licenses, does provide specific rules and recommendations.

States determine key criteria for issuing noncommercial driver's licenses, including age restrictions, traffic safety knowledge, and physical requirements a driver's license applicant must meet, such as vision testing. Other issues facing state lawmakers include special requirements for teens and older drivers and regulating the commercial driver's license. The events of September 11, particularly those related to identity theft and fraudulent driver's license issues, caused many state legislators to reexamine driver's license and identification card systems. States contemplated ways to address the identification issues from the perspective of traffic safety, balanced with concerns about personal and national security.”

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<sup>3</sup> NCSL Transportation Reviews, Driver's Licenses and Identification Cards”, October 2003, Catherine A. Chan and Reed F. Morris, 2003

### **Foreign Reciprocity .**

In addition to principles of Federalism, Maryland's driver's licensing policies must consider and respect international agreements and two major foreign reciprocity issues:

- (1) Allowing foreign licensed drivers to operate vehicles in the U.S. using their home country license, and vice versa; and
- (2) Establishing agreements with other countries that enable citizens of both countries to exchange licenses with minimal testing requirements.

The global economy is a major factor in the recent increase in demand for reciprocal license exchanges between countries. Large multinational corporations are relocating members of their executive and operating staff and their families to offices around the world for extended periods. Consequently, the number of countries seeking reciprocity agreements with individual states and provinces will continue to rise.

The legal basis for allowing licensed drivers to drive in other countries is based upon numerous international agreements. Some are broad agreements paving the way for all drivers of signatory nations to operate vehicles in each other's countries, others are specific to military personnel. The MVA should seek assistance in making informed decisions that may impact international reciprocity agreements,. Based on the necessary research, MVA should develop a recommended process to allow it to make informed decisions on recognition of driving privileges and exchange of non-commercial driving licenses with foreign countries in an effort to maintain highway safety standards.

**Restricting Access to Driver's Licenses.** State legislatures are being asked to consider measures to restrict access to driver's licenses. Measures introduced by federal and state legislative bodies after September 11, 2001, have intended to increase national security by targeting, in part, the issuance of driver's licenses to legal and undocumented immigrants. Although several state have considered proposals to tighten the rules regarding driver's license eligibility and to further restrict immigrant's access to driver's licenses, many have rejected such proposals. A number of states have introduced legislation, which grants immigrants greater access to licenses under specific documentation standards.<sup>4</sup>

**Federal Law and Licensing Immigrants.** As explained in the above quote from the NCSL's Transportation Review publication on Driver's Licenses and Identification Cards, the issuance and production of driver's licenses are activities reserved solely to the states by the 10th Amendment to the US Constitution. Nonetheless, it is worth noting that immigration law, which is solely a federal function, does not preclude undocumented immigrants from obtaining non-commercial driver's licenses (although it does make them ineligible for commercial driver's licenses).<sup>5</sup> The Report of the National Commission of

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<sup>4</sup> AILA Issue Paper on Restricting Immigrant Access to Driver's Licenses, American Immigration Lawyers Association, Washington DC, 2003. "Some state officials linked driver's licenses to efforts to combat terrorism alleging that the driver's licenses that several terrorists obtained facilitated their activities. However, recent evidence shows that terrorists did not need U.S.-issued licenses to board planes on September 11, because they had foreign passports that would have enabled them to board."

<sup>5</sup> As explained in the Maryland Attorney General's opinion: "A 1996 amendment of the Immigration and Nationality Act expressly bars a state from providing grants, contracts, loans, professional licenses, commercial licenses, or any retirement, welfare, health, disability, public or assisted housing, postsecondary education, or

Terrorist Attacks on the United States (the so-called 9/11 Commission) has recommended that the federal government “set standards for the issuance of birth certificates and sources of identification, such as drivers licenses.” Senators McCain and Lieberman introduced a bill (S. 2845, “The 9/11 Commission Report Implementation Act”) that would authorize the federal Department of Homeland Security to promulgate standards for the documentation required for proof of identity; for third-party verification of the documents used to obtain a license; for the processing of applications for licenses; and security standards to ensure that licenses are resistant to tampering, alteration or counterfeiting and capable of accommodating a digital photograph or other unique identifier. It is important to note that neither the 9/11 Commission’s recommendations nor the Senate Bill limit acceptable identity documents to US government issued documents or require lawful presence for issuance of a driver’s license. On the other hand, the bill introduced in the House of Representatives (H.R. 10) would essentially call for a lawful presence requirement and preclude the acceptance of foreign government identity documents in the issuance of driver’s licenses. The White House has objected to the alien driver’s license identity standards in the House Bill as being “over broad.” To date, House and Senate conferees have not reconciled conflicting measures in these bills.<sup>6</sup>

## Post 9/11 Licensing Restrictions in Maryland

**Changes in MVA Licensing Practices.** The MVA historically has followed COMAR’s driver’s licensing documentation requirements set forth below. However, on October 1, 2001, in the wake of September 11, 2001, without public notice, comment or compliance with other administrative law requirements, MVA instituted a requirement that foreign-born driver’s license applicants must present identity documents that would only be available to persons in lawful immigration status (in addition to proof of Maryland residence). The MVA began to require of all foreign born applicants an unexpired foreign passport with unexpired visa and unexpired I-94/ADIT stamp evidencing lawful admission, or an unexpired INS document. (This is in addition to either one other primary source document or two secondary source documents). As a result, applicants who do not have a passport with a US immigration stamp or document cannot get a Maryland driver’s license unless they happen to be aware of MVA’s little-publicized “exceptions policy” discussed below.

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food assistance benefits to illegal aliens unless state law is expressly amended after August 22, 1996 to provide such benefits. See 8 U.S.C. § 1621(c) and (d). Driver’s licenses are noticeably absent from this list. Instead, a federal law passed in the same session of Congress permits the states to “conduct pilot programs to determine the viability, advisability, and cost-effectiveness of the State’s denying driver’s licenses to aliens who are not lawfully present in the United States.” Pub. L. 104-208, Div. C, Title V, §502, 110 Stat. 3009-67 1 (September 30, 1996). Maryland has not adopted such a pilot program.

<sup>6</sup> Statement of Administration Policy on H.R. 10, Executive Office of the President, Office of Management and Budget, October 7, 2004, <http://www.whitehouse.gov/omb/legislative/sap/108-2/hr10sap-h.pdf>. The Bush Administration also favors consultation with the States on “important concerns about flexibility, privacy, and unfunded mandates.” But even if federal legislation were to be passed mandating certain practices or policies regarding licensure, long-standing principles of federalism would make such mandates highly vulnerable to legal challenge by State governments.

Effective July 1, 2004, the MVA opened seven regionalized sites (Bel Air, Beltsville, Frederick, Gaithersburg, Glen Burnie, Salisbury and Waldorf) to process foreign-born applications for driver licenses and identification cards. Rather than obtaining licensing services like other applicants on a walk-in basis at any MVA location, MVA's new process requires foreign-born applicants to schedule an appointment ahead of time at one of the seven sites Monday through Friday by calling a toll-free telephone number. While the MVA claims that the regionalization process was designed to improve the security and efficiency of application processing and for customer convenience, the Task Force fails to see how these changes create greater customer convenience, as both the time and place for licensing services for immigrants have been reduced and taken out of the applicant's control.<sup>7</sup>

### **The Attorney General's Opinion**

In September 2003, the Attorney General reviewed the MVA's unilaterally revised practice and issued an opinion stating that the Maryland Motor Vehicle Law did not authorize MVA to condition driver's license eligibility on lawful immigration status. The Attorney General said:

*Although lawful residence status is not a prerequisite for a driver's license, the MVA could determine that official immigration-related documentation is helpful in establishing a person's identification and, when other satisfactory documentation is unavailable, could require such information. However, an applicant's inability to prove lawful presence in the United States is not itself grounds for denial of a license. Attorney General Opinion, supra, p. 6, citing case law (emphasis added).<sup>8</sup>*

In response to the Attorney General's opinion, and despite its express language, the MVA published proposed regulations in the Maryland Register on January 9, 2004, codifying its practice of requiring documentation of lawful immigration status. The Joint Committee on Administrative, Executive, and Legislative Review (AELR) of the Maryland General Assembly undertook an examination of the regulations in light of the Attorney General's Opinion, and requested that the Administration further examine the proposal in light of the Attorney General's opinion. The matter is presently under consideration by the Governor.

### **MVA Non-Compliance with Administrative Procedures Act**

Since October 2001, the Maryland Motor Vehicle Administration (MVA) has issued a number of internal policies and procedures to require more restrictive driver's license documentation including documents indicating the applicants lawful immigration status or entry – either a visa or other immigration document issued by US immigration authorities. These practices are contrary to explicit regulations and are out of compliance with current Maryland law.

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<sup>7</sup> In response to numerous complaints, the MVA has restored Saturdays as a day upon which appointments can be made.

<sup>8</sup> Attorney General's Opinion, p. 4.

In unilaterally changing the above-discussed policies and practices, the MVA has repeatedly failed to comply with a number of the provisions of the Administrative Procedure Act (APA), located in the State Government Article of the Annotated Code of Maryland, sections 10-101 and following. Among other things, the APA requires that an agency provide citation to statutory authority for each of its regulations and submit proposed regulations for prior review to the Attorney General and/or “unit counsel” and the Joint Committee on Administrative, Executive, and Legislative Review (AELR). Additionally, regulations are to be published in the Maryland Register and a period of public comment is to be established prior to the enactment of a regulation. The APA’s provisions apply not only to formal actual or proposed regulations of an agency, but also to less formal rules, guidelines and the like adopted by an agency and, especially those procedures that affect the public.

By continuing to change requirements and procedures without submitting regulation changes for prior review by the Attorney General and the Legislature’s AELR Joint Committee, the MVA has continuously side-stepped its responsibilities and duties to obey Maryland administrative law. Three important examples of MVA internal policy and procedure changes implemented without prior AELR or AG approval are :

- Changing (by web site postings) its listing of primary and secondary documentation requirements to significantly restrict access to driver’s licenses by all foreign-born applicants;
- Requiring that foreign passports contain proof of lawful immigration status or entry;
- Changing (by press release and web-site postings only) the procedures through which all foreign-born driver’s license applicants can receive basic agency services, e.g. two-step processing requiring appointments, limiting the number of available service centers, maintaining long waiting periods, eliminating of “walk-up” services, even when experiencing 50% no-show appointments.

\* \* \*

The section that follows presents specific findings in accordance with the nine Study Questions defined in HB838, Section 2. The final section presents conclusions and recommendations as derived from these findings by the minority members of the Task Force.

To help the reader understand the special terms used in this report, a Glossary and several Appendices are included and referenced in the body of the document. However, due to the large number of additional supplementary documentation used to prepare this report, other reference materials are presented in a separate document, Volume II, to this report.

## STUDY FINDINGS

### Q-1 and Q-2 Basic Findings: Current Maryland Law Regarding Age and Identity Documentation

#### *Study Question 1. Domestic and Foreign Documentation that Proves the Age of an Applicant for a Driver's License.*

#### *Study Question 2. Domestic and Foreign Documentation that Proves the Identity of an Applicant for a Driver's License.*

The Report presents findings for both Study Questions 1 and 2 as the same documents generally are used to establish identity and age. Testimony and issues considered are addressed collectively in this section.

**The Statute and Implementing Regulations.** The Maryland Motor Vehicle Law is codified in Titles 11 through 27 of the Transportation Article (“TR”) of the Annotated Code of Maryland and is administered by the MVA. The purpose of the Motor Vehicle Law is “to control motor vehicle traffic safety on the streets and highways of Maryland.”<sup>9</sup> Driver’s licenses are frequently used as a form of identification, and the value of the license in establishing identity -- embodied by the policy of “one person, one license” -- is important to allow one state to rely on a license issued by a sister state, which certifies driving competence. However, “the primary purpose of the driver licensing requirement is to allow the State some regulatory control over those who operate motor vehicles to ensure driver competency and thereby promote public safety.”<sup>10</sup>

In accordance with TR 16-106(b), “an applicant for an original license shall submit with the application a birth certificate or other proof of age and identity that is satisfactory to the Administration.” The MVA adopted its current implementing regulations in 1997 at COMAR, § 11.17.09, et seq. These prescribe the types of proof acceptable to establish age, identity, and Maryland residence, depending upon whether an applicant has a US or Canadian birth certificate or is foreign-born. These requirements are as follows (and are in addition to proof of Maryland residence):

**US or Canadian Applicants.** A US or Canadian born applicant for a driver’s license or identification card must present a birth certificate PLUS one other “primary” source identity document or two “secondary” source identity documents (itemized below).<sup>11</sup>

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<sup>9</sup> 88 Opinions of the Attorney General \_\_\_\_ (2003) [Opinion No. 03-014 (September 12, 2003), citing *Byrd v. State*, 13 Md. App. 288, 293, 283 A. 2d 9 (1971), cert. denied, 264 Md. 746 (1972) (herein Attorney General’s Opinion), p. 4.

<sup>10</sup> *Id.*, citing *Ruggles v. State*.

<sup>11</sup> See COMAR § 11.17.09.04 (A)(1). If the applicant cannot obtain a birth certificate, he or she must present a letter from the state of birth attesting to the nonexistence of the certificate and two (2) primary or one (1) primary and two (2) secondary documents plus two (2) proofs of residency. *Id.*, § 11.17.09.04 (A)(2)).

**Foreign Born Applicants.** An applicant born in a country other than the United States or Canada who is not licensed to drive and who is applying for an initial license must present either two primary identity documents OR one primary and two secondary identity documents.<sup>12</sup>

**Primary Source Documents.** The following is a verbatim list of the primary source identity documents recognized by COMAR:

a. Original government-issued birth certificate or certified copy (U.S. or territorial);
b. Actual Social Security card;
c. Valid U.S. passport;
d. Valid U.S. military identification card or discharge record (DD214);
e. Maryland driver's license;
f. Maryland identification card;
g. Out-of-State driver's license, with a translation into English, if required;
h. Out-of-State identification card, with a translation into English, if required;
i. Certificate of naming from a religious institution such as a baptismal certificate or synagogue naming certificate, issued during the initial year of life;
j. Certified school records;
k. Valid out-of-country passport, as defined by 8 U.S.C. §§ 1182, 1184, 1201, and 1202;
l. Certificate of U.S. citizenship, INS Form N-560 or N-561;
m. Certificate of naturalization, INS Form N-550 or N-570;
n. Alien registration receipt card, I-551;
o. Valid Employment Authorization Card, I-688A or I-688B;
p. Valid employment authorization document, I-766;
q. Valid Temporary resident card, I-688;
r. I-94 refugee's arrival/departure card;
s. Out-of-country driver's license, with a translation into English, if required;
t. International driver's license; or
u. Government-issued driver's license. <sup>13</sup>

**Secondary Source Documents.** COMAR states that the following are secondary source identity documents:

a. Selective service card;
b. Pistol permit with photograph or fingerprint;
c. Vehicle registration card or title;
d. Voter registration card;
e. Government-issued document requiring applicant's signature;
f. Utility or telephone bill;

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<sup>12</sup> COMAR, § 11.17.09.04 (A)(7).

<sup>13</sup> *Id.*, § 11.17.09.04 (D)(1).



g. Checking or savings account statement;
h. Life insurance card or policy (over 3 years old);
i. Taxpayer card (property tax bill or receipt);
j. Mortgage account or proof of home ownership;
k. Residential rental contract;
l. Cancelled check;
m. Marriage certificate;
n. Divorce decree;
o. Retail sales/financial institution sales agreement; or
p. In person identification by the applicant's parent or guardian, except this may not be accepted as the sole proof of age. <sup>14</sup>

### **Task Force Considerations:**

The Task Force agreed that any document presented as proof of identity should meet Documentation Standards of both reliability (i.e., in establishing that the presenter is who he claims to be) and security (i.e., having resistance to tampering and counterfeiting). To meet these goals, consistent with the approach recommended by the 9/11 Commission, the General Assembly should sanction the acceptance of the documents permitted by COMAR as written as well as any other identity document, domestic or foreign, that satisfies objective, minimum criteria. These would include requirements that the document must:

- Be government-issued upon presentation of reliable proof of identity after the conduct of a validation and verification process against other sources; ;
- Include a a photograph, date of birth, signature, official stamps, and/or sufficient information to verify primary identity
- Contain multiple security features to prevent counterfeit and forgeries (e.g., the use of security paper, security patterns, holograms, and/or infra-red bands) and,
- Be capable of verification by an MVA examiner with reasonable training in the use of instruments, tools, vendor services, or other available technology.

We refer to these criteria throughout this Report as the “Documentation Standards.” We note that many universally accepted domestic identity documents, such as US birth certificates and Social Security Cards, fall short of meeting them. Nonetheless, in the interest of administrative efficiency, we believe that these and all other domestic identity documents listed in COMAR should continue to be recognized, provided they are presented in the combinations (of primary and secondary documents) prescribed, with some exceptions and additions discussed below. Further, in light of the public safety and national security benefits of licensing all persons within our state, we also studied the reliability and security of other documents not currently accepted by MVA, such as certain foreign Consular Identity Documents (“CIDs”) and foreign passports without a visa stamp. Because the particular documents we studied comply with the Documentation Standards, they should be accepted as identity documents.

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<sup>14</sup> *Id.*, § 11.17.09.04 (D)(2).

### **Domestic Documentation that Proves Identity and Age.**

As noted, the Task Force supports the current COMAR formulation of requiring either two primary or one primary and two secondary documents from driver's license applicants and recommends the continued acceptance of documents listed with several exceptions. Namely, we believe that the certificate of naming from a religious institution lacks sufficient indicia of reliability and security to be accepted as a primary identity, but, consistent with the Foreign Affairs Manual of the US Department of State, which describes documents available around the world, should be accepted as a secondary document. Further, CIS-issued documents, such as Employment Authorization Documents ("EADs") and I-94 Arrival/Departure Records (issued by an immigration inspector upon entry to establish the category and period of admission) are "valid" even if expired, since they remain genuine and retain the same indicia of reliability, verifiability and security as unexpired CIS-issued documents. We also believe that the list of acceptable documents should be updated to accommodate the narrow list of documents routinely available to asylees and refugees including an order from an immigration judge granting asylum; a grant letter from the CIS Asylum Office; an Order from the Board of Immigration Appeals granting asylum; and a Refugee Travel Document. Further, any other domestic document meeting the Documentation Standards should be accepted to establish identity and age.

### **Foreign Documentation that Proves Identity and Age**

**Foreign Passports.** We believe that a foreign passport that is recognized by the US Department of State satisfies the Documentation Standards whether or not it contains a US Government-issued immigration document (a visa, I-94 or admission stamp) and whether or not it is expired. As explained by the FBI, passports issued by foreign governments are among the most reliable, credible, recognizable identity documents in existence in the United States and throughout the world.<sup>15</sup> Although MVA has attempted, in practice, to superimpose on COMAR a requirement that a foreign passport contain a visa, I-94 or admission stamp, this is not required by the current approved regulations. COMAR recognizes a "valid" foreign passport as a primary identity document.

Section 101(a)(30) of the Immigration and Nationality Act of 1952, as amended, defines a passport as "any travel document issued by competent authority showing the bearer's origin, identity, and nationality, if any, which is valid for the admission of the bearer into a foreign country."<sup>16</sup> The International Civil Aviation Organization (ICAO) is the international organization responsible for establishing passport standards under a common agreement to which all signatory countries, including the United States, subscribe. Accordingly and under

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<sup>15</sup> See, e.g., Congressional Testimony of FBI Representative Steve McCraw, discussed below.

<sup>16</sup> The relevant COMAR provision refers to several other sections of the INA for the definition of "valid." However, these do not purport to define the term or predicate passport validity on the existence of a visa. The referenced provisions are in 8 U.S.C. § 1182 (describing grounds of inadmissibility), § 1184 (regarding student visa abusers), § 1201 (regarding kidnapping), and §1202 (establishing requirements to obtain a visa, including an unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under regulations of the US Department of State).

regulations of the US Department of State, which issues U.S. passports and visas, an out-of-country passport must meet two conditions to be “valid:”

- It must be valid for, i.e., must not expire until, a minimum of 6 months beyond the date of expiration of the initial period of the alien’s admission into the US (although passports of listed countries are recognized for automatic extended validity), and;
- It must authorize the alien to return to the country from which he or she came (or to another country) during this period. *See* 67 Fed. Reg. 50974, Aug. 6, 2002.

Several Task Force members believe that MVA examiners lack the ability to detect fraudulent foreign passports and, therefore, should only be required to accept those containing a visa, I-94 or admission stamp, as these have been “vetted” by US authorities. However, in “vetting” a passport in the process of issuing a visa or an I-94 stamp (unless it is machine readable), a US official will accept a foreign passport as long as it appears to be genuine (i.e., lacking any evidence of tampering or alteration) and to relate to the holder, a standard that can be readily applied by MVA examiners with minimal training. Additionally, the Bureau of Consular Affairs (BCA) Fraud Prevention Programs (FPP) of the US Department of State makes available lists of resources, including *The Annual Passport Guide*, which describes and illustrates the current national passports most frequently encountered and examined by government inspection services, police agencies, airlines, and financial institutions.<sup>17</sup>

The BCA/FPP also publishes an easy-to-read *Guide to Common Fantasy and Camouflage Passports*. In addition, as explained in Section 41.104 of Volume 9 of the Foreign Affairs Manual (Procedural Notes), the State Department requires up-to-date information regarding the types of passports issued by foreign governments for temporary travel purposes, the criteria for their issuance, the qualifications of the persons to whom they are issued, the period of validity of such passports, and whether more than one person may be included in a single passport, which can be requested by the MVA.

**National or Consular Identity Documents (CIDs).** The Task Force considered whether an applicant’s identity can be established reliably by certain consular identity documents (CIDs) and/or national identity documents issued by foreign governments. Among these is the Salvadorean national identification document (Documento Unico de Identidad or DUI) and the Mexican high-security consular identification card (the Matricula Consular de Alta Seguridad - MCAS or Mexican high-security IDs). Presently, Mexico, Equator, Colombia, and Guatemala issue some type of CIDs in the United States; however, the Task Force considered testimony and documented evidence on the DUI and MCAS only, in light of the predominance of Salvadorean and Mexican nationals among Maryland’s immigrant population.

The DUI is issued in El Salvador after verification of identity through integrated databases and contains multiple security features including embedded biometrics. The uncontroverted testimony and evidence related to the DUI shows that it is extremely reliable in establishing

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<sup>17</sup> Other BCA/FPP documentation listing available resources is presented in Volume II.

that the presenter is the person claimed and secure from tampering or counterfeiting. We believe that the DUI presents multiple high-technology, high-security features that are state-of-the art and unmatched by any document issued in the United States; these documents therefore surpasses the proposed Documentation Standards for reliability and security. We also believe that the Mexican consular identification document, in its current high-security form, meets the Documentation Standards of reliability and security described above.

**Purpose of Consular Identification Cards.** Mexican consuls have been issuing the CID since 1871 to create an official record of Mexican nationals living abroad to facilitate their access to protection and consular services. The Mexican CID is not an immigration document, does not provide immigrant status of any kind, and cannot be used for travel, employment or driving in the United States or in Mexico. It is legal proof of registration with a consulate and attests only that a Mexican consulate has verified the individual's identity. Because it is an identification card, it does, however, provide Mexican nationals in the United States with access to bank accounts and services.<sup>18</sup>

Some members of the Task Force, including the MVA representative, objected to acceptance of the Mexican high-security IDs and argued that such foreign identification documents weakened standards used to prove identity and created a heightened security risk; that the Task Force heard limited testimony as to what security measures were undertaken by the Mexican Consuls before issuing the Mexican high-security IDs; that MVA could not communicate with the Mexican government to verify issuance; and, that the FBI had taken a the position that the Mexican high-security IDs is not reliable. These concerns are invalidated by evidence presented by Mexican authorities and summarized below.

*Concern: Vulnerabilities in Prior Mexican CID.* The central issue surrounding the Mexican high-security IDs is whether it is a minimally reliable indicator of identity and, if so, whether it contains adequate security features. Virtually all criticism of the Mexican high-security IDs relates back to the June 26, 2003 testimony of Steve McCraw, then Assistant Director of the Federal Bureau of Investigation Office of Intelligence, before the House Judiciary Subcommittee on Immigration, Border Security, which predates the Mexican high-security IDs. Based on an evaluation conducted in 2002, Mr. McCraw testified that the Mexican CID then being issued was not a reliable form of identification “due to the non-existence of any means of verifying the true identity of the card holder.” He based his opinion on four grounds:

- The Mexican government had no centralized database to coordinate issuance of its CID, allowing the issuance of multiple cards under the same name, the same address or with the same photograph.
- The Mexican government had no interconnected database to provide intra-consular communication to be able to verify who has applied for or received the CID.
- The CID was issued to anyone who can produce a Mexican Birth Certificate and one other form of identification, including documents of low reliability.
- Some Mexican Consuls in the United States would issue a CID without any identification documents.

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<sup>18</sup> The Vienna Convention on Consular Relations confers certain rights and obligations with respect to consular registration, which are discussed elsewhere in this Report.

Mr. McCraw also testified that the Mexican CID in existence in 2002 was vulnerable to forgery and replication.<sup>19</sup>

*Evidence/Response: Procedural and Technological Upgrades in Mexican high-security IDs.* In response to the vulnerabilities identified by Mr. McCraw, the Mexican government initiated a series of procedural changes and technological upgrades to strengthen the application process and the security features of its CID, which have resulted in the modern-day Mexican high-security IDs. The Task Force took testimony from Mexican Government officials on February 2, 2004, and again on September 1, 2004, to obtain more detailed information on these changes and whether they addressed the concerns expressed by Mr. McCraw. The second briefing on the Mexican high-security IDs was presented by Ambassador Edgardo Flores Rivas, Consul General of Mexico in Washington, D.C., and Mr. Fernando Thompson De La Rosa, Chief Information Officer of the Department of Foreign Affairs in Mexico.<sup>20</sup>

**Current Consular ID Application Procedures.** To obtain the Mexican high-security ID, a Mexican national living in the United States completes an application at one of 45 Mexican Consular offices throughout the United States, providing proof of (1) nationality (by presenting a Mexican birth certificate, passport, or certification or declaration of Mexican nationality); (2) identity (by presenting an official identification issued by a Mexican or foreign authority, including a Mexican or US passport, driver's license, state identity card, US green card or work permit, Mexican Voter Identity Card, official school record, or police clearance with a cancelled picture); and, (3) US residence address. The Consul must follow specific written procedures for processing the Mexican high-security IDs application, including conducting a personal interview and verifying an applicant's data and/or documents against three centralized, computerized databases in Mexico to which each of the Consuls in the United States is electronically linked. These consist of a Consular ID Database (of persons who have been issued the Mexican high-security IDs, showing name, DOB, POB, and address in Mexico and abroad), a "Stop List" Database of persons having criminal issues, and a Federal Electoral Institute (IFE) database of persons who have been issued national voting cards, which has become widely viewed as a "national identity card." These integrated databases were electronically connected in February 2004 via a Network Operations Center based in Mexico in a system known as "SITE" and will be moving to a Web-based service in December 2004. Upon issuance of the Mexican high-security IDs, the Consular ID Database is updated. The MCAS is valid for five years, and this process is followed with each renewal. Mexican CIDs predating the Mexican high-security IDs are not accepted as proof of identity.

**Consular ID Security Features.** There was extensive testimony about the security features of the Mexican high-security IDs. These include a photograph cancelled with Advantage

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<sup>19</sup> At the time of his testimony in 2002, more than 90% of the Mexican CIDs in circulation were older versions, which are laminated cards without security features. New high-security CIDs have been issued since Feb. 2004.

<sup>20</sup> See Handout of Power Point Presentation, "Matricula Consular" (herein called "Matricula Power Point Presentation"), Appendix \_\_\_ hereto.

(proprietary) technology, ultraviolet logo, and security laminate. Additionally, the Mexican high-security IDs incorporate seven visible security features including micro lines; an infrared band over a bi-dimensional ID bar code; “Doc-U-Lock” codified text; Micro text line; and, high-definition “bank alike” tracing. It incorporates five hidden security features, including embedded images; Scrambled Indicia fixed text and graphics printed on both sides of Mexican high-security IDs (i.e. a codified image of data on the document that protects the identity of the card-holder and/or the data on the card). The authenticity of the Mexican high-security IDs can be verified by viewing its hidden security features through a simple “flexible codifier” or decoder, which was demonstrated to the Task Force. As of February 2004, the Mexican government has provided 649,000 decoders to US entities, including banks, the US Department of Homeland Security, police departments and airlines to verify the authenticity of an Mexican high-security ID.

According to Messrs. Rivas and De La Rosa, the Mexican high-security IDs application procedures and security features introduced in response to Mr. McCraw’s Congressional testimony have addressed and eliminated the vulnerabilities identified, and there has been no testimony or evidence to the contrary. Recognizing that no document is absolutely immune from fraud, Mr. McCraw stated in July 2003 that he would consider the Mexican CID an acceptable identity document if it were more reliable, could be authenticated, and were more fraud-proof.<sup>21</sup> The Mexican government now has a centralized database to coordinate issuance of the Mexican high-security IDs to prevent the issuance of multiple cards under the same name, the same address or with the same photograph. It has an interconnected database to provide intra-consular communication to be able to verify who has applied for or received the Mexican high-security IDs. Issuance of the Mexican high-security IDs requires the presentation of documents of elevated reliability, in addition to the Mexican Birth Certificate, which serves only to establish nationality, but not identity. As explained by the Mexican officials, the Mexican high-security IDs application procedures and requirements and its security features are at the same level of security as the digital Mexican passport. Additionally, Mr. Rivas offered the full cooperation of the Mexican Consulate in telephonically authenticating particular Mexican high-security IDs’s by verifying in the centralized database its issuance (identified by a unique number) to a particular individual. Moreover, while many older generation Mexican CIDs are in circulation, they all have a five year expiration and are not acceptable as proof of identity for issuance of the Mexican high-security IDs.

**No Known Instances of Fraud.** Ambassador Rivas stated that he was aware of rumors about persons possessing multiple CIDs, but that the Mexican government is unaware of any

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<sup>21</sup> The following colloquy between Congressman Berman and Mr. McCraw is relevant on this point:  
 Mr. Berman. As I hear what is said here, the issue is not – if you could really get to the security of these cards, if you could really get to the security of these cards and strengthen that, that the real concerns that the FBI has and others might have, to the extent you enhance that security and the inability to forge that document, the problems with that document diminish and evaporate; is that a fair conclusion?

Mr. McCraw. This is; in fact, Mr. Berman, you nailed it. If we can eliminate the fraudulent part on the front end and the forgery on the other end, and this is why in the testimony we referred to the passport [which is held to a “higher standard”]. (See Testimony, p. 187).

specific instances of this occurring. Indeed, even Mr. McCraw stated that he had no data on specific instances of fraudulent uses of the Matricula. Thomas Wolfson, Senior Vice President of AAMVA, also told the Task Force that he was unaware of any specific instances of fraudulent Mexican CIDs. Although he agreed to look into the question, he has not reported on any specific instances of fraud. And, although the FBI and DHS were invited to attend the presentation of the Mexican officials and comment on the current Mexican high-security IDs, they declined the Task Force's invitation. In the words of Ambassador Rivas, "give us the name of a more reliable US document, and we'll imitate it."

The Mexican high-security IDs is Reliable and Secure. For these reasons, we are persuaded that the current Mexican high-security IDs, of which more than 2 million have been issued in the United States, meets the Documentation Standards set forth in this Report to ensure its integrity as an identity document. The Mexican Consulate in Washington, D.C., has written to the Task Force to offer its full cooperation and assistance in verifying the issuance of passports as well as particular Mexican high-security IDs, a service provided by 43 other Mexican Consulates around the country. It also has offered to train MVA examiners to identify false documents and to provide decoders for the detection of fraudulent cards. Further, as explained to the Task Force members by an MVA foreign document specialist during our visit to the special document verification center in Glen Burnie, the MVA now has the ability to authenticate foreign documents included in certain databases of documents, which can readily be updated to include the Mexican high-security IDs.

### **Additional Considerations Related to the Mexican High-Security IDs.**

- (1). **Recognized by US Department of Treasury Regulations.** In an attempt to assist efforts to destroy the financial networks that support Al-Qaeda and other terrorist organizations, Congress adopted money laundering reforms in the USA PATRIOT Act that require the Treasury Department to issue regulations setting forth Documentation Standards for financial institutions regarding the identification and verification of banking customers.<sup>22</sup> After considering some 24,000 comments, on June 9, 2003, the Treasury Department adopted regulations permitting banks to accept identification cards issued by foreign governments, including the Mexican high-security IDs. Several bills have been introduced foreclosing governmental recognition of the Mexican high-security IDs for this and other purposes. However, the Bush Administration has strongly opposed these measures, and none has won passage. In opposition to the most recent attempt to remove the Mexican high-security IDs as an acceptable identity document for banking customers, Secretary of the Treasury John W. Snow sent a letter to the Speaker of the House stating that the "[Bush] Administration believes as a general matter that Americans are better protected if consumers of all nationalities are invited into the financial mainstream." On September 14, 2004, the House of Representatives overwhelmingly rejected the attempt to eliminate the Mexican high-security IDs as a valid banking customer identification document.<sup>23</sup>

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<sup>22</sup> See 31 U.S.C. § 3158.

<sup>23</sup> This issue arose most recently when a provision was added to the FY2005 Transportation, Treasury and Independent Agencies Appropriations Bill that would have prohibited the US Department of the Treasury from

- (2) **Other Widespread Acceptance of the Mexican high-security IDs.** Ten state motor vehicle agencies accept the Mexican high-security IDs as credible evidence of identity, including Hawaii, Idaho, Indiana, Michigan, Nebraska, Oregon, South Dakota, Texas, Utah, Washington, and Wisconsin.<sup>24</sup> New Mexico recently opted to accept it as a valid identity document. In addition to the position of the Treasury Department and the Bush Administration noted above, the Mexican high-security ID is accepted by more than 1159 police departments, 150 counties, 363 cities, 170 banks, and 55 credit unions.<sup>25</sup>
- (3) **US Identity Documents Compared.** As explained by C. Stewart Verdery, Jr., Assistant Secretary for Policy and Planning, Border and Transportation Security Directorate of the US Department of Homeland Security, “it is inappropriate to conclude that CIDs are generally more susceptible to misuse than other documents.”<sup>26</sup> Indeed, from July 2002, through May 2003, the US Government Accounting Office (GAO) counterfeited state driver's licenses and birth certificates with fictitious names and used them to enter the United States. It also used counterfeit driver's licenses to purchase firearms and gain access to federal buildings and other facilities and to obtain genuine driver's licenses in seven states, including Maryland and the District of Columbia.<sup>27</sup> The reliability and security of US Birth certificates also can be improved. Unlike the Mexican high-security IDs Mexican high-security IDs Mexican high-security IDs, which takes a standard form, contains a photograph and signature and has 12 visible or hidden security features to make it tamper-resistant, according to the US Department of Health and Human Services, US birth certificates exist in more than 14,000 forms. Additionally, they provide a person's name and date of birth, and their issuance can be verified by MVA, but they contain no biometric or other features linking the presenter to the document, and they

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allowing banks to accept the Mexican high-security IDs as an identity document. The Bush Administration strongly supported an amendment (the Oxley-Frank-Kolbe Amendment) removing this provision. As explained by the sponsors of the Amendment, refusing to accept the Mexican high-security IDs “could drive large sections of the U.S. population to underground financial services providers and thereby weaken the Government's ability to monitor and enforce our money laundering and anti-terrorist finance laws.” As discussed below, analogous reasoning suggests that refusing to accept the Mexican high-security IDs for driver's license purposes will also force large segments of the population to drive without being tested and to remain in the shadows and unidentified to authorities.

<sup>24</sup> See Overview of States' Driver's License Requirements, National Immigration Law Center, September 29, 2004. As of July 1, 2004, citizens and lawful permanent residents in Tennessee receive a driver's license and all other noncitizens receive a driving certificate.

<sup>25</sup> See Power Point Presentation of Mexican Officials, “Matricula Consular.” See also, GAO Report, Border Security, *Consular Identification Cards Accepted within the United States, but Consistent Federal Guidance Needed*, August 2004, Appendix hereto.

<sup>26</sup> See Letter from Mr. Verdery to Mrs. Laurie Ekstrand, August 3, 2004, Appendix IV to GAO Report on Consular Identification Cards.

<sup>27</sup> See Report GAO-03-1147T, “Security: Counterfeit Identification and Identification Fraud Raise Security Concerns,” September 9, 2003. See also, Security: Counterfeit Identification Raises Homeland Security Concerns, GAO-040133T, October 1, 2003.



have no standard security features. Thus, it is important to note that foreign identity documents can be as, if not more, reliable and secure than domestic documents, and that all identity documents should be subject to objective Documentation Standards.

- (4) **Implications for Vienna Convention on Consular Relations.** Refusal to recognize foreign consular identity documents has implications for the Vienna Convention on Consular Relations (the “Convention”), as described in the Congressional testimony of Roberta S. Jacobson, Acting Deputy Assistant Secretary for the Bureau of Western Hemisphere Affairs of the US Department of State. Ms. Jacobson testified before the House Judiciary Subcommittee on Immigration, Border Security, and Claims, that any policy on the acceptance of consular identity cards, such as the Mexican high-security IDs, could impact on the Department's ability to carry out its responsibilities in consular affairs both domestically and abroad and is, thus, a “serious” one for the Department. The Convention allows for sending states to perform consular functions to help assist and protect their nationals abroad. The United States from time to time issues CIDs to its nationals abroad. Thus, the U.S. Government “must carefully avoid taking action against consular identification cards that would foreclose our options to document or assist Americans overseas”.<sup>28</sup>

**Policy Considerations in Recognizing Mexican High-Security IDs, Foreign Passports and Expired US Immigration Documents.**

Aside from issues of document reliability and security, there are compelling public policy reasons to recognize the Mexican high-security IDs, foreign passports and expired US immigration documents as acceptable proof of identity. As in many policy considerations, much of the evidence is anecdotal and based on common experience, logical inference and experiences in other jurisdictions.

**Licensing is a Public Safety Issue.** We believe that licensing non-citizens who possess reliable, secure identity documents, but regardless of immigration status, promotes highway safety, which is the primary purpose of Maryland’s driver’s license. Whether licensed or not, many individuals must drive to work, schools, doctors, and many other destinations to meet basic everyday needs. Unlicensed drivers have not been tested for driving competence or their knowledge of the rules of the road. According to the American Automobile Association Foundation for Traffic Safety in its report *Unlicensed to Kill*, unlicensed drivers are almost five times more likely to be in a fatal crash than are validly licensed drivers.<sup>29</sup> Ann Morse, Program Director of the Immigrant Policy Project of the National Conference of State Legislatures, stated that “[t]he federal government (NHTSA) says that improperly licensed drivers (citizen and immigrant alike) cause 11% of fatal crashes, 6100 deaths, and \$25 billion in property damage.”<sup>30</sup> In the year following its departure from a lawful presence

<sup>28</sup> See testimony before the House Judiciary Subcommittee on Immigration, Border Security, June 26, 2003.

<sup>29</sup> <http://www.aaafoundation.org/pdf/UnlicensedToKill2.pdf>.

<sup>30</sup> See Ms. Morse’s Written Presentation to the Task Force, Section III (“State Actions”).

requirement, the state of Tennessee experienced a 23% decline in traffic fatalities.<sup>31</sup> Further, motor vehicle crashes are the leading cause of death in the United States for Hispanics between the ages of 1 and 34, and the sixth leading cause of death for Hispanics of all ages, according to the U.S. Transportation Department's National Highway Traffic Safety Administration (NHTSA). The Hispanic population has increased by 57.9 % in just ten years, much faster than the U.S. population as a whole. This rapid population growth means that Hispanics will constitute an increasing proportion of crash injuries and fatalities. See NHTSA Multicultural Outreach Program for Hispanics.<sup>32</sup> Indeed, the NHTSA Report, *Highway Safety Needs of U.S. Hispanic Communities: Issues and Strategies* (NHTSA, September 1995 (DOT HS 808 373)), specifically identified unlicensed and uninsured drivers as a highway safety problem in Hispanic Communities (page 40-41). Among the Hispanic groups studied, the lack of licenses was most common among persons of Central American and Mexican ancestry, a major segment of the Maryland population (see below). The report also indicated the strong prevalence of Hispanics who drive without a license because they lack proper identification documents, among other reasons. Driver's education classes could reduce this risk, but denying licenses based on immigration status eliminates incentives for foreign nationals to attend driver education schools.

**Effect of Licensing Restrictions on Availability of Automobile Insurance.** Unlicensed drivers cannot register their vehicles in Maryland and cannot obtain automobile insurance. Nationally, uninsured motorists cause over \$4.1 billion in insurance losses each year. Additionally, an average of 14 % of all accidents are caused by uninsured drivers.<sup>33</sup> Therefore, acceptance of the recommended identity documents will enable more Marylanders to obtain insurance, which will protect and reduce the burden on insured drivers.<sup>34</sup>

**Effect on Local Law Enforcement.** There is substantial support among law enforcement agencies for licensing individuals based on credible identity documents regardless of immigration status.<sup>35</sup> Law enforcement officers cannot easily identify and track unlicensed

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<sup>31</sup> Tennessee Highway Patrol Activity FY02-03, Tennessee Department of Public Safety, Volume II hereto.

<sup>32</sup> <http://www.nhtsa.dot.gov/multicultural/hispanicamerican/hispanic-index.html>.

<sup>33</sup> See Insurance Research Council, *Uninsured Motorists 2000 Edition*, Malvern, PA (2001).

<sup>34</sup> As explained by Lloyd D. Evans, Chief of Police of Park City, Utah, the ability of drivers to obtain insurance "is a benefit which cannot be overstated." He continued that the "number of cases involving uninsured, unlicensed drivers without current registration placed an enormous burden on our court system. Since Utah enacted a law allowing individuals to obtain a license based on a taxpayer identification number, i.e., regardless of immigration status, "tens of thousands of licenses have been issued to formerly non-licensed drivers." See "Driver's Licenses for All Immigrants; Quotes from Law Enforcement," National Immigration Law Center, Oct. 2004, Volume II hereto.

<sup>35</sup> See letter from Dean M. Esserman, Chief of Police, Providence Police Department, Providence, RI, March 16, 2004, joining with "Chiefs of Police of Sacramento, Los Angeles, Atlanta, Boise, Minneapolis, Kansas City, Memphis, Austin and dozens of other major cities," Appendix \_\_ hereto. See also "Driver's Licenses for All Immigrants; Quotes from Law Enforcement," National Immigration Law Center, Oct. 2004; *Law Enforcement Support of Campaigns to Allow Immigrants to Obtain Driver's Licenses*, Volume II hereto.

drivers who can easily use fictitious names. Unlicensed drivers are not subject to background checks. The entry of information into a state database about previously unlicensed drivers will allow the police to determine whether the individual they are pulling over has been pulled over before and whether there are outstanding warrants related to that driver. This information can mean the difference between apprehending and releasing a dangerous criminal. As explained by Albert Najera, Chief of Police of Sacramento, California, “I have been in the public safety business for 33 years. In my experience, I would rather have a foreign national with reliable identification, a registered name, and photo and fingerprints that my officers can check while in the field than the information we have now, which is nothing.”<sup>36</sup> Denying licenses based on immigration status also is likely to increase the rate of minor traffic violations for unlicensed driving and divert law enforcement and judicial resources from truly serious offenses. It also tends to erode community trust, which discourages immigrants from reporting crimes and assisting local law enforcement in fighting criminal and terrorist activity.

Wayne Livesay, Chief of Police of Howard County, opposed acceptance of the Mexican high-security IDs as an identity document purportedly on behalf of the Maryland Chiefs of Police Association of which he is President. However, questioning revealed that his response was based on several answers that he received in polling his Association’s members based on a unilateral MVA email, which clearly mischaracterized the issue as whether standards for acceptable documentation should be “open[ed] up” to those who are unlawfully present. As explained above, no member of the Task Force at any time proposed “weakening,” diluting or opening up documentation standards or suggested that a driver’s license should be issued based on unreliable or insecure identity documents, which clearly is the implication of the question put to Chief Livesay. Thus, his comments are of limited utility in addressing the question.

**Effect on Other Law Enforcement Mechanisms.** Child support enforcement and criminal warrant tracking functions of driver’s license databases are less useful if large segments of the population are excluded from coverage.

**Restrictions of Federalism.** Some, such as AAMVA, believe that licensing undocumented individuals facilitates illegal immigration and should not be permitted as a matter of policy. However, use of the Maryland motor vehicle law to enforce federal immigration law or establish immigration policy is inappropriate and inconsistent with principles of federalism under the US Constitution. Under these principles, absent an express agreement to the contrary, state and local authorities are not supposed to enforce federal civil immigration law, which is reserved by the US Constitution exclusively to the federal government.<sup>37</sup> We agree

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<sup>36</sup> “Driver’s Licenses for All Immigrants; Quotes from Law Enforcement, *supra*.”

<sup>37</sup> AAMVA’s view, that it is premature to recognize the Mexican CID, is based on criticisms of an older version of the Matricula by former FBI agent Steve McGraw, which spurred the current, high-security Mexican high-security IDs that has addressed the vulnerabilities identified by Mr. McGraw. It was also informed by a 2002 presentation by Mexican officials, which, is not relevant to the Mexican high-security IDs. Moreover, AAMVA is not a government organization, but rather a voluntary association of motor vehicle administrators, and its opinions are not binding on the states. Indeed, according to the National Immigration Law Center, only 25 state

with Timothy F. Bukowski, Sheriff of Kankakee, Illinois, who states that “issues of illegal immigration and obtaining a driver’s license need to be considered separately. The safety of the driving public should be the issue.”<sup>38</sup>

**Licensing and National Security.** According to the evidence, denying driver’s licenses is an inefficient way to prevent terrorism and actually impedes the fight against terrorism (see discussion in Question 6). Moreover, the September 11<sup>th</sup> terrorists possessed US immigration documents and could have obtained licenses under a lawful presence licensing scheme. We agree with Ronald Miller, Chief of Police of Kansas City, Kansas, who states that “[e]xpanding opportunities to obtain driver’s licenses is not incongruent with homeland security considerations; on the contrary, allowing law enforcement to positively identify individuals within our state will help law enforcement to identify potential threats and reduce vulnerability and raise the feeling of security of citizens and non-citizens alike.”

**MVA’s Inability to Evaluate Documentation of Immigration Status.** As recently explained by Jason King, an AAMVA spokesman, motor vehicle agencies are not the US Citizenship and Immigration Services (the legacy INS); nor should they be.<sup>39</sup> Conditioning licensing eligibility on immigration status requires MVA employees to become immigration law and document experts. Immigration law and documentation are extremely complicated, disorderly and fluid, and immigration status is a moving target. A person who is lawfully present today may go out of status tomorrow, and it is often difficult for immigrants to prove their status or for MVA employees to decipher status and determine when it expires. This results in the wrongful denial of licenses to many categories of persons holding valid immigration status. For example, persons who have been given temporary protected status due to civil conflict or natural disaster in their countries, or abused women who are in the process of petitioning for legal residency under the provisions of the Violence Against Women Act, or individuals whose authorized stay is automatically extended by the timely filing of an extension application are often denied licenses even though they are lawfully present. Additionally, refugees, asylees and others who fled persecution without proper identification documents from their countries of birth are denied driver’s licenses. Further, naturalized citizens are treated differently in the application process than native-born citizens and are subject to onerous requirements, which raises serious Constitutional issues. The American Immigration Lawyers Association has compiled for presentation to AAMVA a summary of driver’s license issues faced by documented immigrants throughout the country, which is attached as Appendix E, and we do not believe that Maryland’s MVA should undertake this arduous and unrealistic task.

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statutes contain lawful presence requirements, and 16 require lawful presence in practice or by regulation. See Overview of State License Requirements, National Immigration Law Center, Sept. 29, 2004, Volume II hereto.

<sup>38</sup> See “Driver’s Licenses for All Immigrants; Quotes from Law Enforcement,” National Immigration Law Center, Oct. 2004;

<sup>39</sup> Mr. King’s comments were reported in a Washington Times article on August 22, 2004.

**Effect of Licensing on Fraudulent Identity Documents and Licenses.** Requiring proof of immigration status for licensing strengthens the incentive to obtain fraudulent identity documents and licenses by transforming the driver's license into a de facto immigration document and fostering a cottage industry in fraudulent documents. Research conducted for the NHTSA Report, *Highway Safety Needs of U.S. Hispanic Communities: Issues and Strategies* (NHTSA, September 1995 (DOT HS 808 373, at p. 42) specifically noted a "thriving underground industry for fake drivers licenses, license plates and insurance" among Hispanic drivers. According to the written testimony of Ann Morse, Program Director of the Immigrant Policy Project of the National Conference of State Legislatures, "forged identification documents have led to increased strains on criminal justice systems, driving up the cost of investigations, prosecutions and incarceration." See Ms. Morse's Written Presentation to the Task Force, p. 11. Driver's license fraud and identity theft are very serious problems, and we believe that restricting access to driver's licenses only makes them worse. Instead, Maryland should consider more meaningful solutions, such as the implementation of stronger internal anti-fraud mechanisms, enhanced MVA training on identifying false documents, closely restricting the issuance of duplicate licenses, and increasing penalties for the production, distribution and purchase of fraudulent licenses.

**Generation of Revenue.** Licensing immigrants based on credible documents meeting the Documentation Standards will generate badly needed revenue in the form of licensing fees. Even though it adopted an "exceptions policy" in February 2004, the MVA has not made the policy public and, consistent with its website, still generally denies licenses to applicants who are unable to prove lawful status. Based on the experience of other jurisdictions, licensing drivers based on the presentation of secure and reliable identity documents will generate substantial revenue in driver's license processing fees. States use license fees to supplement the state general fund, help pay for emergency medical services, for driver training and motorcycle safety programs, and for construction and maintenance of public roads.

**Provisions Governing the Disposition of Motor-vehicle and Motor-carrier Receipts,** National Conference of State Legislatures (January 1, 2001). In Tennessee, for instance, enactment of the statute enabling individuals of legal age who do not possess a social security number to obtain a driver's license if they can prove their identity and residency in the state and pass required tests resulted in additional state revenues totaling more than \$716,800.00 in the period June 2001 through January 2003. North Carolina estimated a net loss in revenues to the state of \$350,000 to \$475,000 annually from the adoption of restrictive measures.<sup>40</sup>

**Administrative Costs of Restrictions.** California taxpayers pay \$1.8 million a year to have Department of Motor Vehicle staff members check the legal status of applicants.<sup>41</sup> A study

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<sup>40</sup> See North Carolina General Assembly Legislative Fiscal Note (Mar. 2003), available at <<http://www.ncleg.net/html2003/bills/FiscalInfo/Senate/SFN0263.pdf>> Tennessee estimated a loss in revenue of over \$150,000 per year if licenses are restricted. See Fiscal Note, SB 1188-HB 1790, Tennessee Legislature (March 23, 2003) available at <http://www.legislature.state.tn.us/bills/currentga/Fiscal/SB1188.pdf>.

<sup>41</sup> National Employment Law Project, *Low Pay, High Risk: State Models for Advancing Immigrant Workers' Rights* (updated November 2003), [www.nelp.org](http://www.nelp.org).

by the Virginia Department of Motor Vehicles concluded that requiring proof of legal residency for driver's licenses in that state "would not make Virginians any safer from terrorism and would cost more than \$5.5 million a year to carry out." Virginia determined that 148 additional staff would have to be hired, for a total of \$5.2 million annually, and that training would cost \$200,000.<sup>42</sup>

## **Conclusions**

Some Task Force members claim that licensing undocumented immigrants would weaken our national security by allowing potential terrorists to get false documents that they can use to create other documents that shield their true identities and avoid detection. We recognize the importance of the driver's license in establishing identity and the potential for misuse of a false license in "breeding" further identity documents. However, we conclude that the primarily emotional appeal of this claim fails if the identity documents required for the driver's license meet Documentation Standards of reliability and security. No document is completely invulnerable to fraud, and many commonly accepted US documents, like birth certificates and Social Security Cards, will not meet the Documentation Standards we propose. However, there are several foreign documents, including foreign passports standing alone and foreign government-issued national and consular identification documents that do meet the minimum criteria we recommend. Further, licensing undocumented immigrants based on reliable and secure identity documents could be a strong contributor to national security and law enforcement.

Our recommendations are driven by another policy consideration as well. It is important to recognize that there are scores of U.S. documents that prove legal status in the U.S., and new ones are being added all the time. MVA document examination officials are not likely to be able to ever recognize them all; they lack the expertise necessary to evaluate whether an applicant's immigration documents show lawful status, which is often a complex legal task. Therefore it seems impractical for proof of legal status or lawful entry to be included as a prerequisite for a driver's license.

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<sup>42</sup> A Report by the Commissioner of the Department of Motor Vehicles to: The Chairman of the Transportation Committee of the Virginia Senate, et. al., Virginia DMV (Dec. 2002).

### Q-3 Basic Findings: Current Maryland Law Regarding Residency Documentation

#### Study Question 3. Domestic and Foreign Documentation that Proves the Residence (Address) of an Applicant for a Driver's License.

The Task Force reports its findings regarding residency documentation in addition to proof of identity and age. COMAR requires proof of an applicant's residence address (domicile) in Maryland as established by two of the below-listed documents.

**Proof of Residence.** Section 11.17.09.04 (E) of COMAR lists the following documents as acceptable proofs of an applicant's residence address in Maryland:

a. Selective service card;
b. Maryland vehicle registration card or title;
c. Voter registration card;
d. Utility, telephone, or cable TV bill;
e. Checking or savings account statement;
f. Life insurance card or policy (over 3 years old);
g. Property tax bill or receipt;
h. Mortgage account or proof of home ownership;
i. Residential rental contract;
j. Cancelled check with name and address imprinted;
k. First class mail from any government agency;
l. Major credit card bill;
m. Installment loan contract from a bank or other financial institution;
n. Sales tax or business license;
o. U.S. savings bond;
p. Residential service contract (for example, TV repair, lawn service, or exterminator contract); or
q. Probation court order, order of parole, or order of mandatory release.

Under Section 11.17.09.04 (F) of COMAR, the MVA may accept:

- In the case of a dependent child, a statement from the child's parent or guardian signed in the presence of an MVA representative;
- In the case of a married person, a statement from the individual's spouse signed in the presence of an MVA representative; or,
- In the case of a resident of a nursing home, a statement from the nursing home manager written on nursing home letterhead

In some cases, Section § 11.17.09.04 (E) of COMAR allows third party verification of state residence.

### **Supplemental Documentation Accepted by MVA as Proof of Residence (from MVA Brochure)**

The MVA has issued a brochure that includes additional documents that can be presented as proof of residency. However, none of these have been added to existing approved COMAR regulations.

**Documents Listed in MVA Brochure**

Car, health, or home-owners insurance card, bill, or policy (over 3 years old)
W-2 form not more than 18 months old
Pay check/stub with name and address
U.S. Mail with forwarding address label
Investment statements
Retirement plan statements
Current transcript from an accredited college or university
Signed tax return not more than 18 months old
Mail, with post-marked envelope, from an accredited college or university

### **Task Force Considerations**

**Residency Documents and Fraud.** According to Professor Margaret Stock, a recognized expert in national security, Constitutional and military law, and a Lieutenant Colonel in the Military Police Corps of the United States Army Reserve, when foreign passports and other national identity documents are accepted as valid identity documents (a recommendation which she strongly supports for the reasons discussed in response to Study Question 6), it is important that the MVA strictly enforce COMAR's requirements applicable to documented proof of Maryland residency. We believe this will deter fraudulent applications from residents of other states that seek to obtain Maryland driver's licenses.

**Applicability of Residency Documentation.** Based on on-going driver's license applicant surveys conducted by CASA de Maryland and several churches in the Annapolis area as well as first-hand accounts by non-citizens and immigrant workers, some members of the Task Force found indications that the current list of residency documents do not apply to foreign-born applicants (Items a and c) and may reflect an unintentional socio-economic bias. The MVA currently accepts mainly documents that may be more readily available to mid- and high-income individuals who are established business professionals or homeowners (Items b,d,f,g,h,i,m,n, and p).



## **Conclusions**

1. MVA should update the list of acceptable documents as proof of residency to include documents listed in a published MVA brochure.
2. MVA should review and modify the list of residency documents to include a wider range of verifiable documents that are more accessible to low-income residents, non-citizens, and other impacted applicants.

**Rationale:** Low-income individuals, non-citizens and new immigrants may not yet own property, have mortgages, major credit cards, or be the primary head of a household listed on rental contracts, utility bills, and telephone services. For example, due to extremely high housing cost, many low-income workers share homes or apartments with family relatives, friends and/or co-workers, without signing formal residential rental contracts. Others may access their bank account using debit cards only, and seldom, if ever, write personal checks (due generally to language limitations). Additionally, few immigrants experience regular communications with government agencies as they seldom seek or qualify for benefits. Finally, although many pay payroll taxes and qualify for refunds from the IRS, because MVA accepts only original documents and not copies, a copy of a tax refund check sent to their home address cannot be used as proof of residency.

Some TF members heard about other difficulties with proof of residence faced by younger independent applicants (15 to 17 years old) who do not live with parents or guardians and may no longer be enrolled in school or have current school records.

The MVA should avoid unwarranted exclusion of valid applicants who may not have multiple proofs of residency, e.g., three or four original documents are generally required by MVA licensing staff.

Possible documents to be considered by MVA as proof of residency could include: commercial or business written correspondence; notarized statements by relatives or heads of households signed in the presence of an MVA representative; identification cards or statements issued by employers or recognized non-profit organizations; other residency documents to be determined using the Document Reliability and Security standards proposed under Study Questions 1 and 2.

## **Q-4 Basic Findings: Residency Documentation and Access to Driver's Licenses**

**Study Question 4. Assess the extent to which individuals who reside within the State as documented or undocumented immigrants may not be issued drivers' licenses because of current requirements for providing documentation in an application for a driver's license.**

The Task Force considered the impact current MVA requirements have on restricting access to driver's licenses by Maryland residents, regardless of their immigration status.

Ample evidence was provided by various groups of immigrant advocacy organizations in Maryland who have regularly identified and reported problems that documented as well undocumented immigrants are having in getting their driver's licenses.

In Maryland, three Latino advocacy organizations -- CASA of Maryland, the Maryland Latino Coalition for Justice, and a network of Evangelical Christian and Catholic Churches in Anne Arundel County (working with Delegate Gutierrez from District 18), recently conducted special projects to assist immigrant workers in obtaining driver's licenses. All three organizations used the same methodology for screening and selecting candidates based on a careful review of each candidate's personal documents for compliance with current COMAR-listed documentation requirements. The first group of approximately 25 out of 90 potential applicants was successfully processed over several days in June 2004 at the MVA Glen Burnie branch office. Requests for additional group processing were denied by MVA and applicants were asked to make individual appointments at one of seven foreign-document processing locations. Due to extraordinary delays (2 to 3 months) in obtaining appointments at some of the nearby sites and the need for a certified translator to provide services for most applicants, the Anne Arundel group screened and provided van transportation for nine out of 85 potential driver's license applicants to be processed in Salisbury, Maryland, where appointments were available at earlier dates. A second group has been scheduled for mid-December.

### **Cases Reported by Driver's License Candidates**

Steven Smitson, an attorney at CASA of Maryland, the state's largest Latino community organization submitted the following testimony to the Task Force. It provides first-hand information regarding the cases that CASA legal staff have received relating to access limitations faced by drivers license applicants.

**Cases of Undocumented Drivers.** On a weekly basis, more than 20 people come to CASA's office seeking legal assistance relating to drivers licenses. Of that group, they regularly give brief legal advice to people who have been ticketed for driving without a license. Staff estimates that around 25% of the cases seen are of that type. Oftentimes, these are individuals who have tried repeatedly to comply with the law and obtain a driver's licenses but are refused licensure by the MVA office.

Although these drivers do not have licenses, they do have license plates. Most commonly, people report that they have a friend or relative who does have a driver's license obtain an insurance policy and register the car. Accordingly, when the police pull over a vehicle, they find a perfectly insured and registered car that is consistently driven by an unlicensed driver.

**Cases of People Who are Improperly Refused Drivers Licenses** The remainder of the people who come to CASA's legal office are people who have applied for drivers licenses and have been denied. Oftentimes, that denial is improper. For a one-month period last year, CASA staff conducted telephone surveys of people who called our office complaining about a drivers license denial. Of the fifteen surveys that we collected, around a third were denied appropriately under the regulations. Another third presented the documents appropriate under the Maryland regulations yet were denied for not complying with what we refer to as the "MVA website rules" (rules that were generated through internal office directives but never went through the APA's rulemaking process - an example of which would be: refusing to accept an out-of-state license as a valid primary document). The final third had presented documents that withstood even the "MVA website rules" but were unlawfully denied for other reasons (for example, for not having a social security number). Earlier this year, Delegate Gutierrez arranged to bring in a group of CASA clients to the Glen Burnie MVA to ensure that the appropriate regulations were applied. Through this process, 35 people obtained drivers licenses or permits. Of that number, 15 individuals had been previously denied licenses.

In addition to the denial of licenses, CASA's legal staff have seen cases of clients charged with Fraudulent Application for MVA ID Card and Misrepresentation in Application for an ID when they presented verifiable identification. One example of this is a client that CASA legal staff currently represent who presented a commercial driver's license from a province in Argentina. Because the on-line verification system subscribed to by the MVA does not contain examples from all Latin American countries nor, in this case, Argentinean provincial licenses outside of Buenos Aires, a match was not found. The Argentinean license was taken and the applicant was charged criminally. CASA staff have been told that the MVA subsequently verified the presented CDL with the Argentinean government but the charges have not been dropped. Another activist with CASA of Maryland went in to renew her Maryland identification card and, in compliance with the new requirements, presented her social security card that she had laminated. The MVA confiscated her identification card, her social security card, and has charged her criminally. She is a Legal Permanent Resident who has resided in Maryland for more than ten years.

**Cases of Crime Caused by the Lack of Access to Drivers Licenses**

Most recently, CASA legal staff have also witnessed an increase in the number of crimes committed against people who attempt to obtain a drivers license. Throughout Silver Spring and Hyattsville, flyers are hung at bus stops advertising the purchase of international driver's licences that purport to allow people the right to drive in Maryland. More seriously, three people in the last month reported to us that they were robbed of \$1200 when they attempted to purchase a Maryland drivers license. Each of these cases centered on the MVA Gaithersburg office. In the first two cases, the victims gave the \$1200 in cash to someone who asked them to wait in front of the office. The person with the cash then disappeared into

the office and exited out another door. This week, someone came to CASA's legal office who had found a flyer distributed in his apartment complex advertising that people could purchase Maryland drivers licenses for \$1200. Many of the person's friends also received the flyer. He had previously applied for a license and had been denied. In desperation, he called the number and met with a person who told him that he could get him a real license for \$1200. They arranged to drive in the thief's car to the Gaithersburg office of MVA. Right before reaching the MVA office, the thief pulled to the side of the road, put a gun to the head of the victim, took his money, and kicked him out of the car. This victim, by the way, has appropriate documents under the current COMAR regulation to qualify for a Maryland license. Such first-hand information demonstrated to the members of the Task Force the need to protect the rights of tens of thousands of primarily low-wage workers in Maryland.

**Project Results.** The results of these Special Projects indicate that documented and undocumented immigrants are both experiencing restricted access to driver's licenses and that it is only when special arrangements are made to accompany and advocate for these candidates that they are successfully able to apply for permits or to obtain driver's licenses. Moreover, some candidates have encountered that MVA has recently imposed additional documentation requirements beyond what COMAR specifies related to foreign passports that *de facto* require proof of lawful presence in spite of the Opinion of the Attorney General on this matter.

In addition to this project, CASA and MLCFJ developed and distributed an informal survey<sup>43</sup> to a network of immigrant's rights advocacy organizations to gather information for Questions 4 and 5 of this study. Responses confirm the same results of local projects—that both documented and undocumented immigrants are facing restricted access to driver's licenses.

In Iowa, for example, the Iowa-Nebraska Immigrant Rights Network reported that many times immigrants who should be given 5-year licenses are incorrectly given shorter-term licenses because their Department of Transportation does not understand their immigration status. Others are given no license at all because their Department of Transportation doesn't recognize the immigration documents they have to prove their status. This situation re-emphasizes the point that there are scores of U.S. documents that prove legal status in the U.S., and new ones are being added all the time, and MVA document examination officials are not likely to be able to ever recognize them all. Therefore it seems impractical for proof of legal status to be included as a prerequisite for a driver's license.

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<sup>43</sup> Sample survey form and responses are presented in Volume II of this Report—References and Resources

## Conclusions

### 1) MVA Compliance with COMAR

The MVA should bring its driver's licensing practices and documentation requirements into compliance with COMAR. Proposed changes to COMAR should be filed in accordance with APA and undergo public comments and, if necessary, public hearings before the General Assembly's AELR Joint Committee. Standards for reviewing the security and reliability of documentation should be developed and consistently implemented at all branch offices that process new licenses. Additional training for front desk staff as well as documentation specialists should be developed to ensure policies and procedures are being followed.

Claims that all documents presented by foreign-born applicants require "special handling and/or extensive processing" need to be examined and subjected to standards for determining risk as well as documentation reliability and security. For those cases that the standard indicates should require special handling, an alternative review exception process should be developed that may include requiring multiple appointments and extending the document review period, when necessary. However, as has been the practice at MVA offices over years past, many foreign applicants, e.g. diplomats, students, standard visa holders, should continue to be processed routinely with other applicants at any branch on a walk-in basis.

### 2) Licensing Denial Appeal Process

The MVA should establish a formal mechanism by which license applicants can contest and appeal driver's license denials resulting from rejection of identity, age, and residency documents. Maryland law, through the Administrative Procedure Act of the State Government Article, Maryland Annotated Code, provides that contested agency actions may be resolved through an impartial administrative hearing. MVA already participates in Maryland's administrative hearing process for government agencies through the Office of Administrative Hearings (OAH). The following information from the OAH website provides more details regarding the administrative appeals process being proposed by the Task Force:

#### **Office of Administrative Hearings**

Citizens and businesses may have their cases heard by Administrative Law Judges, who are independent of the agency whose action is being contested. OAH has centralized and improved the administrative hearing process and reduced the cost. The Administrative Law Judges of the OAH travel throughout the State of Maryland and conduct hearings for a wide variety of agencies and programs. Except for entities exempted by statute, a Board, Commission or agency head must hear a contested case personally or must delegate authority to hear the case to the OAH or, with the permission of the Chief Administrative Law Judge, a person not employed by OAH. (State Government Article 10-205).

The OAH collects a filing fee in certain types of cases. The fees are \$125.00 for MVA Suspension or Revocation cases and \$50 for all other cases for which OAH charges a fee. The fee may be waived upon proof of indigency.

Fifty to sixty percent of the OAH caseload is from cases referred by MVA. These cases are of various types and generally involve the appropriateness of a suspension or revocation of an individual's driver's license or privilege to drive in the State of Maryland. There are also some cases that involve the license of a vehicle salesperson or tradesperson to carry on his/her business.

There are a host of laws in effect that govern the conduct of drivers on Maryland's highways. Some of these laws are criminal in nature and some are administrative. Generally, when an individual is charged with a violation of a criminal motor vehicle statute or statutes and is ultimately convicted, this individual is subject to various administrative sanctions in addition to the penalties imposed by the courts. This includes administrative sanctions based upon an individual's conviction for Driving Under the Influence of Alcohol and/or Drugs, Driving While Intoxicated, driving in violation of a license restriction or other moving violations that resulted in excessive points being assessed against his/her record. There are also some case types where an individual is subject to administrative sanctions regardless of whether he/she is convicted of an associated criminal charge. Cases include those where an individual has been stopped on suspicion of driving in violation of an alcohol restriction or being under the influence of or intoxicated by alcohol/drugs and is asked to submit to a chemical test. If the person refuses to submit to the test or takes the test and has a result that shows a specific level of intoxication, the individual is subject to administrative sanctions. Finally, there are miscellaneous case types involving the MVA's Medical Advisory Board, specific situations such as fatal accidents, and motor vehicle dealers and tradespersons where sanctions can be imposed.

At the hearing the parties may call witnesses; offer exhibits; cross examine any witness called by a party; and make opening and closing statements. Typically, at the hearing, the issues are whether the licensee is subject to a suspension or revocation of his/her driver's or trade license, and if so, the appropriate sanction to be imposed.

The majority of these hearings are "bench" hearings, meaning a decision is made immediately at the end of the hearing. In some instances, however, a written decision is issued (dealer and tradespersons licenses). In these instances, once a hearing has been completed and the record closed, the proposed written decision must be issued by the Administrative Law Judge within 90 days of the close of the record. In either case, the decision issued by the ALJ will contain Review Rights that tell the parties what further action they may take if they disagree with the decision.<sup>44</sup>

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<sup>44</sup> From OAH Web address <http://www.oah.state.md.us/>

## Q-5 Basic Findings: Driving without a License due to Documentation Issues

**Study Question 5. Quantify the extent to which individuals in the State who do not have drivers' licenses because of the lack of valid documentation necessary for applications for the licenses actually drive on the highways in the State.**

The Task Force found that there are no reliable data available to quantitatively determine the number of applicants who have been denied licenses and who are consequently driving without licenses in Maryland. Two alternative data sources were examined.

**Traffic Citations-** In the current traffic codes, state and local police are able to write a citation to driver's who are found to be driving without a license. However, it is only the District Courts of Maryland that maintain records regarding individuals who receive citations and are subsequently convicted of driving without a license. Data show some correlation of convictions by race<sup>45</sup> (rather than by population as would be expected). Immigration status is not part of the citation data available; therefore, sufficient information is not available to determine the reason for doing the violation or if the driver was a documented worker or not.

**MVA Licensing Data-** The MVA provided the Task Force quite limited quantitative information regarding their licensing services. MVA provided data reflecting the total number of new licenses issued annually per branch office: an average of 368,000 new licenses per year with the highest number (51,000) being issued at the Gaithersburg office in Montgomery County, and the lowest number (3900) issued at the Loveville branch office.

However, the MVA does not gather data or maintain detailed records regarding the number of applicants who apply but are denied driver's licensing services. To get a quantitative measure of "dissatisfied customers", the Task Force requested and received data gathered using MVA's customer satisfaction surveys which are conducted at each branch office. MVA data showed that most offices receive high customer satisfaction ratings, generally averaging 80% to 95% satisfaction. However, a review of the actual questionnaire forms which are used to conduct the customer satisfaction surveys and are readily available at all their branches revealed that there is no place on the form for an applicant to provide such information! There are no questions asking for specific input about a customer's satisfaction (or dissatisfaction) with their licensing services, nor about specific services provided by MVA's driver's licensing staff.

Generally, a high-performing public service agency will track customer complaints as an indicator of the quality of service; however, the MVA does not have in place any readily available form or process for handling customer complaints in general, nor for problems with driver's licenses in particular. Furthermore, there is no formal process or clear mechanism for appealing decisions that result in denials of licenses. Today, an applicant is not able to appeal

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<sup>45</sup> African American received the highest average number of convictions for driving without a license. It should be noted that Hispanics can be of any race.

his case nor request re-consideration of staff decisions to MVA senior management or to an independent quality assurance or ombudsman's office.

To answer this question, some members of the Task Force were able to gather non-quantitative information and heard first-hand testimony to consider the ramifications of MVA's practices restricting access to licenses and their impact on non-citizens and immigrant workers.

According to the Urban Institute, as of 2002, up to 150,000 undocumented immigrants lived in Maryland. Since then, as indicated by recent Census figures, this number has grown substantially. Under current MVA practices, most of these individuals lack the identity documents required to obtain a driver's license. Some immigrants entered lawfully with proper documentation and have overstayed their status; others left their homelands and entered this country primarily to fill jobs in construction, landscaping, hotels, restaurants, private households, agricultural industries and many other segments of the Maryland service economy that are no longer attractive to native-born workers due to payment of low hourly rates, instability, and lack of benefits.

To better understand the implications of our "broken" immigration laws on the status of immigrant workers, the reader is urged to review important information about federal immigration programs presented in **Appendix F-- Basic Facts of Immigration**, compiled and published by the National Council of La Raza, May 2004,

Despite the labor market demands that bring immigrant workers to Maryland and their significant economic contributions, most of these workers have no way to acquire lawful immigration status. Thus, because the undocumented are not able to get a license, but need to drive in order to participate in the very economy that welcomes and thrives from their presence here, many choose to drive on our roads without a license. Such workers have never been certified as competent to drive through our Maryland licensing system, and because they have no driver's license, are also ineligible to buy automobile insurance. This common situation poses a significant public safety threat that the General Assembly should not ignore.

The cost burden on low-income families is also substantial as evidenced by the possible penalties that an uninsured driver may incur. (From the MVA web site)

Uninsured Vehicle Owners Could:
<ul style="list-style-type: none"> <li>▪ Lose license plates and vehicle registration privileges.</li> <li>▪ Pay uninsured motorist penalty fees for each lapse of insurance - \$150 for the first 30 days, \$7 for each day thereafter.</li> <li>▪ Pay a restoration fee of up to \$25 for a vehicle's registration.</li> <li>▪ Be prohibited from registering any future vehicles until all insurance violations are cleared.</li> <li>▪ Be prohibited from renewing a suspended registration until all insurance violations are cleared.</li> <li>▪ Have license plates confiscated by an authorized tag recovery agent, once a registration suspension is in effect.</li> <li>▪ Pay a fine of up to \$1,000 and/or one year imprisonment for providing false evidence of insurance.</li> </ul>
Note: These penalties are in addition to any fines or penalties imposed by a court of law.



### **Importance of Driver's Licensing in Maryland's Eastern Shore**

The Task Force heard compelling evidence about the adverse impact of MVA licensing restrictions on the Latino immigrant community during a meeting held in Salisbury, Maryland, a growing rural community with limited alternative modes of transportation.

As established by the testimony of Tim Dunn, Ph.D., Assistant Professor of Sociology at Salisbury University, and Amy Liebman, Coordinator of BEACON (Business, Economic and Community Outreach Network), the number of Hispanic immigrants on the Eastern Shore has grown by 136% in recent years. These individuals explained that bus service or mass transit is not widely available and that immigrants must often rely on their own transportation to get to work. Dr. Dunn stated that, based on his experience, many Mexicans and other Latinos in Maryland who are undocumented drive without a license. Allan H. Webster, Chief of Police for Salisbury agreed and stated that he expected these numbers to rise as the population increases. He stated that a major concern is that they lack the proper knowledge, training, and documentation to operate a motor vehicle.

Mitzi Scott, who is responsible for hiring at the Peninsula Regional Medical Center, which employs 2400 and is the largest employer on the Eastern Shore, testified that the growing Hispanic community is important to the economy of the area but faces many barriers, including transportation. Bill Satterfield, Executive Director of the Delmarva poultry association, testified that the industry employed 14,000 workers and produces 8% of the US poultry product, or 11 million chickens per week. He stated that the area became a magnet for immigrants about 10 years ago as they began to hear about jobs by word-of-mouth. Now, new immigrants comprise about 10% of the work force. Although the industry strives to hire only legally authorized workers, employers are not document experts. He stated that transportation is a major problem for these individuals. *"These are hard working folks and the industry is dependent on them,"* he said. Jeff Gleason, Human Resources Director of Chesapeake Nurseries, which has a workforce that is 60% Hispanic, stated that many of his employees cannot get driver's licenses.

Aside from general questions of fairness, because of its impact on Latinos, the General Assembly may wish to consider that restrictive licensing could expose Maryland to constitutional litigation under a "strict scrutiny" test for impermissibly subjecting immigrants to differential treatment. *See, e.g., Plyer vs. Doe* (457 U.S. 202 1982). History has shown that laws requiring individuals to show proof of legal status or citizenship result in increased discrimination based on national origin and/or appearance. For example, in 1986, Congress passed the Immigration Reform and Control Act (IRCA), which implemented a national worker verification system and sanctions for employers who knowingly hired undocumented workers. A Congressionally-mandated GAO study found a "widespread pattern of discrimination" resulting "solely from implementation of IRCA." GAO reported that 10% of employers discriminated on the basis of foreign accent or appearance and 9% discriminated by preferring certain authorized workers over others.<sup>46</sup>

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<sup>46</sup> See GAO Report GGD-90-62. Immigration Reforms: Employer Sanctions, March 1990.

**Adverse Effect on US Citizen Family Members of Immigrants.** According to Dr. Dunn of Salisbury University, denying licenses based on immigration status affects many US citizen family members. As established by documentation from the Urban Institute, one in ten children in the US lives in a “mixed-status family,” in which at least one parent is a noncitizen and one child is a citizen. Four out of five children of immigrants were born in the US, and two out of three children in families with one or more undocumented parents are citizens. See *Children of Immigrants Fact Sheet*, The Urban Institute, December 2001. Thus the impact of denying licenses to immigrants reaches far beyond the immigrant community and negatively affects US citizens and American families in Maryland and around the country.

Although there are an estimated 8 to 10 million undocumented immigrants in the United States, federal immigration law provides very few ways in which a willing undocumented worker can enter lawfully to work for a willing employer. The only practical avenue to lawful status lies in applying for a green card under the now sunset Section 245(i) of the Immigration and Nationality Act (by virtue of being the beneficiary of certain applications filed by April 2001). However, this is only open to a few, and these individuals are stuck in a years-long process due to inordinate backlogs at the US CIS and the US Department of Labor. Although these individuals lack documentation of current status, if they leave the country while they await processing, they will be barred from re-entering when the green card is finally available. Many, including the Bush Administration, have called for immigration reforms designed to provide status for hard-working, law-abiding people who are here and a program to allow needed workers to enter in a legal, orderly and regulated fashion. However, until such a program is fashioned at the federal level, putting driver’s licenses beyond the reach of undocumented immigrants who hold reliable, secure identity documents works a gross hardship on many Maryland residents and their US Citizen family members.

## **Conclusions**

The Task Force concluded that there are no reliable data or statistical information being gathered by a State or local agency to quantify accurately the concerns related to unlicensed drivers. Consequently, it is impossible to know with certainty the number of unlicensed drivers who may have attempted to get a license but were denied one, for whatever reason. In view of the serious negative impact on the quality of life and living conditions of immigrant workers and their families, it is important for local and State officials and public service agencies to begin to address these public policy concerns.

Likewise, there is insufficient data for determining the level of customer satisfaction or dissatisfaction with MVA’s driver’s licensing process. This is a serious deficiency that MVA management should address and correct. Furthermore, without having adequate standards and quality metrics built into its licensing customer services, MVA management should cease making ad hoc, arbitrary changes to its public service procedures, including those that subject foreign-born applicants to onerous delays and reduced quality services.

## Q-6 Basic Findings: Security Risks Related to Driver's Licensing

### *Study Question 6. Assess the potential security risks posed by providing identity documents to individuals residing in the State notwithstanding violation of the federal Immigration and Nationality Act by the individuals.*

The Task Force found that there are limited hard data available to assess the potential security risks related to providing access to driver's licenses to individuals who may be out of status. The following issues were examined.

The Report of the 9/11 Commission establishes the overarching importance of effective intelligence gathering and information-use in preventing terrorist acts. As noted, the Commission recommended that the federal government set standards for the issuance of birth certificates and sources of identification, including driver's licenses. It did not recommend denying licenses based on immigration status or rejecting reliable foreign identity documents as acceptable proof of identity. As explained to the Task Force by Professor Margaret Stock, our security depends on people—whether documented or undocumented—having the means to identify themselves and to cooperate with the police and other authorities. Our ability to locate terrorists is enhanced if law enforcement officials can find the people they are looking for, and driver's license databases are a useful tool for this purpose. Further, as explained in “The Federal Bureau of Investigation's Efforts to Improve the Sharing of Intelligence and Other Information,” Audit Report 04-10, U.S. Department of Justice, Office of the Inspector General, Audit Division, the prevention of terrorist attacks on the United States depends on the effective collection, analysis, and appropriate dissemination of intelligence needed to disrupt or defeat terrorist activities. (see p. i). Toward this end, the Report recommends that the “FBI posts names from its Terrorist Watch List on the National Criminal Information Center database, along with guidance on what state or local law enforcement should do, for example, if they encounter a named individual during a traffic stop. The sharing of the watch list information is critical to integrating state and local law enforcement into the war on terrorism and greatly enhances the nation's ability to identify and arrest or detain terrorist suspects.” Ibid (emphasis added). As stated by Steve McCraw, then Assistant Director of the Federal Bureau of Investigation Office of Intelligence in Congressional testimony (page 164 and discussed below), from his experience as a former state trooper, some identification “was always better than nothing” in the case of a police stop. Thus, from a national security perspective, not only must driver's licenses and identity cards be reliable and secure, but the database of persons to whom they are issued also must be as comprehensive as possible.<sup>47</sup>

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<sup>47</sup> As Professor Stock stated in her Congressional Testimony before the Senate Judiciary Committee Subcommittee on Immigration, Border Security, and Citizenship, on April 1, 2004, “[i]f we are to succeed in reducing our vulnerability to further terrorist attacks, we must focus our attention and resources on the gaps in intelligence gathering and information sharing that allowed nineteen terrorists to enter the United States. National security is most effectively enhanced by improving the mechanisms for identifying actual terrorists, not by implementing harsher immigration laws or blindly treating all foreigners as potential terrorists. Policies and practices that fail to properly distinguish between terrorists and legitimate foreign travelers take us down the wrong path as ineffective security tools that do more harm than good.”

Moreover, as Professor Stock testified, the 9/11 hijackers did not need state driver's licenses to carry out their attacks—they could have boarded the planes using their passports and the same documents with which they entered the United States. Also, most of them possessed immigration documents that would have qualified them to obtain licenses even in states expressly requiring lawful presence. Professor Stock explained that sophisticated terrorists with substantial financial resources are likely to have the ability to obtain driver's licenses and other documents when they find them necessary. Some of the hijackers got licenses by falsely claiming that they were residents of a particular state, such as Virginia, which had lax proof of state residency requirements. In Professor Stock's view, rigorous measures requiring applicants to prove state residence is a far more effective approach to ensuring the integrity of a license than denying licenses based on immigration status.

Professor Stock also stated that, in her experience, restrictive licensing (i.e., based on immigration status) increases the market for and use of fraudulent documents, such as immigration stamps, birth certificates, driver's licenses and social security numbers, which, as confirmed in a GAO study (discussed above) can be easily and inexpensively obtained. The Task Force heard testimony on the availability of fraudulent documents for sale in immigrant communities on the Eastern Shore. Similarly, from her experience as a military police officer, Professor Stock explained that these fraudulent documents impede law enforcement by contaminating intelligence regarding who is present in the United States and complicate the task of motor vehicle administrators by requiring them to detect fraudulent immigration documents.

We also recognize that Documentation Standards for driver's licenses will never be effective as long as valid driver's licenses are sold, whether by unscrupulous motor vehicle employees or on the streets. Therefore, national security requires us to take steps to investigate those instances of fraud within the MVA and to severely punish those who engage in such activity.

### **Conclusion**

Immigration status in and of itself does not correlate to security risk. A number of States, such as Utah, Texas, Tennessee, among others, continue to license individuals irrespective of their immigration status based on the concept that it is a lesser risk to know who a driver is and where he or she lives, than to not have any identifying information. To date, there is little evidence to support that documented or undocumented immigrant workers pose a higher security risk than others living in the U.S.-- whether licensed or not. As has been noted elsewhere in this report, all the terrorists responsible for the tragic events of September 11 were lawfully present in the United States and would therefore be eligible for applying for driver's licenses in any state they resided in, including those who have established a lawful presence requirement.

## Q-7 and Q-8 Basic Findings: Improving Reliability and Security of MVA Processes

*Study Question 7. Assess the feasibility, including the cost, of developing a process for the Motor Vehicle Administration, in consultation with the Maryland State Police, to review driver's license applications by applicants from foreign countries to determine whether the applicant poses a danger to homeland security because of the applicant's membership or association with a foreign terrorist organization designated on the Terrorist Exclusion List by the United States Secretary of State under the authority of § 411 of the USA Patriot Act of 2001 (8 U.S.C. § 1182).*

*Study Question 8. Assess the feasibility, including the cost, of developing a process for the Motor Vehicle Administration, in consultation with the Maryland State Police, to review drivers' license applications to determine whether the applicant poses a danger to public safety because of the applicant's membership or association with a domestic terrorist organization.*

The Task Force considered the feasibility of developing a process for the MVA to improve the reliability and security of its documentation review process that could include strengthening and coordinating more effectively use of existing interfaces with the Maryland State Police and other homeland security organizations. Many of these organizations focus on both domestic terrorists as well as international terrorists. The MVA should seek to leverage existing federal resources through collaborative partnerships rather than to “re-invent the wheel” and attempt to duplicate activities that more properly falls within the scope and mission of other federal organizations. However, it is most important that the MVA at all time protect the privacy of all Maryland residents by safeguarding information collected in the conduct of its services.

Since 1982 for example, the FBI was named the lead federal agency for combating terrorism that takes place in the United States. (This mandate included attacks by both Americans and foreigners and was later expanded to include terrorist attacks on Americans abroad.) Many FBI field offices lead local Joint Terrorism Task Forces (JTTFs), through which the bureau coordinates its counterterrorism efforts with those of local police and other federal and local bodies. By the end of 2003, the FBI plans to have a JTTF in each of its 56 field offices. The U.S.A. Patriot Act expanded the FBI's ability to collect information and conduct surveillance on individuals thought to be involved in terrorist activities.

Due to time constraints, the Task Force was not able to research how other states may be using similar federal and state resources. Unfortunately, detailed cost information about current MVA processing was not made available to the Task Force. There is a clear need for more reliable and accurate data about actual MVA operating costs in order for these to serve as the basis for estimating the costs of any warranted process modification or new technology.

## Conclusion

The Task Force concluded that the MVA should examine possibilities for working closely with several homeland security-related resources whose mission is dedicated to fighting terrorism. It appears that their services are available to any State, including using established interfaces with the State FBI offices and Homeland Security Offices. The Terrorist Exclusion List provides information about specific international organizations and conditions for designating these as terrorist. Information about domestic terrorists<sup>48</sup> gathered from various web sites is included in Volume II of this report.

Fact Sheet Office of the Coordinator for Counterterrorism Washington, DC November 15, 2002  
Terrorist Exclusion List

Section 411 of the USA PATRIOT ACT of 2001 (8 U.S.C. § 1182) authorized the Secretary of State, in consultation with or upon the request of the Attorney General, to designate terrorist organizations for immigration purposes. This authority is known as the “Terrorist Exclusion List (TEL)” authority. A TEL designation bolsters homeland security efforts by facilitating the USG’s ability to exclude aliens associated with entities on the TEL from entering the United States.

**Designation Criteria** An organization can be placed on the TEL if the Secretary of State finds that the organization: commits or incites to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity; prepares or plans a terrorist activity; gathers information on potential targets for terrorist activity; or provides material support to further terrorist activity.

Under the statute, “terrorist activity” means any activity that is unlawful under U.S. law or the laws of the place where it was committed and involves: hijacking or sabotage of an aircraft, vessel, vehicle or other conveyance; hostage taking; a violent attack on an internationally protected person; assassination; or the use of any biological agent, chemical agent, nuclear weapon or device, or explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property. The definition also captures any threat, attempt, or conspiracy to do any of these activities.

**Designation Process** The Secretary of State is authorized to designate groups as TEL organizations in consultation with, or upon the request of the Attorney General. Once an organization of concern is identified, or a request is received from the Attorney General to designate a particular organization, the State Department works closely with the Department of Justice and the intelligence community to prepare a detailed “administrative record,” which is a compilation of information, typically including both classified and open sources information, demonstrating that the statutory criteria for designation have been satisfied. Once completed, the administrative record is sent to the Secretary of State who decides whether to designate the organization. Notices of designations are published in the Federal Register.

### Effects of Designation

**Legal Ramifications** Individual aliens providing support to or associated with TEL-designated organizations may be found “inadmissible” to the U.S., i.e., such aliens may be prevented from entering the U.S. or, if already in U.S. territory, may in certain circumstances be deported. Examples of activity that may render an alien inadmissible as a result of an organization’s TEL designation include: membership in a TEL-designated organization; use of the alien’s position of prominence within any country to persuade others to support an organization on the TEL list; solicitation of funds or other things of value for an organization on the TEL list; solicitation of any individual for membership in an organization on the TEL list; and

<sup>48</sup> See for example **Fact Sheet From the Council on Foreign Relations’ online encyclopedia of terrorism. TERRORISM: QUESTIONS AND ANSWERS** can be found at <http://www.terrorismanswers.com>.

commission of an act that the alien knows, or reasonably should have known, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material for financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training to an organization on the TEL list.

(It should be noted that individual aliens may also found inadmissible on the basis of other types of terrorist activity unrelated to TEL-designated organizations; see 8 U.S.C. §1182(a)(3)(B).)

Other Effects Deters donation or contributions to named organizations.

Heightens public awareness and knowledge of terrorist organizations.

Alerts other governments to U.S. concerns about organizations engaged in terrorist activities. Stigmatizes and isolates designated terrorist organizations.

**Background** To further protect the safety of the United States and its citizens, Secretary of State Colin L. Powell, in consultation with the Attorney General, on December 5 designated 39 groups as Terrorist Exclusion List (TEL) organizations under section 212 of the Immigration and Nationality Act, as amended by the new USA PATRIOT Act. By designating these groups, the Secretary has strengthened the United States' ability to exclude supporters of terrorism from the country or to deport them if they are found within our borders. The campaign against terrorism will be a long one, using all the tools of statecraft. We are taking a methodical approach to all aspects of the campaign to eliminate terrorism as a threat to our way of life. This round of Terrorist Exclusion List designations is by no means the last. We will continue to expand the list as we identify and confirm additional entities that provide support to terrorists.

**Terrorist Exclusion List Designees: December 5, 2001**

- Al-Ittihad al-Islami (AIAI) - Al-Wafa al-Igatha al-Islamia - Asbat al-Ansar - Darkazanli Company - Salafist Group for Call and Combat (GSPC) - Islamic Army of Aden - Libyan Islamic Fighting Group -Makhtab al-Khidmat - Al-Hamati Sweets Bakeries - Al-Nur Honey Center - Al-Rashid Trust - Al-Shifa Honey Press for Industry and Commerce - Jaysh-e-Mohammed - Jamiat al-Ta'awun al- Islamiyya - Alex Boncayao Brigade (ABB) - Army for the Liberation of Rwanda (ALIR) - AKA: Interahamwe, Former Armed Forces (EX-FAR) - First of October Antifascist Resistance Group (GRAPO) - AKA: Grupo de Resistencia Anti-Fascista Premero De Octubre - Lashkar-e-Tayyiba (LT) - AKA: Army of the Righteous - Continuity Irish Republican Army (CIRA) - AKA: Continuity Army Council - Orange Volunteers (OV) - Red Hand Defenders (RHD) - New People's Army (NPA) - People Against Gangsterism and Drugs (PAGAD) - Revolutionary United Front (RUF) - Al-Ma'unah - Jayshullah - Black Star - Anarchist Faction for Overthrow - Red Brigades-Combatant Communist Party (BR-PCC) - Revolutionary Proletarian Nucleus - Turkish Hizballah - Jerusalem Warriors - Islamic Renewal and Reform Organization - The Pentagon Gang - Japanese Red Army (JRA) - Jamiat ul-Mujahideen (JUM) - Harakat ul Jihad i Islami (HUJI) - The Allied Democratic Forces (ADF) - The Lord's Resistance Army (LRA)

## Q-9 Basic Findings: Verification of Foreign Documents

**Study Question 9. Assess the feasibility, including the cost, of developing a process for the Motor Vehicle Administration to review driver's license application documentation verified by a foreign embassy or other foreign national representative within the United States.**

The Task Force was unable to analyze the current MVA documentation review process in order to determine points at which the process can be modified to respond to each specific item called for in each question. However, as has been noted in other sections of this report, the Task Force heard testimony that the recently implemented MVA process for reviewing foreign documents is having an overall negative effect on Maryland's foreign population by restricting their access to driver's licenses.

**From the MVA web site, the new process is described as follows:**

Due to the time and complexity involved to review documents produced by foreign countries, the MVA has limited the number of applicants processed for these services on a daily basis. The process will be as follows: 1.) review of your documents, and 2.) completing the application and taking the vision test. In an effort to serve you better, we ask that you follow the process below:

Please contact the MVA at 1-800-950-1MVA(1682) to schedule an appointment.

These transactions are scheduled and processed Monday through Friday only between the hours of 8:30 a.m. and 3:30 p.m., Saturday only between the hours of 8:30 a.m. and 11:30 a.m., and only at the following MVA locations:

Bel Air, Harford County  
Beltsville, Prince George's County  
Frederick, Frederick County  
Gaithersburg, Montgomery County  
Glen Burnie, Anne Arundel County  
Salisbury, Wicomico County  
Waldorf, Charles County

**New Permit or Exchanging an Out-of-Country License for a Maryland License, Please Bring:**

Proof of age, identity, Maryland residence, out-of-country license(s), and the appropriate fee for each license applied for. Please refer to sources of proof for required documentation.

- You must pass a vision test, knowledge test, and driving test.
- You will be required to disclose your Social Security Number.
- Out-of-country license must be a valid license or a license expired for less than one year. The license cannot be suspended.
- If licensed for less than 18 months, you will be issued a Maryland provisional license.
- If you've never been licensed in the U.S., you must complete a 3-hour drug & alcohol awareness course
- A valid U.S. Department of Transportation (DOT) physical card or Federal/MVA waiver (if applying for a commercial driver's license) is needed.
- Out-of-country license must be accompanied by an International license or translated into English by an approved translator.
- If you are from out-of-country, and have never held a license, you must obtain a learner's permit.

The Task Force concluded that the appointment delays experienced since MVA implemented a dual-step process are unfair and quite burdensome to foreign- born residents. Many applicants are dependent on their job schedules and cannot set and keep appointments



that are schedule 2 to 3 months in the future. Many applicants do not have automobiles and cannot easily travel to the fewer number of locations for services.

Furthermore, it was noted that the MVA is experiencing a 50% no-show rate while requiring new applicants to schedule far into the future. Although the Task Force received copies of MVA's new procedures establishing the dual-step process that stipulates that applicants can be served on a walk-in basis whenever there is an appointment cancellation or a no-show, it was determined that this information is seldom is ever given to individuals calling the central 800 number to make an appointment.

The dual process has resulted in an overall inefficient use of resources while significantly limiting the quality of services to foreign-born customers. There appears to be a double standard for services: some customers receive easy to use, convenient access to service from their own home, and others customers are receiving increasingly poorer services. Isn't this a contradiction of the service goals set out by the MVA Administration?

**From the MVA Website:**

Administrator's Message

Welcome to the MVA web site. This web site is dedicated to providing a wide range of services listed below to MVA customers via the Internet. Our goal is to expand these services from time to time to allow customers to conduct as many MVA transactions as possible through the use of their personal computer without leaving the comfort of their home. I hope you will find this web site convenient to use and that you are able to obtain the service you need in a timely manner. Please also keep in mind that additional services not offered on the Internet are available by calling our Customer Service Center at 1-800-950-1MVA(1682).

David H. Hugel  
Administrator

All eligible drivers may renew their license by mail once every ten years (or every other renewal term). If you are not eligible or you choose not to renew by mail, you must visit one of our MVA locations to renew your Maryland driver license in person. Please visit the MVA's website at [www.marylandmva.com](http://www.marylandmva.com) for location information.

"With this new service delivery measure, we are taking another major step toward making the MVA more efficient. Eligible drivers can now renew their driver's license without coming into a MVA office," said MVA Administrator David Hugel. " Things are changing at the MVA and this is a reflection of our commitment to customer service for the citizens of Maryland," he added.

The Task Force did not have detailed cost information to fully analyze the dual processing process and include specific recommendation at the time of completing this report. Although the Task Force was able to visit the foreign document review center at the MVA's Glen Burnie offices, staff did not provide data about the cost of its current operations. These include the recent purchase of several fraud detection systems for all of its foreign document review centers and subscription to vendors. One highly touted vendor subscription was found to provide somewhat limited foreign document verification services. For example, although individuals from El Salvador represent the largest segment of Maryland's immigrant population, the foreign license verification subscription service does not include any information or image of the Salvadorean driver's license. Certainly, the MVA would be able to get more complete information including security features of these licenses by simply

contacting a few consular offices in Washington D.C. Any such efforts would serve as a model for operations for other departments of motor vehicles that are seeking to strengthen verification of identifying documentation..

## **Conclusion**

The MVA should explore the possibility of establishing mechanisms for collaborating with embassies and consulates based in the Washington D.C. area in order to strengthen its foreign-documentation review capabilities. In an attempt to better understand existing operating models that could serve as a pilot in Maryland, the Task Force requested a letter from the Mexican consulate that would describe how they are currently work with other DMVs in other states and to confirm their willingness and readiness to work with the Maryland MVA to support documentation verification services. MVA management is encourage to visit and establish working relationships with a number of local consulates, especially those who represent large numbers of foreign-born Maryland residents

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## Q-10 Final Task Force Recommendations

**Study Question 10. Make recommendations to the General Assembly regarding the documentation that the Motor Vehicle Administration may accept for the purpose of proving the age, identity, and residence of a driver's license applicant.**

The signatory members of Task Force recommend that the General Assembly take all necessary steps through its role of legislative oversight to ensure that State driver's licensing laws continue to serve the best interest of all people in Maryland by promoting public safety on our roads and highways. The following ten key recommendations aim to promote a safer, more secure driving environment by addressing driver identification and licensing documentation issues identified by the Task Force.

1. **MVA Compliance with Current Law-** The MVA should follow documentation requirements for the primary and secondary source identity documents in the combinations prescribed by COMAR as proof of the identity and age of all applicants, subject to the modifications recommended in Item 2 below. The MVA should establish consistent licensing procedures to ensure that a driver's license may not be denied because of the applicant's national origin, socio-economic status, or immigration status.
2. **Documentation for Proof of Age, Identity, and Residence.** The MVA should prepare and submit via the established AELR process proposed minimum standards for the review and acceptance of identity documents and proposed modifications to COMAR as follows:
  - a. To accept as a secondary identity document only and not as a primary identity document the certificate of naming from a religious institution;
  - b. To accept as a primary identity document a valid foreign passport, whether or not it contains a visa, I-94, or ADIT admission stamp, and whether expired or not, provided that it appears to be genuine and to relate to the presenter;
  - c. To accept as a primary identity document an Employment Authorization Card (on Form I-688A, I-688B or I-766), a Temporary Resident card (Form I-688), an I-94 refugee's Arrival/Departure Record, whether expired or not;
  - d. To accept as a primary identity document an order from an immigration judge granting asylum; a grant letter from the CIS Asylum Office; an Order from the Board of Immigration Appeals granting asylum; or a Refugee Travel Document.
  - e. To accept as a secondary identity document national identification cards, including consular identification documents, provided that these contain specific security verification attributes and relate directly to the identity of the presenter;
  - f. To accept as an identity document any other document that meets standards of reliability and security established by MVA under the AELR process.
3. **License Denial Appeal Process.** The MVA should establish an administrative appeals process for the review of driver's licensing decisions that includes the right of appeal to the MVA Administrator, to the Maryland Office of Administrative Hearings, and appropriate judicial review. Denials and appeals should be tracked and reported

quarterly to management.<sup>49</sup>

4. **Customer Satisfaction Measures.** The MVA should develop improved customer satisfaction metrics specific to the licensing process for foreign-born applicants. Deficiencies should be identified and used to improve customer service throughout the MVA. Customer satisfaction deficiencies should be tracked and reported quarterly to management.
5. **Document Reliability and Security.** The MVA shall develop and submit for approval minimum guidelines of reliability and security in the verification and validation of identity documents that may include some of the following elements:
  - Document is government-issued upon presentation of reliable proof of identity after the conduct of a validation and verification process against other sources;
  - Documents includes a photograph, date of birth, signature, official stamps, and/or sufficient information to verify primary identity;
  - Documents contains multiple security features to prevent counterfeit and forgeries (e.g., the use of security paper, security patterns, holograms, and/or infra-red bands);
  - Documents can be otherwise verified by an MVA examiner with reasonable training in the use of instruments, tools, vendor services, or other available technology.
6. **Proof of Residency.** The MVA should review current practices to ensure that requirements to prove Maryland residency include authentic, reliable, verifiable documentation that is accessible to Maryland residents regardless of age, socio-economic status, national origin, and living conditions.
7. **Document Verification with U.S. State Department.** The MVA should establish guidelines to interface with the Fraud Protection Programs of the US Department of State to determine whether a foreign passport appears to be genuine and to relate to the presenter and train its examiners accordingly.
8. **Document Verification with Nearby International Offices.** The MVA should take full advantage of its close proximity to the Washington D.C. area and develop guidelines to interface more effectively with official foreign representative offices, such as embassies and consular offices, which are willing to assist in the verification of foreign documents on a case-by-case basis, as needed. MVA should seek to collaborate more effectively with consular offices interested in expanding their foreign documentation fraud detection efforts and training.
9. **Dual-Step Documentation Processing.** In order to reduce the delays and hardships faced by all foreign-born applicants, the MVA should discontinue its practice of requiring such applicants, regardless of their status, to apply for a license or identification card only at certain restricted MVA service locations and with a prior appointment. Dual-step foreign-born processing should be reserved for applicants with non-standard documents that may require special handling and verification.

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<sup>49</sup> An applicant may appeal denial of a driver's license to the MVA Administrator or his designee. The decision of the Administrator may be appealed to the Office of Administrative Hearings (OAH). In accordance with OAH procedure, the OAH decision may be appealed to the appropriate Circuit Court, and the Circuit Court decision may be appealed to the Maryland Court of Appeals.

10. **Internal MVA Processing Fraud Prevention.** The MVA should establish procedures to enhance the investigation of fraud potential in driver's licensing internal processing, to ensure the conduct of regular audits to detect fraud, and to train its staff in effective fraud detection and prevention measures.

## Appendices

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### Appendix A. Glossary of Terms

Key terms and abbreviations used throughout this document are defined below.

**Alien:** Any person who is not a citizen of the U.S. This generic term includes legal permanent residents, persons here on temporary visas as well as those undocumented persons who either entered the U.S. without inspection or entered with temporary visas and overstayed the period of authorized admission.

**American Association of Motor Vehicle Administrators:** AAMVA is a voluntary, nonprofit, educational organization representing state and provincial officials in the United States and Canada who administer and enforce motor vehicle laws.

**American Immigration Lawyers Association:** AILA is the national association of over 8,000 attorneys and law professors who practice and teach immigration law. It is affiliated with the American Bar Association.

**Asylee:** A person who has been granted asylum (protective status) in the U.S., based on the fact that s/he is likely to face persecution or death if s/he returns to his or her homeland, based on his or her religion, ethnicity, political opinion, or membership in a particular social group. The basis for this determination is much the same as for a refugee, but refugee status is decided and conferred outside of the U.S.

**Citizen:** A person who either was born in the U.S., derived status from a U.S. citizen parent, or was naturalized. To qualify for naturalization, an alien must have held legal permanent resident status for five years, or for three years if married to a U.S. citizen for that length of time.

**Citizenship and Immigration Services:** On March 1, 2003, services formerly provided by the Immigration and Naturalization Service (INS) transitioned into the Department of Homeland Security (DHS) under U.S. Citizenship & Immigration Services (CIS) and other DHS components. The CIS has also been known as the USCIS and the BCIS for “Bureau of Citizenship and Immigration Services”.

**COMAR: Code of Maryland Regulations:** Under State Government Article, § 7-217, Annotated Code of Maryland, the printed version of COMAR is the official and enforceable text. Only the official text may be judicially noticed under Courts and Judicial Proceedings Article, §10-203 Annotated Code of Maryland. Maryland State agency regulations are compiled in COMAR.. COMAR contains 33 Titles, with each Title usually corresponding to a department or agency. Each regulation is assigned a unique four-part codification number. For example, 09.12.01.02, represents Title 09, Subtitle 12, Chapter 01, and Regulation 02.

**Consular Identity Document (CID):** A document issued by an official representative of foreign country in the United States as a service to its nationals to create an official record of nationals living abroad to facilitate their access to protection and consular services. It is legal proof that must be accepted under international law of registration with a consulate and attests that a consulate has verified the individual's identity.

**Department of Homeland Security:** An agency of the United States established to unify the national network of organizations and institutions involved in efforts to secure our nation. The DHS has administered the nation's immigration laws since March 1, 2003, when the Immigration and Naturalization Service (INS) was officially dissolved and became part of DHS. The immigration functions of DHS are carried out through several different components. The component known as Citizenship and Immigration Services (CIS) adjudicates applications for immigration benefits, such as nonimmigrant and immigrant visa petitions. The component known as the Directorate of Border and Transportation Security staffs our borders and inspects arriving aliens applying for admission to the United States through the Customs and Border Patrol (“CBP”), and enforce immigration law violations, including the removal of undocumented immigrants, through Immigration and Customs Enforcement (ICE).

## Minority Report of the Task Force to Study Driver Licensing Documentation

Documented immigrants: Non-citizens of the United States who have been granted permanent residence by the United States or who hold a current, valid non-immigrant “lettered” status, as well as refugees, asylees, persons in temporary protected status and other non-citizens legally present in the United States.

Green Card: The popular term for the identification document known officially as the I-551 or “alien registration card,” issued by the CIS (formerly the INS) to legal permanent residents of the U.S. This document bears the permanent resident’s photo, signature and fingerprint. Although current versions are usually white, earlier versions were green.

I-94 Arrival/Departure Record: A small, white INS Form issued by an immigration inspector to an arriving alien showing the date of arrival, status or category in which the alien is being admitted and the “Admitted Until” date when the alien’s authorized period of stay expires. It is the I-94, not the visa, that generally determines an alien’s period of authorized stay.

Immigration and Naturalization Service: The now-abolished US agency that was part of the US Department of Justice and administered immigration benefits and provided immigration enforcement. These functions have generally been transferred to the Department of Homeland Security.

Immigrant: A person who comes to the U.S. to remain here permanently. Refugees and asylees are sub-groups of immigrants. Most come with permission of the U.S. government, sponsored by family members of employers.

Naturalization: The process by which a legal permanent resident becomes a U.S. citizen. This involves filing the necessary paperwork and fees, having fingerprints cleared through the FBI, passing an interview that includes a U.S. history and government test as well as a writing sample, and a swearing-in ceremony. This process currently takes a year or more from the date an application is submitted. A legal permanent resident may not apply for naturalization until s/he has been a permanent resident for five years (or three years if married to a U.S. citizen).

Nonimmigrant: A person who enters the U.S. for a temporary stay as, for instance, a visitor for business or pleasure, or on a student visa. Change of status from one nonimmigrant status to another is sometimes possible. Change from nonimmigrant status to immigrant status is approved less often, because it is viewed as a violation of the terms of the nonimmigrant visa.

Permanent Resident (or Lawful Permanent Resident): A person who has been given permission to remain permanently in the U.S.—a “green card” holder. This is not the same as a U.S. citizen. (See definition of “naturalization” for the conditions under which a permanent resident may become a citizen.) There are only a few paths to permanent residency. Sponsorship by a U.S. citizen or permanent resident immediate relative can take many years. An employer who sponsors an immigrant worker must advertise the position and prove to the government that no equally—or better—qualified U.S. citizen or legal permanent resident has applied for the job. Other routes, which lead to legal permanent residence, are admission to the US as a refugee, approval of an application for asylum, or winning the annual State Department Diversity Visa Lottery.

Refugee: A person outside the U.S. who has been able to establish, to the satisfaction of the U.S. government, that s/he will be in grave danger of persecution or death if s/he returns to his or her homeland, on account of his or her ethnicity, religion, or political opinion. The only document a refugee is likely to receive upon arrival is a piece of card stock known as an I-94, stamped “Admitted as a refugee, pursuant to section 207 of the INA for an indefinite period of time. Employment Authorized.”

Temporary Protected Status: This is a non-immigrant status granted by the BCIS to persons from countries to which the U.S. State Department has certified that they cannot safely return. Reasons for granting this status include natural disasters such as earthquakes, massive hurricane damage, or countrywide chaos due to civil war.

Undocumented Immigrant: This includes persons who entered the United States without inspection by federal authorities, or whose legal status in the United States has expired or has otherwise been lost. Such persons are called “undocumented” because they generally lack unexpired US government issued immigration documentation. Undocumented immigrants face significant challenges in finding housing, gaining employment

## Minority Report of the Task Force to Study Driver Licensing Documentation

and becoming documented immigrants. They are not eligible for government assistance, and they face immediate deportation if they are discovered by immigration officials.

Visa: The document or stamp issued by a US Consul abroad (part of State Department) in an alien's passport that gives him or her permission to travel to the United States to apply to an immigration inspector for admission at a land or air port of entry. A nonimmigrant visa is given to someone who lives in another country and wishes to come temporarily to the United States for a specific purpose. It authorizes the holder to apply for admission as a tourist, business visitor, student, temporary worker, diplomat or in another recognized classification denoted by letter. It is usually valid for multiple visits to the United States during a specified period of time, but not all aliens need a visa to apply for admission to the United States. An immigrant visa is given to someone who intends to live and work permanently in the United States. Many visas require as a prerequisite for issuance the approval of a petition by the CIS in the United States.

### Appendix B Summary of HB 838

#### [HOUSE BILL 838](#)

CHAPTER NUMBER: 452

File Code: [Vehicle Laws - Licensing and Registration](#)

Sponsored By:

Delegates Vallario, Gutierrez, Lee, Anderson, Barve, Benson, Bobo, Bronrott, Brown, Cardin, Carter, C. Davis, Dumais, Feldman, Goldwater, Gordon, Griffith, Healey, Heller, Hixson, Howard, Hurson, Kaiser, Kelley, Kirk, Madaleno, Marriott, McIntosh, Menes, Moe, Montgomery, Niemann, Proctor, Ramirez, Simmons, Taylor, and Zirkin

Entitled: Vehicle Laws - Drivers' Licenses - Licensing Documentation

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#### Synopsis:

Requiring an applicant for a driver's license to state on the driver's license application the social security number of the applicant under specified circumstances; requiring an applicant who does not have a social security number to provide a specified documentation in the application for the driver's license; etc.

#### History by Legislative Date

##### House Action

2/7 First Reading Judiciary  
2/12 Hearing 3/5 at 1:00 p.m.  
3/24 Favorable with Amendments Report by Judiciary  
3/21 Favorable with Amendments Report Adopted  
Second Reading Passed with Amendments  
3/23 Third Reading Passed (81-55)  
4/3 House Concur - Senate Amendments  
Third Reading Passed (96-42)  
Passed Enrolled  
5/22 Signed by the Governor Chapter 452

##### Senate Action

3/23 First Reading Judicial Proceedings  
3/26 Hearing 3/27 at 1:00 p.m.  
4/3 Favorable with Amendments Report by Judicial Proceedings  
4/2 Favorable with Amendments Report Adopted  
Second Reading Passed with Amendments  
4/3 Third Reading Passed with Amendments (36-11)

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#### Sponsored by:

[Delegate Joseph F. Vallario, Jr., District 27A](#)  
[Delegate Curt Anderson, District 43](#)  
[Delegate Kumar P. Barve, District 17](#)  
[Delegate Joanne C. Benson, District 24](#)  
[Delegate Elizabeth Bobo, District 12B](#)  
[Delegate William A. Bronrott, District 16](#)  
[Delegate Anthony G. Brown, District 25](#)  
[Delegate Jon S. Cardin, District 11](#)  
[Delegate Jill P. Carter, District 41](#)  
[Delegate Clarence Davis, District 45](#)



## Minority Report of the Task Force to Study Driver Licensing Documentation

[Delegate Kathleen M. Dumais, District 15](#)  
[Delegate Brian J. Feldman, District 15](#)  
[Delegate Marilyn R. Goldwater, District 16](#)  
[Delegate Michael R. Gordon, District 17](#)  
[Delegate Melony G. Griffith, District 25](#)  
[Delegate Ana Sol Gutierrez, District 18](#)  
[Delegate Anne Healey, District 22](#)  
[Delegate Henry B. Heller, District 19](#)  
[Delegate Sheila E. Hixson, District 20](#)  
[Delegate Carolyn J. B. Howard, District 24](#)  
[Delegate John A. Hurson, District 18](#)  
[Delegate Anne Kaiser, District 14](#)  
[Delegate Darryl A. Kelley, District 26](#)  
[Delegate Ruth M. Kirk, District 44](#)  
[Delegate Susan C. Lee, District 16](#)  
[Delegate Richard S. Madaleno, Jr., District 18](#)  
[Delegate Salima Siler Marriott, District 40](#)  
[Delegate Maggie McIntosh, District 43](#)  
[Delegate Pauline H. Menes, District 21](#)  
[Delegate Brian R. Moe, District 21](#)  
[Delegate Karen S. Montgomery, District 14](#)  
[Delegate Doyle Niemann, District 47](#)  
[Delegate James E. Proctor, Jr., District 27A](#)  
[Delegate Victor R. Ramirez, District 47](#)  
[Delegate Luiz Simmons, District 17](#)  
[Delegate Herman Taylor, District 14](#)  
[Delegate Bobby A. Zirkin, District 11](#)

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### Bill indexed under the following Subjects:

[ALIENS](#)  
[COMMITTEES AND COMMISSIONS -see also- POLITICAL COMMITTEES](#)  
[DRIVERS' LICENSES](#)  
[ETHNIC AFFAIRS](#)  
[FRAUD -see also- FORGERY](#)  
[IDENTIFICATION](#)  
[MOTOR VEHICLE ADMINISTRATION](#)  
[PENALTIES](#)  
[PRIVACY](#)  
[RECORDS -see also- LAND RECORDS; VITAL RECORDS](#)  
[REPORTS](#)  
[SOCIAL SECURITY](#)  
[SUNSET](#)  
[VITAL RECORDS](#)

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### Bill affects the following Statutes:

Transportation  
( 16-106 , 16-301 )

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### Documents:

Bill Text: First Reading ([RTF](#) / [PDF](#)), Third Reading ([RTF](#) / [PDF](#)), Enrolled ([RTF](#) / [PDF](#))

Fiscal Note: Available ([WORD](#) / [PDF](#))

#### Amendments:

House Number: 542916/01 ([WordPerfect](#) / [PDF](#))    Offered on: March 24, 2003    at: 2:16 p.m.    Status: Adopted  
Senate Number: 508371/01 ([WordPerfect](#) / [PDF](#))    Offered on: April 4, 2003    at: 11:42 a.m.    Status: Adopted

#### Roll Call Votes (Legislative dates are shown):

House March 23, 2003: Third Reading Passed ([81-55](#))  
April 3, 2003: Third Reading Passed ([96-42](#))  
Senate April 3, 2003: Third Reading Passed ([36-11](#))

## Appendix C Attorney General Opinion on Maryland DL Requirements

**Source: Office of the Maryland Attorney General** The full text of the AG Opinion is available on the following web site: [www.oag.state.md.us/Opinions/2003/03-014.pdf](http://www.oag.state.md.us/Opinions/2003/03-014.pdf)

### OPINIONS

DRIVERS' LICENSES –

IMMIGRATION-RELATED DOCUMENTS AS PROOF OF IDENTITY; PROOF OF LAWFUL PRESENCE IN COUNTRY NOT REQUIRED

Question: May the Motor Vehicle Administration (“MVA”) require an individual who presents foreign identification as part of an application for a Maryland driver’s license also to produce documentation of legal presence in the United States?

Answer: MVA may require such an individual to provide additional identification and may include immigration-related documents among the acceptable forms of identification. However, the MVA may not deny a license because an applicant is unable to prove lawful presence in this country.

*Opinion No. 03-014*

*September 12, 2003*

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January - March 2003

Opinions, Advice, and Legislation Quarterly News

### ADVICE LETTERS

MOTOR VEHICLE ADMINISTRATION –

ALIENS AND IMMIGRATION

Question: Chapter 452, Laws of Maryland 2003 limits the authority of the Motor Vehicle Administration (MVA) to gather information concerning immigration status as part of a driver’s license application. Is that bill constitutional?

Answer: Yes.

*Letter to*

*Delegate Donald H. Dwyer, Jr*

*March 12, 2003*

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Question: In issuing a driver’s license, does the MVA have legal authority to require a person who uses foreign identification to establish his or her identity to also produce documentation that the person is legally in the United States?

Answer: While the MVA has broad legal authority to determine what information must accompany an application for a driver’s license, and to investigate any prior license held by an applicant, the current MVA practice of requiring such a person to show lawful presence in the United States likely exceeds the Administration’s authority.

*Letter to*

*Delegate Ana Sol Gutierrez*

*March 24, 2003*

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Opinions, Advice, and Legislation Quarterly News To receive copies of any item in this newsletter, please contact Kathy Izdebski, (410) 576-6327, or e-mail her at [opinions@oag.state.md.us](mailto:opinions@oag.state.md.us). Copies of opinions may also be obtained from the Attorney General’s web site: [www.oag.state.md.us](http://www.oag.state.md.us).

## Appendix D. Resources, References, Testimony and Evidence Considered

The Task Force considered a number of sources during the conduct of its study. Other documentations and resources considered by task force members are included in Volume II of this report. (Also available in CD form)

During its meeting, the Task Force heard testimony and presentation from subject-matter experts, interested parties, legislators, representatives of relevant organizations and other invited guests. Some are listed in the table below.

Name and Title	Topic of Testimony
Felix Garrid Safie, Director, El Salvador Centro Nacional De Registros	El Salvadorian national identity card application procedures and security features
Deputy Consul E. Beitia, Mexican Consulate, Washington DC	Overview of Mexican Consular Identification document
Linda Lewis, CEO, American Association of Motor Vehicle Administrators (AAMVA)	Provided description of work done on behalf on other State departments of motor vehicles, and their fee-for-service CDL information system.
Ambassador Edgardo Flores Rivas, Consul General of Mexico in Washington, D.C.,	Recent processing improvements and controls of Mexican Consular Identification documents
Mr. Fernando Thompson De La Rosa, Chief Information Officer, Dept of Foreign Affairs in Mexico.	Technical and security improvements of Mexican Consular Identification documents
Anne Morse, Immigrant Policy Project, National Council of State Legislators (NCSL)	Policies regarding States rights and roles in issuance of drivers licenses

The following table lists examples of additional relevant resources and consultations. Other references and related documentation called out in the body of this report are included in a separate document entitled Volume II of the Minority Task Force Report.

Other Resources/Consultations	Source/ Topic Area
American Immigration Lawyers Assoc. (AILA)	Web site, Immigration lawyers studies, position papers immigrants and driver's licenses
Ammerican Assoc. of Motor Vehicle Assocs.(AAMVA)	National MVA policies-Web site, informal comments
MDCommunity Based Advocacy Organizations	Bienvenidos/BEACON
Survey of DL Applicants	conducted by CASA de Maryland and MLCFJ
Surveys of Immigrant Advocacy and service providers	conducted by two task force members- DH and ASG
Letters and e-mails received from law enforcement	Ilrish Immigrant Support Tennessee Immigration Netwrok
Patricia Hatch, Maryland Office of New Americans	Maryaland immigrants including asylees and refugees

## Appendix E AILA Policy on Restricting Access to Driver's Licenses

Source: AILA Issue Paper: Restricting Immigrant Access to Driver's Licenses

AMERICAN IMMIGRATION LAWYERS ASSOCIATION

918 F Street, NW Washington, DC 20004 Phone: (202) 216-2400 Fax: (202) 783-7853

### THE ISSUE:

The U.S. Congress and state legislatures recently have begun considering measures to restrict immigrants' access to driver's licenses. These proposals go well beyond denying undocumented immigrants access to drivers' licenses and are likely to affect legal immigrants and even U.S. citizens. While intended to increase national security, these measures will not enhance our security but will interfere with effective law enforcement.

### BACKGROUND:

Representative Jeff Flake (R-AZ) introduced H.R. 655 in February of 2003. This measure would bar federal agencies from accepting for any identification-related purpose any state-issued driver's license, or other comparable identification document, unless the state requires that such licenses or documents issued to nonimmigrant aliens expire upon the expiration of the aliens' nonimmigrant visa.

At the same time, some state officials have linked the denial of driver's licenses to undocumented immigrants to efforts to combat terrorism, alleging that the driver's licenses that several of the terrorists obtained facilitated their activities. (However, the terrorists did not need U.S.-issued driver's licenses to board planes on September 11 because they had foreign passports that would have enabled them to board.) Since September 11, many states are considering proposals to tighten the rules regarding driver's license eligibility and to further restrict immigrants' access to driver's licenses. Fortunately, however, a number of states have also introduced legislation which will grant immigrants greater access to driver's licenses.

*AILA'S POSITION: AILA opposes limiting immigrants' access to driver's licenses based on immigration status. Denying driver's licenses to large segments of the population is an inefficient way to enforce immigration laws and prevent terrorism and would make everyone in the community less safe.*

Restrictive Licensing Will Impede Law Enforcement and National Security.

Many local law enforcement officials oppose restrictive licensing proposals because driver's license databases play an important role in enforcement. Restrictive proposals will undermine law enforcement because:

- Licensing non-citizens enriches our domestic intelligence by allowing law enforcement authorities to verify and obtain the identities, residences, and addresses of millions of foreign nationals. Restrictive licensing will deprive authorities of this information.
- The proliferation of fraudulent documents that will result from restrictive licensing will impede law enforcement efforts by contaminating intelligence regarding who is present in the United States.

State Driver's License Agencies Have Neither the Authorization nor Knowledge to Interpret Immigration Laws and Documents.

Restrictive licensing will require state motor vehicle administrators to become INS law and document experts in order to evaluate properly an applicant's immigration status and determine when such status expires. Immigration law creates approximately 60 ever-changing nonimmigrant visa categories in addition to classifications for asylees, refugees, parolees, persons in immigration

proceedings, persons under orders of supervision, and applicants for many of these categories, as well as applicants for extension, change, or adjustment of status, to name a few. The scheme of documents issued by the INS, the State Department, and other agencies as evidence of these classifications is even more perplexing and includes visa stamps, laminated cards, unlaminated handwritten cards, forms, letters, and many other documents, either in combination or alone, which, even to the trained eye, often do not clearly show an applicant's status or duration of lawful admission. Additionally, due to extensive INS delays in application processing, many immigrants and lawful nonimmigrants will be unable to present documentation of their status. It is highly unlikely that motor vehicle administrators will be able to determine correctly whether a particular document or combination of documents establishes lawful status. This task requires the interpretation and application of a complex body of law. Requiring DMV personnel to understand and enforce immigration laws will most likely result in legal United States residents facing wrongful license denials and revocations for reasons that are wholly unrelated to driver competence.

Restrictive Licensing Will Severely Jeopardize Highway Safety.

Proposals to restrict immigrants' access to driver's licenses will result in more unlicensed drivers operating vehicles on U.S. roads. Whether licensed or not, many individuals will have no choice but to drive—to work, to schools, to doctors, and to many other destinations—to meet basic everyday needs. Thus, restrictive licensing has the potential to reduce the safety of Americans and all drivers on our roads because it will:

- Remove an entire segment of the driving population from the reach of administrators charged with testing and certifying driver competence, which will contribute to the national highway mortality rate of 40,000 persons each year;
- Deprive motor vehicle administrators of the driving records of millions of drivers;
- Discourage or prevent millions of drivers from registering their vehicles;
- Eliminate incentives for foreign nationals to attend driver education schools;
- Increase the rate of minor traffic violations for unlicensed driving, which will divert law enforcement and judicial resources from truly serious offenses; and
- Create incentives for unlicensed drivers to flee accident scenes.

*Denying driver's licenses based on immigration status also will prevent millions of drivers from obtaining insurance, which will increase uninsured motorist pools, contribute to current uninsured motorist losses of \$4.1 billion, and increase insurance rates.*

Production and Sale of Falsified Documents is Likely to Increase if Larger Numbers of Noncitizens are Denied Drivers Licenses.

Restrictive licensing will encourage the fraudulent production and use of the many documents that are available to establish lawful immigration status by transforming the driver's license into a de facto INS document that will become necessary to establish lawful status. These fraudulent documents will further complicate the task of motor vehicle administrators by requiring them to detect fraudulent INS documents. Additionally, restrictive licensing will increase the market for easily obtained fraudulent documents, such as birth certificates and social security numbers, to establish identity. According to the Department of Health and Human Services, there are 14,000 different versions of birth certificates currently in circulation.

34IP4003 5/26/04

NOTE: In addition to the above Issue Paper, the American Immigration Lawyers Association has compiled a summary of driver's license issues faced by documented immigrants throughout the country. See References in Volume II of this Report.

## Appendix F Basic Facts on Immigration

Source: National Council of La Raza-- August 2004

### GLOSSARY

Asylee: A person who has already entered the U.S. and who fears persecution if sent back to his or her home country can apply for asylum in the U.S. To obtain asylum, the individual has to prove that he or she has a "well-founded fear of persecution" on the basis of the person's race, religion, membership in a social group, political opinion, or national origin.

Immigrant: Under U.S. law, a foreign-born individual who has been admitted to reside permanently in the U.S. as a lawful permanent resident (LPR or "green card holder").

Legal Permanent Resident: A person who has been admitted to reside permanently in the U.S. Also see "immigrant."

Naturalized citizen: Lawful permanent residents may apply for U.S. citizenship through the naturalization process. To qualify for naturalization, LPRs must reside in the U.S. for at least five years (three if they obtained their green card through marriage to a U.S. citizen) and must not have committed any serious crimes, must show they have paid their taxes, and are of "good moral character." They must also demonstrate a knowledge of U.S. history and government as well as an ability to understand, speak, and write English.

Nonimmigrant: A person who is permitted to enter the U.S. for a limited period of time but is not admitted for permanent residence.

Refugee: A person outside the U.S. who seeks protection on the grounds that he or she fears persecution. To obtain refugee status, the person has to prove that he or she has a "wellfounded fear of persecution" on the basis of the person's race, religion, membership in a social group, political opinion, or national origin.

Undocumented immigrant: A person who is residing in the U.S. without the permission of the U.S. government. Undocumented immigrants enter the U.S. either illegally, without being inspected by an immigration officer or by using false documents, or legally, with a temporary visa and then remain in the U.S. after the visa has expired.

### Legal Immigration

The Immigration and Nationality Act (INA), the main body of law governing U.S. immigration policy, provides for a permanent annual worldwide level of 675,000 legal permanent visas each year. A separate number of visas for refugees is determined through a consultation process between Congress and the Executive Branch. While the principles on which U.S. immigration is based have evolved throughout the nation's history, since the mid-20th century U.S. permanent immigration policy has been based on three general ideas: family-based immigration, employment-based immigration, and humanitarian relief. In addition, a small number of visas are allocated for the purpose of maintaining diversity in U.S. immigrant communities.

### Family-based Immigration

Traditionally, family reunification has been a cornerstone of U.S. immigration policy. The current family-based immigration system is an orderly and tightly regulated system that allows close relatives of U.S. citizens (USCs) and LPRs to rejoin their family members in the U.S. There are 480,000 visas available each year for family-based immigration, which are allocated based on complicated calculations.<sup>50</sup>

Family-based immigrants are admitted to the U.S. either as immediate relatives of U.S. citizens or through the family preference system. There is no cap on the number of visas available each year for immediate relatives. Immediate relatives are:

- Spouses of U.S. citizens
- Unmarried minor children of U.S. citizens (under 21 years old)
- Parents of U.S. citizens.

There are a limited number of visas available every year under the family preference system. The family preference system is for:

- Adult children (married and unmarried) and

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<sup>50</sup> The annual level of family-sponsored preference immigrants is determined by subtracting the number of immediate relative visas issued in the previous year and the number of aliens paroled into the U.S. for at least a year from 480,000. Then the unused employment preference immigrant numbers are added, if available. By law, the family-sponsored preference level may not fall below 226,000. In recent years, the 480,000 level has been exceeded to maintain the 226,000 floor on family-sponsored preference visas. The INA also establishes per-country levels at 7% of the worldwide level, meaning that no country can receive more than 7% of the overall number of visas. For a complete explanation of worldwide limits, see Wasem, Ruth Ellen, "U.S. Immigration Policy on Permanent Admissions." Washington, DC: Congressional Research Service, February 18, 2004.

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- Spouses and unmarried children (minor and brothers and sisters of U.S. citizens adult) of LPRs

Family-Based Preference System			
Preference #	U.S. Sponsor	Relationship	Visas Allocated
N/A	U.S. citizen	Spouses, unmarried minor children, and parents of adult U.S. Citizens	unlimited
1	U.S. citizen	Unmarried adult children	23,400/year*
2A	LPR	Spouses and minor children	87,900/year
2B	LPR	Unmarried adult children	26,300/year
3	U.S. citizen	Married adult children	23,400/year**
4	U.S. citizen	Brothers and sisters	65,000/year***
* Plus any visas left over from the 4th preference			
** Plus any visas left over from the 1st and 2nd preference			
*** Plus any visas left over from the previous preferences			

### Employment-based immigration

Current U.S. immigration law allows people who have skills and talents needed in the U.S. to be admitted to work on a temporary or permanent basis. There are more than 20 types of temporary (nonimmigrant) visas for foreign workers to enter the U.S. for temporary, specifically defined periods of time. These visas include A visas (diplomatic employees), D visas (air and sea crewmembers), E visas (treaty-investors or treaty-traders), N visas (NATO employees), P visas (internationally-recognized athletes and entertainers), and many more. Most non-immigrants who come to the U.S. on temporary work visas are usually sponsored by a U.S. employer for a specific job offer and must work only for that employer. Most temporary work categories have annual numerical limitations.

There are five basic types of permanent business immigrant visas. These categories are created by Congress and have annual limits; a total of 140,000 permanent employment-based visas are available each year. These immigrants become permanent residents and receive green cards.

Employment-based immigrants are usually sponsored by U.S. employers who demonstrate a need for a foreign worker.

The preference system is as follows:

Employment-Based Preference System		
Preference #	Workers admitted	Visas Allocated
1	Priority workers: persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and certain categories of multinational executives and managers.	40,000*
2	Members of the professions holding advanced degrees or persons of exceptional abilities in the arts, sciences, or business.	40,000**
3	Skilled shortage workers with at least two years of training or experience, professionals with college with college degrees, and "other workers" who are those "capable of performing unskilled labor," and who are not temporary or seasonal. "Other workers" are limited to 5,000 visas per year.	40,000***
4	Certain special immigrants, including ministers, religious workers, former U.S. government employees, and others.	10,000
5	Persons who invest \$500,000 to \$3 million in a job-creating enterprise in the U.S. and employ at least ten U.S. workers.	10,000
* Plus any unused visas from the 4th and 5th preferences.		
** Plus any visas left over from the 1st preference.		
*** Plus any visas left over from the 1st and 2nd preferences		

### Humanitarian Relief

Each year the U.S. provides protection within U.S. borders to a certain number of persons who are fleeing persecution in their homeland. A refugee applies for protection while still outside the U.S., while an asylee first comes to the U.S. and applies for protection here. Refugees and asylees must prove that they have a "well-founded fear of persecution" based on their race, religion, membership in a social group, political opinion, or national origin. In addition, refugees must fit into

## Minority Report of the Task Force to Study Driver Licensing Documentation

one of a set of priority categories, based on the degree of risk to the refugee's life, membership in certain groups of special concern to the U.S., and the existence of family members in the U.S.

The number of refugees accepted each year is determined by the President in consultation with Congress. In fiscal year 2004, up to 70,000 refugees will be permitted to enter the U.S. These numerical limits are ceilings, meaning that fewer refugees may actually be admitted in any particular year. These refugee numbers are allocated among five regions of the world; for FY 2004 the regional allocations are:

- Africa: 25,000
- Eastern Europe and Former Soviet Union: 13,000
- East Asia: 6,500
- Near East/South Asia: 2,000
- Latin America and the Caribbean: 3,500
- Unallocated reserve: 20,000
- Total: 70,000

Refugees and asylees are eligible to become legal permanent residents (LPRs) after they have been in the U.S. for one year. There is no limit to the number of refugees who may become LPRs each year. However, there is a limit of 10,000 green cards available each year for asylees who apply for permanent residence. Because of this numerical limitation, there is a long backlog of applications for permanent residence.

Persons are admitted for humanitarian reasons through other channels as well.

Temporary Protected Status (TPS) may be granted to persons who are currently in the U.S. and who would face "ongoing armed conflict," "natural disaster," or "extraordinary temporary conditions" if they were to be returned to their home country. A country's TPS designation may last for six, 12, or 18 months, and may be extended if the Attorney General determines that unsafe conditions in the country persist.

Deferred Enforced Departure (DED) is similar to TPS and delays the deportation of groups of individuals who would face danger if they were to be deported to countries experiencing instability.

Parole is the term used when an individual is allowed to enter the U.S. even though he or she may not meet the conditions to enter through regular immigration or refugee channels. Parolees may be admitted temporarily for urgent humanitarian reasons or significant public benefit. TPS, DED, and parole are extremely rare.

### Diversity Visa Lottery

In addition, there are 55,000 visas available each year for diversity lottery immigrants. These are immigrants from countries with low admissions levels. Diversity visa immigrants must have a high school education or its equivalent or a minimum of two years experience working in a profession requiring two years of training or experience.