

A License to Break the Law?
Protecting the Integrity of Driver's Licenses

Testimony submitted to:

Governmental Affairs Committee
Subcommittee on Oversight of Government Management,
Restructuring and the District of Columbia
U.S. Senate

Presented by

Raul Yzaguirre
President and CEO

National Council of La Raza
1111 19th St., NW, Suite 1000
Washington, DC 20036
(202) 785-1670

April 16, 2002

I. Introduction

The National Council of La Raza (NCLR) is the largest constituency-based national Hispanic civil rights organization in the United States. NCLR is an “umbrella organization” for more than 270 local affiliated community-based organizations (CBOs) and has a broader network of 30,000 groups and individuals nationwide. In addition to providing capacity-building assistance to our affiliates and essential information to our individual associates, NCLR serves as a voice for all Hispanic subgroups in all regions of the country. Over the past several months, we have received many calls regarding restrictive driver’s license proposals in the states; communities are very concerned and have mobilized in states as diverse as Florida, Tennessee, California, and Washington to defeat potentially harmful legislation. This issue is fundamentally important to our community and affects individuals and families on a daily basis. For that reason, NCLR is grateful for this opportunity to submit testimony with respect to proposals to standardize driver’s licenses across the country.

In the post-September 11 environment, the debate over driver’s licenses has been linked to issues of national security. NCLR firmly believes that national security is of the utmost importance. Furthermore, NCLR agrees that driver’s licenses must be valid and reliable documents that accurately prove one’s identity, and supports measures to increase the integrity of driver’s licenses and state-issued identification documents. However, we fear that restrictions on immigrants’ access to driver’s licenses may become part of this debate at the national level. Already we have seen a plethora of legislation, executive orders, and regulatory changes in the states which impose harsh restrictions specifically on immigrants’ access to state-issued driver’s licenses and identification documents. The impact on the Latino population is potentially enormous. These proposals go well beyond denying undocumented immigrants access to driver’s licenses and have the potential to exclude legal immigrants and even U.S. citizens from state-issued identification documents. Moreover, these proposals are of great concern because they prohibit drivers from being properly licensed and insured, discriminate against immigrants and other groups, and make entire communities less safe.

NCLR believes that a state-issued driver’s license should be reliable proof of an individual’s identity and proof of authorization to drive a motor vehicle; it should not be tied to an individual’s immigration status. There are legitimate and sound avenues for individuals to prove identity which would allow state Departments of Motor Vehicles to fulfill their mission of ensuring safe roads without creating new licensing requirements that would make the driver’s license a *de facto* proof of legal residency in the United States.

We urge Congress not to enact legislation that would require state driver’s licensing agencies to check and verify the immigration status of individuals applying for driver’s licenses.

II. An Overview of Federal and State Driver’s License Requirements

State driver’s license agencies have a twofold task: licensing qualified motorists and ensuring the validity of driver’s licenses. Each individual state licensing agency has distinct policies and procedures to which applicants must adhere before a license will be issued.

Current federal law does not require states to deny driver's licenses to undocumented immigrants, and very few state statutes contain language explicitly denying driver's licenses to undocumented immigrants or requiring lawful presence in the U.S. However, some state driver's license requirements, such as the requirement to provide Social Security Numbers (SSNs), have resulted in the inability of undocumented immigrants in some states to receive driver's licenses, rendering them unable to participate in proper driver education courses, to obtain insurance, and to perform daily activities. In some cases, legal immigrants have also been unable to provide the necessary documentation to obtain a driver's license.

Social Security Number Requirements

Many states require driver's license applicants to provide an SSN, and many states believe that they must require SSNs in order to be in full compliance with federal law. However, the federal SSN requirements are frequently misunderstood. Briefly, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 contained a provision requesting that state driver's license agencies record the SSN of applicants for driver's licenses for the purpose of child support enforcement. Specifically, Section 466(a)(13)(A) directed that SSNs be recorded on applications for professional licenses, commercial driver's licenses, occupational licenses, and marriage licenses (and was later amended to include all licenses). The Department of Health and Human Services interpreted this provision to mean that states must have procedures to obtain the SSNs of any individuals who have SSNs, but not that an SSN be a requirement for driver's licenses. However, many states' statutes now contain language requiring that driver's license applicants provide SSNs. Because of the SSN requirements, many immigrants are unable to obtain driver's licenses.

Effective March 1, 2002, the Social Security Administration will no longer assign SSNs when the sole reason for needing an SSN is to obtain a driver's license. Prior to March 1, the SSA would assign SSNs to lawful residents who did not have work authorization but needed a valid SSN for non-work-related reasons, such as acquiring a driver's license. This new policy means that people who are lawfully present in the U.S. but are not authorized to work will no longer be able to obtain an SSN and will therefore be unable to obtain a driver's license in many states.¹

Proof of Identity and Residency Requirements

Besides providing an SSN, applicants for a state-issued driver's license must also provide proof of age and identity and, in some instances, proof of state and legal residency. Often, these are intertwined, and many states' proof of identity requirements serve as a *de facto* means of probing into a noncitizen's immigration status by limiting the types of Immigration and Naturalization Service (INS) documents accepted as proof of identity.

¹ See "Frequently-Asked Questions about SSNs for Driver's Licenses," <http://www.SSA.gov>

Proof of Identity

Each state has its own list of acceptable documents for proving one's identity. Unfortunately, in many states, the list of documents accepted to verify identity is unnecessarily narrow and is an obstacle for many noncitizens who are at various stages of the immigration process and who do not have the accepted documentation. As a result, some immigrants remain unable to produce the required documentation to prove their identity and therefore are ineligible to receive a driver's license.

There are many documents that can be used as proof of identity, including driver's licenses issued by other states or countries, U.S. passports, U.S. original state birth certificates, state ID cards, student ID cards, original Social Security cards, U.S. military photo ID cards, Indian tribal photo ID cards, and some INS documents, such as a Certificate of Naturalization, an Arrival-Departure Record (I-94), an Alien Registration Receipt Card (I-551), a Letter of Authorization issued by the INS, a visa, or a valid Employment Authorization Card (I-688 A or B). In several states, Canadian driver's licenses, passports, and birth certificates can be presented as proof of identity in the same manner as another U.S. state's or territory's driver's license or birth certificate. A few states accept documents issued by Germany and France. However, these same documents from other countries may or may not be accepted, resulting in an inequity for noncitizens from most every country in the world.

Proof of State Residency

Some states explicitly require proof of residency in the state. These states require documentation to prove that the individual lives in the state, such as a utility bill, a bank statement, a rent receipt, an insurance policy statement, or a tax receipt. However, proving residency can be difficult for many individuals, particularly when more than one person lives in the same house or apartment and utility bills and rent receipts are often under only one occupant's name. Furthermore, many immigrants do not have bank accounts, insurance policies, or access to other acceptable documents. As a result, many immigrants are ineligible for driver's licenses because they cannot prove state residency.

Proof of Legal Immigration Status

In addition to state residency, a few states explicitly require proof of legal immigration status or proof of legal residency in the United States. Many more states are currently seeking to require legal immigration status. Currently, California explicitly requires proof of legal presence in the United States. Other states are less explicit. For example, in South Carolina the statute denies driver's licenses to anyone "who is not a resident of South Carolina, except for persons from other countries who are present in South Carolina on a student visa or on a work visa or the dependents of the student or worker who may be issued a license."² Following September 11, the South Carolina Department of Motor Vehicles (DMV) began to interpret this provision more narrowly and no longer grants driver's licenses to immigrants without green cards, valid student visas, or work visas, or to dependents of persons with the proper documentation. Although in most states legal immigration status is not explicitly required, undocumented immigrants are

² South Carolina Code Ann. Section 56-1-40 (7).

denied access to driver's licenses because they cannot meet the proof of SSN, proof of identity, or proof of state residency requirements.

In summary, because of documentation requirements, undocumented immigrants and other immigrants have been unable to obtain driver's licenses in many states. The implications are wide-ranging, and the impact is felt by individuals and entire communities. As a result of current law, many unlicensed drivers are currently driving on U.S. roads creating unsafe conditions for all Americans. Because the need to travel does not diminish if a driver's license has been denied, many individuals will continue to drive without driver's licenses and thus without proper driver's education and without insurance. Furthermore, unlicensed and uninsured drivers are more likely to flee the scene of an accident even if not at fault. And since driver's license databases are often used to enforce child support payment and criminal warrants, many remain immune from these law enforcement mechanisms. In many states, the driver's license agency issues not only driver's licenses but also official identification. Often, the requirements for a state ID are similar to those for a driver's license. Therefore, access to a driver's license is commensurate with access to a common proof of identity. Without state-issued identification documents it may be difficult to accomplish the tasks necessary for everyday life, such as opening a bank account and cashing a check.

III. Current Restrictive Proposals

Over the past several years, local police forces, Departments of Transportation, insurance companies, employers, community advocates, and others have launched campaigns to make driver's licenses more accessible to all people and thus improve public safety. Successful campaigns in Utah and Tennessee, and an ongoing campaign in California, have sparked campaigns in other states.

After the tragic events of September 11, 2001 and revelations that several of the terrorists had obtained state-issued driver's licenses, there has been renewed debate over immigrants' access to driver's licenses and state identity documents. Over the past several months, the list of states with restrictive proposals grew daily, and the types of immigrant restrictions proposed increase as well. Most alarmingly, these new proposals go well beyond requiring legal immigration status and create situations in which noncitizens are treated distinctly from citizens, resulting in discrimination and civil rights violations. The following outlines the major categories of immigrant restrictions that have been proposed in recent months:

- **Lawful presence requirements.** Several states have introduced legislation that explicitly requires driver's license applicants to prove that they are lawfully present in the U.S., thereby excluding undocumented immigrants from receiving driver's licenses. These proposals often contain narrow lists of acceptable documents for proving lawful presence which also exclude many legal immigrants.
- **Distinct processes for noncitizen applicants.** Several states have proposed that all noncitizens, even long-time legal permanent residents, be required to go to particular DMV offices in order to apply for a driver's license or state ID card. These proposals may contain provisions requiring specialized training for DMV staff in the noncitizen facilities.

- **Strict photograph requirements.** Several states propose to overturn laws allowing individuals to refuse photographs on religious or other grounds.
- **Document verification requirements.** Several states have introduced proposals requiring the DMV to verify noncitizens' documents with the Social Security Administration database and/or the INS database, neither of which are designed for this purpose and are fraught with inaccuracies that result in denial of eligible applicants.
- **Reporting requirements.** Several states have new proposals requiring and/or allowing DMVs to share information regarding "suspicious" applicants with the appropriate state and/or federal law enforcement agency.
- **Driver's license expiration date requirements.** Several states have proposals to require that driver's licenses expire the same day as an individual's visa.
- **Repeal of expansive legislation.** There have been efforts to repeal laws allowing Individual Taxpayer Identification Numbers (ITINs) to be used as a substitute for SSNs, thereby requiring individuals to have a valid SSN.
- **Revocation for misrepresentation of immigration status.** Several states have proposals that would require the DMV to revoke the driver's licenses of individuals who have misrepresented their immigration status.
- **Biometric data.** Several states have new proposals with provisions requiring biometric data, such as fingerprints, to be collected and used on driver's licenses.
- **Immigration status listed on driver's license.** Several states have proposed steps to indicate immigration status on the face of the driver's license or to create new driver's licenses that differentiate between undocumented immigrants, noncitizens, and citizens.

IV. NCLR Principles

Like all Americans, NCLR is concerned about national security and supports measures that increase the safety of the U.S. and protect Americans from future terrorist attacks. However, NCLR firmly believes that, before taking antiterrorist action, it is necessary to reflect on whether a proposed measure is truly an effective means to increase national security, as well as to address unintended negative effects of such proposals.

During these challenging times, many new proposals aimed at enhancing our national security and preventing future terrorist attacks have arisen. However, we must be cautious not to proceed quickly and recklessly. NCLR believes that each new state and federal legislative proposal and executive action must receive thoughtful attention, broad discussion, and be judged by four principles. Specifically,

- A. Driver's license proposals must be effective.** Will the proposal achieve what it intends? Is it an effective means to achieve greater national security and public safety, or does it give us a false sense of security and simply make us feel better? Is the proposal cost-effective, or would we expend a great amount of resources on unproven or ineffective results?
- B. Driver's license proposals must not create negative unintended consequences.** What are the ultimate results of the proposal? Will the proposal deny driver's licenses to eligible individuals?
- C. Driver's license proposals must not single people out for abuse and discrimination.** Will the proposal create opportunities for abuse, or result in discrimination or civil rights violations? Are there ample protections contained in the proposal to protect individuals from abuse?
- D. Driver's license proposals must be based on accurate information.** Will the proposed changes ensure that the information contained on a driver's license or identity document is accurate? If the information is to be verified with databases, is the information contained in the database reliable and accurate? Is the identity document based on information from valid documents?

NCLR believes that these four principles should guide national and state debates on driver's license proposals and, indeed, any proposals aimed at enhancing safety and security. The vast majority of current driver's license proposals in the states fail to meet these standards.

V. Applying NCLR Principles to Current Proposals

While NCLR is deeply concerned with national security and public safety, it believes that current proposals to restrict state-issued driver's licenses and identification documents are not an effective means to combat terrorism. In fact, NCLR's position is that all communities' best interests are served by increased accessibility to identification documents. Furthermore, NCLR believes that driver's licenses should accurately and reliably identify individuals and should indicate an individual's authorization to operate a motor vehicle. However, driver's licenses should not be linked to an individual's immigration status. NCLR's analysis, as outlined below, suggests that current restrictive proposals could result in negative consequences and inaccurate information that would do little to enhance national security.

A. Driver's license restrictions are not effective.

- **Restricting driver's licenses is an inefficient and ineffective measure to prevent terrorism.** 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. Furthermore, press accounts since September 11 have called attention to the fact that the hijackers had obtained driver's licenses when, in fact, the terrorists did not need U.S.-issued driver's licenses to board planes on September 11; they had foreign passports that allowed

them to board airplanes. Because of the large number of tourists and other visitors who travel in the U.S., foreign passports are likely to continue to be acceptable forms of identification to board airplanes. Finally, restricting driver's licenses to immigrants does nothing to address the issue of domestic terrorist threats.

The argument that identification cards can prevent terrorism is based on the premise that we can identify terrorists and separate the "good guys" from the "bad guys." However, it is first necessary for various federal agencies to gather intelligence and share information with each other in order to identify potential threats and stop them before they enter the U.S. Federal legislation has been proposed to increase intelligence-gathering and information-sharing at the federal level, and to revamp the visa issuance process. The nation's resources and energies are best spent gathering information and identifying potential terrorists rather than placing unnecessary driver's license restrictions on millions of American families.

- **Restricting driver's licenses interferes with other law enforcement mechanisms.** Law enforcement officials point out that the current child support enforcement and criminal warrant tracking functions of driver's licenses are less useful if large proportions of the population are excluded from the driver's license databases.
- **Restricting driver's licenses does not accomplish immigration policy goals such as reducing undocumented employment or improper use of public benefits.** A driver's license only proves identity and ensures that the license holder has shown a minimal level of competency to drive and understands U.S. traffic laws. Federal law requires all employees to complete an I-9 form, which requires both proof of identity and eligibility to work, so a driver's license alone is not enough. Furthermore, undocumented immigrants are ineligible for federal public benefits programs, and such programs require additional proof of eligibility, identity, and immigration status.

B. New driver's license restrictions have negative consequences for immigrants, citizens, and entire communities.

- **Driver's license restrictions result in the denial of licenses to legal immigrants.** Many of the current proposals would also effectively deny driver's licenses to many people who are authorized to live in the United States but who do not have the required documentation for a variety of reasons. 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 visas have been approved but not processed would be denied driver's licenses even though they are lawfully present. Furthermore, refugees, asylees, and others who fled persecution without proper identification documents from their countries of birth would be denied driver's licenses. In some states, new proposals mean that naturalized citizens would be treated differently than native-born citizens and would be subject to onerous requirements, which is unfair and potentially unconstitutional.

- **Restricting driver’s licenses results in unsafe roads, high insurance rates, and overwhelmed court systems.** Current proposals would result in more unlicensed drivers operating vehicles on U.S. roads. Currently, there are an estimated eight million undocumented immigrants in the United States, many of whom have to drive on U.S. roads in order to work, whether or not they have a driver’s license. As a result of immigrant restrictions these drivers will not take driving classes or pass driving tests, will not be able to get insurance, and may be more likely to flee the scene of an accident for fear of immigration consequences unrelated to the accident. Nationally, chances are approximately 14 in 100 that if an insured car occupant is injured in an accident, an uninsured motorist caused the accident.³ These proposed measures are likely to increase those numbers. In addition, immigrant license restrictions result in numerous arrests for minor traffic violations, clogging the public courts and diverting the time of law enforcement officers who would be better used protecting public safety.
- **Driver’s license restrictions negatively affect American families.** According to the Urban Institute, one in ten children in the U.S. 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 U.S., and two out of three children in families with one or more undocumented parents are citizens.⁴ The impact of denying driver’s licenses to immigrants reaches far beyond the undocumented community and even the immigrant community. Denying driver’s licenses to immigrants negatively affects U.S. citizens and American families.
- **Restricting driver’s licenses erodes community trust.** Rather than increasing security, driver’s license restrictions result in a situation in which immigrants fear discrimination and being reported to the INS and therefore avoid contact with law enforcement; immigrants are unwilling to report crimes and assist local law enforcement in fighting criminal and terrorist activity. This decreases community trust and infringes upon efforts to fight crime and save lives. In most states, law enforcement officials are opposed to restrictions on driver’s licenses, citing public safety, fraud prevention, battling corruption, and crime prevention.
- **Restricting driver’s licenses results in the proliferation of false documents.** The production and sale of falsified documents are likely to increase if large numbers of immigrants are denied driver’s licenses. Excluding individuals from legal driver’s licenses creates conditions in which false documents and false identities will proliferate, meaning that we will have less accurate information about who is currently in the country.

C. Driver’s license restrictions result in abuse and discrimination.

- **Driver’s license restrictions result in discrimination and racial profiling.** Increased restrictions on immigrant driver’s licenses are likely to result in racial profiling, vigilantism, and other forms of discrimination. When documents such as driver’s licenses are believed to be linked to immigration status, history has shown that Latinos and other ethnic minorities, as well as all people who look or sound “foreign,” are the primary targets of document verification. For example, people believed to be “foreign” or who look like they might be

³ Insurance Research Council, *Uninsured Motorists 2000 Edition*, Malvern, PA: Insurance Research Council, 2001.

⁴ Children of Immigrants Fact Sheet, The Urban Institute, December 2001.

“undocumented” because they fit a certain profile may be stopped solely to provide documents, an enforcement activity that clearly leads to racial profiling. And if new laws require DMVs to report “suspicious” individuals to the INS, the probability of abuse and discrimination will increase dramatically.

- **Driver’s license restrictions result in civil rights violations.** Often, individuals who are asked to show documentation are U.S. citizens, and those suspected of being “undocumented” are legal immigrants, resulting in civil rights violations. Reports of discrimination and racial profiling have already been documented. Puerto Ricans, who are U.S. citizens, have been the targets of such discrimination and have been asked to show proof of citizenship, or even worse, their green cards. Naturalized citizens have also been asked to produce additional documentation. In several cases, the driver’s licenses of naturalized citizens, U.S. citizens, refugees, and others have been confiscated when the individuals failed to present green cards or other proof of legal immigration status.
- **Driver’s license restrictions result in vigilantism.** Another potential effect of the increasing anti-immigrant sentiment in the nation is vigilantism; that is, undue, and often illegal, enforcement of existing laws by ordinary citizens. In the aftermath of the terrorist attacks of September 11, incidents targeting persons perceived to be immigrants have become all too common. Airlines and others have reportedly participated in racial profiling by asking members of particular ethnic and racial groups to provide documentation. If driver’s licenses or other documents are linked (or perceived to be linked) to immigration status, it is likely that even more merchants, restaurant owners, and others will request documentation before services will be provided.
- **Discrimination and racial profiling make the country less safe.** Racial profiling undermines the ability of law enforcement to enforce the law effectively. When an innocent individual’s ethnicity is used to establish a cause for suspicion of a crime, then that individual – along with family members, friends, and neighbors – may lose trust in the integrity of law enforcement. As a result, the public safety may be placed in jeopardy because members of these communities are likely to fear harassment and abuse by the police and are thus less likely to seek police help when they legitimately need it: to report a crime or suspicious behavior, serve as a witness, or otherwise cooperate with law enforcement. Racial profiling not only violates civil rights, it also diverts essential resources, undermines the ability of law enforcement to enforce the law effectively, and makes everyone less safe.

D. New driver’s license proposals do not guarantee accurate and reliable information.

- **Immigrant restrictions to driver’s licenses do not address the issue of false breeder documents.** The information on a driver’s license is only as good as the information provided by the applicant. If individuals use false documents to obtain valid state-issued driver’s licenses or ID cards, these proposals simply result in a false sense of security without addressing the real issue of identity fraud and theft.

- **Blanket information-sharing with the INS and SSA does not increase public safety.** Linking driver’s license databases to the INS or the Social Security Administration to verify documents is likely to have harmful consequences. First, the accuracy and reliability of the databases are problematic. INS and SSA databases have been shown to have error rates approaching 20%.⁵ The INS database is not updated quickly enough to contain current immigration status for all persons. For example, according to the INS, no U.S. citizens naturalized prior to 1972 appear in INS databases at all. Such individuals would be routinely denied driver’s licenses under these procedures. Finally, innocent mistakes, such as the misspelling of “unusual” names, transposing given names and surnames, and inconsistent entry of multiple surnames, disproportionately occur with ethnic minorities. If verification against INS data is used by driver’s license agencies, it is inevitable that eligible persons will be denied driver’s licenses because of inaccuracies in the databases. Sharing information with the INS and SSA does not lead to increased public safety. If immigrants do not apply for driver’s licenses because they fear discrimination or that they will be reported to the INS or other law enforcement agencies, this results in greater numbers of unlicensed and uninsured drivers and less contact between the community and the authorities. Consequently, the entire community is less safe.

VI. NCLR’s Proposed Approach

Certainly, maintaining the authenticity and reliability of driver’s licenses is critical, as is ensuring that unauthorized drivers do not endanger the safety of all people. Taking steps to increase national security is also important. NCLR believes that these goals can be accomplished without denying immigrants access to driver’s licenses. The next sections review practical steps that can and should be taken to ensure maximum access to driver’s licenses without endangering national security or public safety.

Alternatives to Documentation Requirements

One way to ensure driver’s license accessibility to immigrants is to offer alternatives to documentation requirements. The following sections outline possible alternatives to SSN, proof of identity, and proof of legal residency requirements.

Alternatives to the SSN

There are ways that states can allow those individuals to qualify for driver’s licenses without SSNs. Some states have provided alternatives to the SSN requirement, clearly demonstrating that they have chosen public safety as a principal guideline for inclusive driver’s license policies.

Some states allow individuals who do not have SSNs to present a sworn affidavit stating that they do not have an SSN and are not eligible for one. Besides the sworn affidavit, additional options are currently being utilized in various states. For example, Texas currently accepts an L-676 letter in place of an SSN. An L-676 letter can be obtained through the SSA and states that

⁵ See *Racing Toward “Big Brother”: Computer Verification, National ID Cards, and Immigration Control*, Washington, D.C.: National Council of La Raza, 1995.

an individual does not qualify for an SSN. Issued by local SSA offices, an L-676 letter can be obtained by persons who can prove their age, identity, and ineligibility to obtain an SSN.⁶

Other states have additional alternatives. In Utah, for example, driver's license applicants can submit an L-676 letter or an Individual Taxpayer Identification Number (ITIN) issued by the Internal Revenue Service (IRS) for federal tax collection purposes. The ITIN is a tax processing number that became available on July 1, 1996 for certain nonresident and resident aliens, their spouses, and dependents. Like the SSN, it is a nine-digit number and only individuals who are not eligible for an SSN can obtain an ITIN.⁷

Alternatives to proof of identity and proof of residency documents

As with the SSN, there are ways to increase immigrants' ability to produce necessary documentation. One solution is to broaden the list of acceptable identity documentation to include foreign documents.

Foreign-issued documents

As mentioned above, several states accept Canadian driver's licenses, passports, and birth certificates as proof of identity, and a few states accept documents from other countries. However, most often these same documents from other countries are not accepted. All states could accept legitimate foreign government-issued documents, thereby allowing more individuals to access driver's licenses.

In most countries, obtaining a passport or consular documents requires extensive documentation before issuance. For example, a Mexican consular document (*matricula*) requires (1) a certified copy of a Mexican birth certificate and (2) a picture ID. Both a foreign passport and consular document are easily recognizable and verifiable documents issued by an individual's country of origin. They provide both an identifiable photograph and the date of birth of an individual.

The acknowledged validity of the *matricula* has led some financial institutions and other entities to accept it as an alternative form to prove identity. In Orange County, California, chiefs of police have adopted policies encouraging officers to accept the *matricula* as an alternative ID when stopping individuals for minor offenses. This measure is intended to diminish community reluctance to have contact with police or to report crimes.⁸ Similarly, some banks allow customers to use it as one of two proof of identity documents to open bank accounts or effect transactions. Given that immigrants are vulnerable to robberies and predatory schemes because they do not have access to banking facilities, measures to facilitate their access to these services could also serve to reduce crime.

Likewise, original foreign birth certificates are carefully issued to individuals by national governments. Currently, several states accept foreign birth certificates as the only document

⁶ From Texas Register, September 22, 2000. Comments on rule changes to 37 Texas Administrative Code,

⁷ *Understanding your IRS Individual Taxpayer Identification Number*, IRS Publication 1915, February 1999. http://www.irs.gov/ind_info/itin.html

⁸ For example, see Teresa Puente, "Mexico ID like money in bank. Consul card a key to fiscal freedom," *Chicago Tribune*. March 18, 2002.

required for identification purposes. Other acceptable foreign government-issued documents include a national military identification card, a voter registration card, driver's license, school records, or a variety of other documents.

State Departments of Motor Vehicles can work with foreign consulates to receive information and training regarding the documentation issued by any foreign country. Consulates can also provide helpful information regarding identifying false documents.

There are also alternative ways to prove state residency. For example, some community service organizations are willing to provide affidavits that can be notarized and used for proof of state residency. In addition, residents can request that newsletters or other pieces of mail be sent to them at their address to be used as proof of residency. Individuals and organizations need to check with their local driver's license agency to determine what types of proof of state residency are acceptable.

NCLR believes that state driver's license agencies should work to ensure that individuals who are driving on roads are licensed, insured, and knowledgeable of all rules, and should not act as INS agents by verifying immigration status. Given the identity and legal residence requirements, INS documentation and immigration law are extremely complex and subject to frequent changes. State driver's licensing agencies do not have the authority or the expertise to navigate through the variety of immigration documents and understand the nuances among different types of immigration status and stages of the process. These complexities have been brought to bear when agencies or legislators have adopted seemingly straightforward policies to prevent undocumented immigrants' access to driver's licenses, which have instead resulted in denying such documents to certain categories of legal immigrants.

VIII. Conclusion

Public safety and national security are of the utmost importance to all people of the United States, and measures to identify potential terrorists and prevent future terrorist attacks are a national priority. Safety and security goals are not mutually exclusive and can be accomplished through measures that carefully combine effectiveness, accuracy, explicit civil rights protections, and prevention of discriminatory effects. Steps must be taken to ensure that new policies are effective and truly make the country safer rather than simply make us feel better at the expense of innocent members of the population. Restricting immigrant access to driver's licenses is not an effective way to counter potential terrorists and actually makes the entire community less safe. Unfortunately, the Latino population is already all too familiar with discrimination, racial profiling, unsafe communities, and other negative effects of driver's license restrictions. NCLR seeks to make sure that these problems are not further exacerbated by legislation that would require states to check and verify the immigration status of individuals applying for driver's licenses.

Allowing maximum access to state-issued ID cards and driver's licenses through legitimate means ensures that all drivers are properly trained, licensed, and insured. It provides all residents of the United States with documentation, increasing our knowledge of who is in the country at

any given time and preventing large segments of the population from living clandestinely and avoiding contact with law enforcement and other government and private agencies.

State Departments of Motor Vehicles should not check the immigration status of driver's license applicants. The U.S. Constitution gives the federal government the sole authority to create and enforce immigration law; only the INS is responsible for issuing immigration documents and verifying the legal residency of persons residing in the United States. Furthermore, immigration law and immigration documents are incredibly complex and subject to frequent changes. State driver's licensing agencies do not have the expertise to navigate through the variety of immigration documents and verify an individual's immigration status. Doing so without expertise typically leads to discrimination against persons who are lawfully present in the U.S. The Department of Motor Vehicles' role should be to ensure that all individuals who drive on U.S. roads are properly licensed and insured, and not to act as INS agents verifying immigration status.

Ensuring immigrants access to driver's licenses ensures safer roads and safer communities.

Thank you again for this opportunity to present testimony.