

REPORT OF THE  
TASK FORCE  
ON  
DRIVER LICENSING DOCUMENTATION

December 1, 2004

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## Statement from the Chairman

I am privileged to submit the Report of the Task Force on Driver Licensing Documentation. The Report was approved by these members:

Senator John A. Giannetti, Jr.

Delegate Victor R. Ramirez

Delegate Christopher B. Shank

Major Thomas Coppinger, Maryland State Police

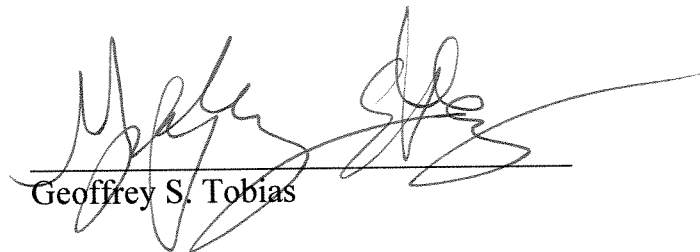
Director Dennis R. Schrader, Office of Homeland Security

Thomas M. Walsh, Associate Administrator, Motor Vehicle Administration

Mr. Nicolas Gomez, Maryland Catholic Conference

Mr. Stephen C. Principe

Geoffrey S. Tobias, Esq., Chairman



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November 29, 2004

The Honorable Robert L. Ehrlich, Jr.  
Governor, State of Maryland  
State House  
Annapolis, MD 21401

The Honorable Thomas V. Mike Miller  
President of Senate  
State House – H-107  
Annapolis, MD 21401-1991

The Honorable Michael E. Busch  
Speaker, House of Delegates  
State House – H-101  
Annapolis, MD 21401-1991

Re: Task Force on Driver Licensing Documentation

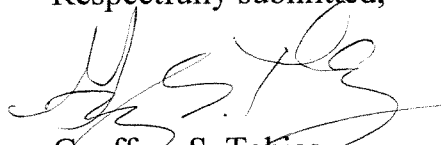
Dear Sirs:

Pursuant to *Chapter 452 of the Laws of Maryland 2003*, I submit the Report of the Task Force to Study Driver Licensing Documentation.

The Task Force met twelve times to study and assess the nine issues detailed in the legislation. Testimony was received from a diverse group of witnesses, including individuals, employers, law enforcement officers, executives of national organizations, elected officials and representatives of two foreign governments.

The Task Force grappled with complex issues of national, as well as statewide, importance and consensus could not be reach on all points. The members are to be commended for their consistent participation and willingness to stay on task. The attached Report was approved by nine of the eleven participating members.

Respectfully submitted,



Geoffrey S. Tobias  
Chairman

GST/bh

Enclosure

cc: Department of Legislative Services (w/enc.)  
Members of the Task Force (w/o enc.)

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## **I. EXECUTIVE SUMMARY**

The following summarizes the principal recommendations of the Task Force:

- That the Motor Vehicle Administration (“MVA”) continue its procedures and documentation requirements for persons possessing birth certificates issued in the United States.
- That non-citizens of the United States continue to be required to provide identity documents which have been issued or validated by a federal, state or municipal authority of the United States.
- That the MVA consider accepting, and set up procedures to review, certain foreign documents, which may be, in the future, certified as acceptable by the American Association of Motor Vehicle Administrators or an agency of the United States government.
- That the MVA accept, as a complete identity document, certified school records with appropriate age and longevity requirements.
- That the MVA consider accepting other, verifiable, identity and residency documents, reflecting (1) the varied economic status of applicants and (2) the changing universe of federal documentation affirming identity.
- That the MVA strive to accelerate and improve the services rendered at the newly created out-of-country applicant regional offices.
- That no revision of current law is required, unless federal legislation now being considered requires it.

## **II. ORIGIN AND CHARGE OF THE TASK FORCE**

In the 2003 Session, legislation was introduced, which would have required the Motor Vehicle Administration to accept a wider range of documents to establish identity, including foreign birth certificates, foreign military identification, (unverified) passports, foreign national identity cards and consular identification documents. The original legislation also provided that immigration status, that is, “documented” versus “undocumented,” could not be a consideration for the MVA.

However, as passed and signed, the foregoing provisions were stricken, and House Bill 838 established a Task Force to Study Driver Licensing Documentation. Section 2(a). In accordance with sections 2(b) and (c), a twelve member Task Force was appointed to address nine issues and make recommendations, as set out at Section 2(f):

The Task Force shall:

- (1) study domestic and foreign documentation that proves the age of an applicant for a driver's license;
- (2) study domestic and foreign documentation that proves the identity of an applicant for a driver's license;
- (3) study domestic and foreign documentation that proves the residence of an applicant for a driver's license;
- (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;
- (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;
- (6) study 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;
- (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);
- (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;

(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; and

(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.

### **III. MARYLAND LAWS, REGULATIONS AND AUTHORITIES**

The relevant Motor Vehicle law is found at the Transportation Article, Title 16: Vehicle Laws – Drivers’ Licenses (“TR”), Appendix A. MVA regulations are found at COMAR 11.17.09, Appendix B. The MVA requirements are also set out at its website, Appendix C. The Attorney General’s Opinion of September 12, 2003, addressing a legal presence requirement for license applicants (the “Opinion”), is Appendix D.

### **IV. SUMMARY OF ACTIVITIES**

A. Task Force composition, as set forth at HB 838, Section 2(b) and (c):

- |    |  |   |
|----|--|---|
| 1. | Senate   | Hon. John Giannetti, Dist. 21   |
| 2. | House of Delegates   | Hon. Ana Sol Gutierrez, Dist. 18<br>Hon. Victor Ramirez, Dist. 47<br>Hon. Christopher Shank, Dist. 2B |
| 3. | MVA  | Thomas Walsh, Associate Administrator   |
| 4. | State Police   | Maj. Thomas Coppinger, Intelligence Division  |
| 5. | Office of Homeland Security  | Dennis Schrader, Director   |
| 6. | Governor’s Appointees  |   |
|    | (i) a representative of an organization representing the interests of immigrants | Nicholas Gomez, Maryland Catholic Conference  |
|    | (ii) representative of a bar association specializing in immigration law         | Denise Hammond, Esq., American Immigration Lawyers Association  |

- (iii) representative of a [federal] agency with experience in enforcing immigration law
  - (iv) representative of the business community      Stephen G. Principe, President, Site Maintenance, Inc.
  - (v) Chairman      Geoffrey S. Tobias, Esq.
- B. Staff      Caryn Cole, Communications Manager, MVA
- C. Meetings.

The Task Force met twelve times between November 20, 2003, and November 12, 2004. Witnesses included:

- Representatives of the Mexican and Salvadorian governments
- American Association of Motor Vehicle Administration
- National Conference of State Legislatures
- Maryland Department of Human Resources
- A professor of national security law at the United States Military Academy
- Maryland Latino Coalition for Justice
- Maryland MVA Fraudulent Document Recognition Program
- Business, Economic and Community Outreach Network, Salisbury University
- Association of Maryland Chiefs of Police
- Maryland Automobile Insurance Fund
- Members of the House of Delegates

While most of its meetings were in Annapolis, the Task Force visited MVA Headquarters to observe the Fraudulent Document Program Machinery in use. The Task Force also traveled to Salisbury, for the convenience of Eastern Shore residents.



## V. FINDINGS

### Definitions

Because the Act creating the Task Force uses terms in a manner not exactly consistent with the national immigration law, the following definitions, which are believed to be consistent with legislative intent, are utilized in this Report.

“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.

“Undocumented immigrants” – non-citizens of the United States not having any status pursuant to United States immigration law. 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.

“US DHS” - The post-September 11, 2001, creation of the United States Department of Homeland Security included the dissolution of the Immigration and Naturalization Service (“INS”)<sup>1</sup> and the creation of three new agencies in the US DHS: Customs and Border Protection (“CBP”), Immigration and Customs Enforcement (“ICE”) and Citizenship and Immigration Services (“CIS”). Except where the context requires otherwise, reference to US DHS includes the former INS.

“MdTA” – Maryland Transportation Authority.

“AAMVA” – American Association of Motor Vehicle Administrators.

“CID” – Consular Identification Document, issued by an official representative of foreign country in the United States, purporting to identify the holder thereof.

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<sup>1</sup> The INS was part of the United States Department of Justice.

### **Task Force Assignment Nos. 1, 2 and 3:**

**The Task Force shall study domestic and foreign documentation that proves the age, identity and residence of an applicant for a driver's license.**

#### **Background**

The mission of the MVA is to provide efficient and courteous service in the delivery of driver and vehicle services in order to maintain the mobility, safety and security of Maryland citizens. The driver's license provides the State some regulatory control over those who operate motor vehicles. Ensuring basic driver competency promotes public safety. The identification requirements and process play a critical role in addressing that safety objective. Each of the driver licensing entities<sup>2</sup> has signed on to the concept of "one license from one state." This agreement, overseen by AAMVA, presupposes a quality process in place for ensuring the identity of the person being licensed. It is critical that each individual issued a driver's license "remains the same person" throughout subsequent dealings with the Maryland MVA or any other state's motor vehicle licensing agency. Simply stated, this means one driver identity, one license document and one driver record. In addition to the relevance of identity to driver safety as summarized above, the driver's license is now the identification document of choice throughout North America. With a photo, signature and physical description, the driver's license has a role far beyond its original purpose of identifying the holder as competent to drive. As noted by the September 11 Commission, and Congress itself, the license is now accepted as a, if not *the*, primary official identifying document. A fraudulently obtained driver's license may lead to loss of life (*e.g.*, unsafe drivers), fraudulently obtained entitlement to services or jobs (*e.g.*, Medicare or welfare fraud) and other activity leading to economic and social losses. It may also serve as a "breeder document" facilitating the issuance of other fraudulent documentation.

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.” Appendix A. The MVA has adopted regulations (COMAR 11.17.09) elaborating on the requirement that an applicant provide proof of age and identity. Appendix B. The Attorney General concluded in the September 12, 2003, Opinion that “... the MVA may require an applicant for a Maryland driver’s license who lacks a domestic birth certificate to provide alternative forms of identification and may include immigration-related documents among acceptable forms of identification. However, under the Maryland Vehicle Law, a person’s inability to establish lawful presence in the United States is not a basis for denying that person a driver’s license.” Appendix D.

The following is a description of the recent history regarding identification requirements and processes for obtaining a Maryland driver’s license.

### **Policies Prior to September 11, 2001**

**Proof of legal presence in the U.S. was not required from citizens of foreign countries. Foreign applicants could process at any full service, MVA branch office location.**

In 1997, Maryland regulations regarding proof of identity and residency as a condition of obtaining a driver’s license (COMAR 11.17.09) or identification cards (COMAR 11. 17.06) were amended to what are now current COMAR provisions.

At the time of September 11, 2001, COMAR provisions required foreign-born applicants to provide two primary source documents (detailed below) OR one primary

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<sup>2</sup> States (including all provinces of Canada), District of Columbia, etc.

and secondary source document to establish identity. This is in addition to two proofs of Maryland residency.

The requirements and acceptable documents for those individuals having a U.S. or Canadian<sup>3</sup> birth certificate and those for foreign-born individuals were, and are, as set out at COMAR 11.17.09.04.

**Title 11**  
**DEPARTMENT OF TRANSPORTATION**  
**Subtitle 17 MOTOR VEHICLE ADMINISTRATION—**  
**DRIVER LICENSING AND IDENTIFICATION DOCUMENTS**  
**Chapter 09 Proof of Age, Name, Identity, and Name Change**  
**Authority: Transportation Article, §§ 12-104(b) and 16-106(d),**  
**Annotated Code of Maryland**

**Scope and Application**

**These regulations are intended to provide clarification of the:**

- A. Statutory definition of “name” in Transportation Article, § 11-137, Annotated Code of Maryland;
  
- B. Statement “or other proof of age and identity that is satisfactory to the Administration” in Transportation Article, § 16-106(d), Annotated Code of Maryland; and
  
- C. Statement “or other proof of age and identity acceptable to the Administration” in Transportation Article, § 12-301(a)(3), Annotated Code of Maryland,

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<sup>3</sup> Pursuant to Maryland law, TR 11-161, Canadian provinces are treated as U.S. “states” with regard to birth certificates.

in connection with the Administration's issuance of driver's licenses, nonresident permits, moped operator's permits, vehicle titles, and vehicle registrations when name or identity is at issue, for purposes of the Maryland Vehicle Law.

## **Definitions**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Administration" means the Motor Vehicle Administration.

(2) "Birth Certificate" means an original birth certificate issued by the Division of Vital Records or by a duly constituted governmental agency which is authorized to issue that data, or a certified copy of the original birth certificate.

(3) "Changed by court order" as used in Transportation Article, § 11-137(2), Annotated Code of Maryland, refers to the name resulting from a lawful court proceeding instituted to change any aspect of the individual's name.

(4) "Initial license" means the first Maryland license.

(5) "License" means a driver's license, a commercial driver's license, a moped operator's permit, or a learner's instructional permit.

(6) "Out-of-State driver's license" means a license to drive a motor vehicle duly issued by another state, District of Columbia, Province of Canada, or U.S. Territories.

## **Application**

A. An applicant for an initial, duplicate, or corrected license, or an applicant requesting a change of name, shall present proof of age, name, identity, and residence.

B. The Administration may require that an applicant certify to the truthfulness of any information provided by the applicant as a consequence of the requirements of these regulations.

## **Proof of Residence, Age, Identity, and Name Change**

A. Initial and Duplicate Licenses.

(1) Except as otherwise provided, a birth certificate or court-ordered change of name and one other primary source of identification, which contains the applicant's signature, as specified in § D(1) of this regulation, shall be presented by an applicant for an initial or duplicate Maryland license.

(2) Identification Requirements When No Record of Birth Exists.

(a) If an applicant for Maryland license cannot obtain a birth certificate from a vital statistics office of the applicant's state, the applicant shall furnish:

(i) A letter from that office of vital statistics attesting to the fact that no record of birth exists; and

(ii) Two other primary, or one primary and two secondary sources of identification as specified in § D of this regulation.

(b) One of the sources of identification in § A(2)(a)(ii) of this regulation shall contain the applicant's signature and one of the sources of identification shall contain the applicant's date of birth.

(3) If the applicant does not have the birth certificate in the applicant's possession, the Administration shall accept, instead of the birth certificate as source of age and identification:

(a) The applicant's valid out-of-State license provided it has the full date of birth; and

(b) One other primary source of identification as specified in § D(1) of this regulation.

(4) If an applicant for a Maryland license holds a valid out-of-State license, possesses a birth certificate with a name different than the name on the applicant's out-of-State license, and requests that the license be issued in the name indicated on the out-of-State license, the Administration shall issue the applicant a license in the name indicated on the out-of-State license and cross-reference that name with the name on the applicant's birth certificate, provided:

(a) The applicant produces the birth certificate for inspection; and

(b) The applicant certifies to the truthfulness of the name on the out-of-State license and the birth certificate.

(5) **Valid Out-of-State License Not in Applicant's Possession.** If an applicant for a Maryland driver's license, who has been issued a valid out-of-State license cannot present the previously issued-out-of-State license because of loss or theft, the applicant shall submit two primary sources of identification, one of which contains the applicant's signature, and a letter from the other licensing jurisdiction attesting to the:

(a) Existence of a valid-out-of-State license;

(b) Applicant's name and date of birth; and

(c) Validity of the license.

(6) If the Administration issues an original Maryland license in the name indicated on an out-of-State license, and if the name on the out-of-State license contains initials rather than the full name, the Administration shall require the applicant to submit any documentation listed under § D of this regulation which indicate the full

name of the applicant, and the Administration shall license the applicant under the full name.

(7) Foreign Born Applicant. An applicant born in another country who is not licensed to drive and who is applying for an initial license shall furnish two primary or one primary and two secondary sources of identification as specified in § D of this regulation. One of the sources of identification shall contain the applicant's signature and one of the sources of identification shall contain the applicant's date of birth.

B. Alternative Documentation. If an applicant is unable to provide both primary sources of identification required by § A(1) of this regulation, the applicant shall submit:

(1) A birth certificate or court change of name order and two secondary sources of identification, one of which contains the applicant's signature, as specified in § D(2) of this regulation; or

(2) A document or documents bearing the applicant's name and signature, if a digital image is on file with the Administration for the applicant and is retrievable for identification purposes.

C. In addition to the documents required by §§ A and B of this regulation, the applicant shall submit two proofs of residence, as specified in § E of this regulation.

D. Identifying Document List.

(1) The following sources of identification are considered primary sources of identification:

- (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 (DD 214);
  - (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.
- (2) The following sources of identification shall be considered secondary sources:
- (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;
- (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.

E. Proof of Residence. The following documents are considered as proofs of residence, if they show the applicant's current residence:

- (1) Selective service card;
- (2) Maryland vehicle registration card or title;
- (3) Voter registration card;
- (4) Utility, telephone, or cable TV bill;
- (5) Checking or savings account statement;
- (6) Life insurance card or policy (over 3 years old);
- (7) Property tax bill or receipt;
- (8) Mortgage account or proof of home ownership;
- (9) Residential rental contract;
- (10) Cancelled check with name and address imprinted;
- (11) First class mail from any government agency;

- (12) Major credit card bill;
- (13) Installment loan contract from a bank or other financial institution;
- (14) Sales tax or business license;
- (15) U.S. savings bond;
- (16) Residential service contract (for example, TV repair, lawn service, or exterminator contract); or
- (17) Probation court order, order of parole, or order of mandatory release.

F. Statement of Residence. The Administration may accept the following statements as proof of residence:

- (1) In the case of a dependent child, a statement from the child's parent or guardian signed in the presence of a representative of the Administration;
- (2) In the case of a married person, a statement from the individual's spouse signed in the presence of a representative of the Administration; or
- (3) In the case of a resident of a nursing home, a statement from the nursing home manager written on nursing home letterhead.

G. Change of Name.

(1) A change of name by marriage, court order, or divorce on an identifying document may be processed when one of the following forms of identification is presented:

- (a) Certified copy of a court order pertaining to the name change;
  - (b) Original or certified copy of a marriage license;
  - (c) Original or certified copy of a divorce decree; or
  - (d) Original or certified copy of a birth certificate.
- (2) A photocopy of any of the documents mentioned in § G(1) of this regulation is acceptable if:
- (a) Presented in person with a photo driver's license or Administration-issued photo identification card; or

(b) Processed through the mail.

(3) A common law change of name may be processed as allowed by Transportation Article, § 16-106(d)(3), Annotated Code of Maryland.

H. An applicant for an initial title or registration card, or both, shall certify, under penalties of law, that the name and date of birth on the application are true and correct.

I. An applicant for a duplicate title or registration card by mail shall certify that the information is true and correct.

J. An applicant who applies in person for a duplicate title or registration shall submit to the Administration a valid driver's license or any acceptable document indicated in § D(1) of this regulation.

COMAR provisions related to renewal, fraud and certain ministerial matters are found at 11.17.09.05.09, set out in Appendix B.

### **Policy Changes after September 11, 2001**

- Effective October 1, 2001, the MVA changed its procedures to require foreign-born applicants to present the following documents in connection with applications for driver licenses and identification cards:
  - A valid foreign passport with valid visa and valid I-94/Adit stamp evidencing lawful admission, or valid, current INS document, plus one other primary source of identification with the applicant's signature or
  - A valid foreign passport with valid visa and valid I-94/Adit stamp evidencing lawful admission, plus two secondary

sources of identification, one of which must contain the applicant's signature; plus

— Two proofs of Maryland residency.

- Effective June 2, 2002, the MVA replaced over-the-counter issuance of Identification Cards with a central printing and issuance service, which mails the cards to applicants.
- Effective April 25, 2002, the MVA implemented sections of SB 639 (2002). This legislation (1) authorized MVA investigators to issue citations for fraudulently obtaining an identification card; (2) included federal law enforcement agencies in the arrest warrant program; (3) changed the penalty for fraudulently obtaining a commercial driver's license and (4) authorized MdTA police security control of all Department of Transportation facilities.
- Effective September 29, 2003, the MVA began processing out-of-country applicants, Monday through Friday, via appointment (Saturday service was included at a later date).
- Effective October 1, 2003, the MVA implemented HB 838 (2003) which (1) required that applicants disclose their social security number or certify they do not have a number and (2) prohibited the use of false, fictitious or fraudulently altered documents in application for a driver's license.
- Effective November 3, 2003, the MVA hired a program manager for the Document Examiner Program. AAMVA has certified that the current program manager is qualified to conduct the Fraudulent Document Detection Program and train other examiners.

MVA Senior Document Examiners (SDEs) undergo an intense 40-hour training course, developed by AAMVA, on fraudulent document recognition (including overt and covert document examination). Only trainers certified by AAMVA teach these courses. Upon successful completion of training and examination, the SDEs receive AAMVA certification in fraudulent document examination equipment, and each SDE is trained on equipment usage. Various reference materials and on-line document authentication tools are accessible to Maryland SDEs. SDEs also receive regular in-service training that covers updates in document authentication, as well as on-going intelligence alerts at state and federal levels on stolen identity documents.

### **Acceptable Criteria for Identity Documents**

The Task Force received several hours of testimony and reviewed much documentation regarding the credibility of certain types of foreign identifying documents. Two presentations were made by Mexico concerning the security features of its CID. Representatives of El Salvador testified concerning their national identity document, the *Unico de Identidad* or DUI. No substantive testimony was received concerning CIDs presently issued by other countries (*e.g.*, Guatemala). The Task Force also did not receive testimony as to (1) which additional countries are contemplating the issuance of a CID or (2) how the MVA could assess the reliability and security of documents issued by foreign states with which the MVA has no practical, official means of communication.

H. Wayne Livesay,<sup>4</sup> President of the Association of Maryland Chiefs of Police testified and raised concerns with any weakening of the standards the MVA would use to establish identity. The driver's license is the universally accepted identity document, enabling the holder to, among other things, vote, buy a gun, purchase explosives, obtain

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<sup>4</sup> Chief of Police, Howard County.

instant credit, rent a truck and board an airplane. Fraudulently obtained licenses are also used for money laundering and flight from prosecution, as well as terrorism. Chief Livesay thus recommended that the Task Force seek to strengthen, not loosen, the requirements for obtaining a license.

The CEO of AAMVA presented the Association's final report containing recommendations regarding driver's license and identity card security. This Report, Appendix E, details the best practices, standards and recommendations for enhancing the security of driver licensing process. Exhibit E includes AAMVA's Resolution No. 03-08, concluding that CIDs require additional study and that no other foreign documents be accepted for establishing identity. The Task Force found it significant that AAMVA representatives had visited Mexico to observe their document issuing processes. While this visit occurred in 2002, prior to more recent procedures, AAMVA is not, yet, confident in the security of the Mexican CID. The AAMVA representative reported that Mexican banks do not accept the CID. It is also significant that all Canadian provinces are members of AAMVA but none in Mexico has applied.

The Task Force also received testimony from a representative of the National Conference of State Legislatures (NCSL) regarding the work they have done on the issue. Particularly noteworthy was the fact that several state legislatures have revised their laws so as to require legal presence. One state, Tennessee, has created a secondary, theoretically non-identifying, license. The Task Force received no testimony in favor of a "non-identifying" license. The Task Force believes that all of the states bordering Maryland have legal presence as a pre-requisite to granting a license, and do not accept CIDs or other unverified foreign documents as proof identity. The NCSL is considering, but has not yet issued, standards for driver's licenses, and cooperation with AAMVA on this issue is anticipated. The NCSL representative testified that several states are reviewing their documentary requirements and they are focusing on (1) increasing security guarantees and (2) adding restrictions on acceptable identity documentation.

NCSL testified that certain databases in Mexico are not shared with United States authorities. The NCSL does not recommend acceptance of the CID, although the concept is under consideration.

None would argue the necessity for certain minimum standards that any document purporting to establish identity, foreign or domestic, would meet, when presented in application for what has become a universally accepted means of identification. The disagreement comes in evaluating whether a specific document permits convenient, practical, reliable and credible verification.

The issue has taken a more prominent position since September 11, 2001. The September 11 Commission Chairman, Thomas Kean, told the Senate Commerce Committee that identity cards helped the terrorists prepare for the hijacking by allowing them to board commercial flights. The fact that many had passports, which would also accomplish this, is not relevant here. The Commission report recommends tightening, not liberalizing, standards for obtaining driver's licenses and recommends that the federal government investigate setting standards for driver's licenses, so as to make it more difficult for terrorists and others to falsify their identities. Chief Livesay's testimony was consistent with US DHS Secretary Ridge's urging the states to adopt nationwide minimum security standards for issuing driver's licenses. Some argue that changes to the issuance of the terrorists' identification documents would not have stopped the attacks from occurring. However, it cannot be denied that identification documents are a significant piece of the security puzzle. The application and document issuance process is just one instance in a web of activity that could have identified one or several of the terrorists. Whether the attacks would have occurred, if better identity verification procedures were in place in the states that issued the terrorists their US identity documents, is unanswerable. The question the states have to answer is what can they do



to ensure identity process flaws are not contributing factors in any future terrorist attacks.<sup>5</sup>

### **Foreign documentation as a source for proving identity.**

The bulk of the testimony received from the foreign witnesses related to the security of the Mexican CID or Salvadorian DUI card itself, after issuance. While the physical, technological features of the cards appeared impressive, there was limited testimony as to what security measures were undertaken prior to issuing the cards in the first instance. The Task Force did not receive testimony indicating practical, reliable mechanism for the MVA to communicate with these (or most other) governments, with the exception of Canada, so as to permit verification by the MVA of the CID, DUI or other foreign documents. During the Task Force visit with those responsible for administering MVA Document Examination Programs, we learned that the MVA subscribes to certain databases created by Interpol, and others, which permit the vetting of a limited number of foreign passports and driver's licenses. While this may help determine whether a given physical document is counterfeit, it usually does not address the underlying issue of what procedures, if any, are followed by the country in granting the document in the first place. Beyond these databases, documents other than those created by a state, municipality or the federal government were simply not susceptible of convenient, timely, practical, reliable and credible verification.

Attached as Appendix F is the August, 2004, fifty-one-page report of the Government Accountability Office ("GAO," formerly the General Accounting Office) addressing the acceptability of CIDs. While the GAO recommends additional study, the agency found it significant that it remains the official position of the FBI and USDHS

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<sup>5</sup> Several of the 9/11 perpetrators had Virginia driver's licenses. Virginia has since revised its law to include a legal presence requirement.

that CIDs are not reliable documents. While the Task Force is aware that the FBI report predates the most recent version of the CID issued by Mexico, it remains the position of the agency, and the current FBI position is part of the basis for the Task Force's recommendations. The GAO report is the "last word" on the security of CIDs.

Beginning in 2004, Mexican consulate can, *in some instances*, employ electronic verification of a CID and applicant's identity. However, the Mexican issuance policy still relies on visual examination for some documents that are accepted in its issuance policy.

GAO Report, p.3 [emphasis added]. This is not an endorsement of CIDs upon which the Task Force could rely.

The GAO certainly has more expertise, and much greater resources at its disposal, than the Task Force. While ultimately recommending further study by the Homeland Security Council, the GAO concluded that "**Mexico has taken steps to improve identity verification procedures for its CID issuance process, but risks remain.**" [Emphasis supplied by GAO]. p.10. The GAO discusses the AAMVA and FBI concerns as well as the 2004 improvements about which the Task Force received testimony. But, the GAO was *not* convinced.

However, despite these new procedures, Mexican consulate officials told us that they still rely primarily on visual inspection – not database verification of all applicants' documents, except the passports and voter registration cards. Thus there are no safeguards to prevent some documents, such as birth certificates, from being fraudulently obtained and used as proof of nationality or identity in order to obtain a CID card.

GAO Report pp. 13-14.

## **Residency**

Certain members of the Task Force believe that the MVA current residency requirements are too restrictive, particularly with regard to lower-income individuals. Although the Task Force received no testimony specific to Issue No. 3, we recommend that the MVA consider expanding its list of verifiable documents more likely to be available to lower-income residents.

### **Task Force Issue No. 4.**

#### **How do current MVA documentation requirements affect documented immigrants?**

The United States has a complex body of law addressing immigration and, as noted in the definitions (p. 6), recently established a tripartite enforcement and administrative bureaucracy in US DHS. This complicated, and evolving, body of law and regulation has resulted in a maze of legal non-citizen categories. These categories include both immigrants, such as permanent residents (so-called “green card” holders), asylum seekers, refugees and others. There are also dozens of “non-immigrant” categories, which run the gamut from diplomats, tourists and students to religious workers, foreign media employees and investors. The spouse and minor children of these persons are also granted non-immigrant status. All are “documented immigrants” as that term is used in HB 838, as set forth on p. 6 above. Not surprisingly, a wide variety of documentation has been and is issued by the Department of State and US DHS, and its predecessor, the INS, evidencing immigrant and non-immigrant status.

The MVA recognizes that “documented” residents of the State may have this wide variety of paper establishing their legal status in the United States. As set forth in the Task Force’s assessment of Issues Nos. 1, 2 and 3, the MVA “Sources of Proof” contain

extensive lists of both primary and secondary sources of identification, as well as acceptable proofs of residence.

Effective July 1, 2004, the MVA opened seven regionalized sites (Bel Air, Beltsville, Frederick, Gaithersburg, Glen Burnie, Salisbury and Waldorf) to process out-of-country applications for driver licenses and identification cards. This process allows out-of-country applicants to schedule an appointment at any of the seven sites through one, toll-free telephone number. In addition to making it more convenient for the customer, the regionalization process was designed to improve the security and efficiency of application processing. Senior Document Examiners were hired, trained and certified prior to the July 1 implementation date, and forensic document examination equipment was placed at each site. An “alert” message is now placed on every record when an individual attempts to use false/altered documents or has been turned away for insufficient documents. This alert message not only prevents an applicant from trying to submit the same fraudulent documents at a different branch office, but also increases efficiency in the case where an applicant who originally had insufficient documents returns with additional documentation, by allowing the MVA staff to know exactly what happened on the first visit, thus aiding them to avoid duplication of efforts.

The MVA has recognized that applicants presenting non-standard documentation, *i.e.*, foreign or certain USDHS paper, are better served by specially trained examiners. Thus, as noted above, such applicants are required to call a toll-free number for an appointment at one of the now nine designated offices. Because this system is newly implemented, it was difficult for the MVA, and the Task Force, to assess its efficiency. The Task Force did receive anecdotal evidence to the effect that persons entitled to a license, have initially (and inconveniently), been refused. However, the Task Force received no testimony that any documented immigrants have, ultimately, been improperly denied a license since the implementation of the appointment system. The Task Force attempted to canvas immigration attorneys, employers, community organizations and

others in conducting the assessment mandated in HB 838. Approximately fifty (50) organizations were contacted. The Task Force received only one response, to the effect that a documented immigrant, was, after July 1, 2004, initially not able to receive a license. This person had recently been granted asylum, a category of documented immigrant whose paperwork may not satisfy the present MVA listing. As was noted above, the MVA needs to consider expanding and updating its list of acceptable documents, created by an agency in or of the United States, so as to address relatively rare asylum and refugee circumstances. In addition, the MVA should institute an ongoing process for adding verifiable documents to its list as they may be brought to the attention of the MVA or are created by a federal agency.

The Task Force also learned of difficulties in implementing the designated office appointment system. Many – almost half – of appointments are not kept by applicants, and “walk-ins” can only be accepted on an office-by-office, day-by-day basis. Language difficulties have been reported. The MVA no longer accepts pre-screened groups of documented aliens. Within fiscal and physical constraints, procedures may need to be reassessed. The Task Force also received testimony critical of the number and placement of the MVA’s special immigrant document locations, particularly with regard to the Eastern Shore counties.

The Task Force received testimony to the effect that some documented immigrants are wary of making application because of rumors or perceptions (whether founded or unfounded) that the MVA personnel may confiscate documents, treat non-English speaking people inappropriately or display impatience with non-standard documents. The Task Force is not an oversight committee of the MVA. More importantly, the MVA has made a significant effort to address the circumstance of non-standard documentation with the system implemented on July 1, 2004. Until any bureaucratic kinks are worked out of this new system, it is premature to state definitively that licensing issues for

documented aliens have been resolved. We can report that the MVA appears to be making a real and effective effort in this regard.

### **How do current documentation requirements affect undocumented immigrants?**

After the issuance of the Opinion on September 12, 2003, which concluded that the MVA could not deny a driver's license to an applicant based on inability to establish lawful presence, an internal review was undertaken by the MVA to evaluate the impact of the Opinion on then-current procedures.

The MVA was, at that point, already in the process of working on revisions to existing COMAR regarding acceptable documents to establish identity and residence in connection with the issuance of a driver's license or identification card and the MVA anticipated that new regulations would be promulgated within a short time period. To "bridge the gap" and ensure that the MVA was in compliance with both the Opinion and existing COMAR, a two-tiered process was implemented regarding identity documents on February 1, 2004, to allow an exception process for foreign-born applicants. If the applicant is unable to present the valid out-of-country passport with visa and valid I-94/ADIT stamp or another current, valid, INS document as a source of identity, the applicant may have his or her documents reviewed by a Senior Document Examiner under existing COMAR regulations (two primary identity documents, or one primary and two secondary identity documents PLUS two proofs of residency set forth in COMAR, Appendices B and C). The I-94 is the document issued by CBP at the time of entry into the US. Renewal I-94s are issued by CIS. The I-94 provides the length of permitted stay and status of admission (*i.e.*, temporary worker, student, visitor). The I-94, not the visa, is the determining document as to the question of legal presence. While the I-94 is usually physically attached to the passport, sometimes the I-94 information is stamped directly in the foreign passport in what is known as an "ADIT stamp." If the documents

presented satisfy current COMAR, the applicant is allowed to move forward with the application process.

In accordance with the adoption of the Exception Policy, if an applicant has a valid foreign passport, with an expired or current visa, the documents can be used as a primary source of proof. Someone with an expired visa may still be in the country legally because the I-94 may indicate a date not yet passed. However, the MVA now accepts the visa as the identifying document regardless of legal status.

There are instances when other documents issued by US DHS, the Department of State or other federal government agencies are accepted. These documents meet strict minimum criteria related to document reliability and security and the vetting process can be accomplished through a state or federal government agency. An example of a group who may have to utilize such documents is asylees. These individuals may have the following forms of documentation:

- Order from an immigration judge granting asylum;
- Grant letter from CIS Asylum Office;
- Order from the Board of Immigration Appeals granting asylum;
- Employment authorization document;
- Refugee Travel Document.

The Task Force received testimony from the Maryland Department of Human Resources concerning the particularly muddled circumstance of asylees, refugees and others in the United States legally, but without documentation listed by the MVA as acceptable. The Task Force did not study such documentation, generally created by US DHS, but, as stated previously, agrees that the MVA should expand its list so as to make it not unduly difficult for such persons to obtain licenses.

The Task Force learned that certain federal documents, such as an Employment Authorization Card, will only be accepted if current. Through no fault of the application, issuance of current documentation may be delayed by USDHS. Hence, the Task Force recommends the MVA accept such paper as valid, even though expired.

It is the MVA's position that vetting by the U.S. Department of State, which takes place prior to the granting of a visa, provides a sufficient proof of identity. We note that unlike some states, the MVA will issue a license for its regular five-year validity, even though a documented immigrant's non-immigrant status may pre-terminate the license's regular period of validity.

The Task Force received no evidence as to the number of undocumented aliens who may have received licenses.

The Task Force recognizes that undocumented immigrants (or anyone else) may obtain a license by presenting invalid documents to the MVA. The Task Force had no means of assessing the frequency of such fraud.

### **The Undocumented Minor**

The Task Force received testimony concerning the circumstance of minors brought into the country at an early age, without documentation. Such minors attend Maryland schools. Through no fault or action of their own, they may approach driving age with a "certified school record," one of the present primary source documents, but no other primary or secondary proof. The Task Force recommends that the MVA implement regulations and or procedures that would permit such a person to obtain a driver's license, provided that the person presented a certified record of at least five years duration from a Maryland school, be no more than eighteen years of age and have in person identification by a parent or legal guardian.



**Issue No. 5:**

**To what extent do individuals lacking a license because of the lack of valid documentation actually drive in Maryland.**

Neither the State Police, nor any other agency of which the Task Force is aware, collects and maintains data that would aid in forming a substantive response. While statistics are available as to the number of convictions for driving without a license, there is no underlying data as to the reason those convicted were in fact license-less. Information as to the race of those convicted is of no use in addressing this question. The Task Force received anecdotal data indicating that the majority of those so convicted were driving with a license that was suspended or revoked for alcohol-related offenses. The Task Force received testimony from several employers on the Eastern Shore. However, inasmuch as all testified to employing only documented workers, these witnesses had little to add on the issue of undocumented drivers.

Even when a driver immediately leaves the scene of an accident scene or runs from a traffic stop, the possible motives are many and not necessarily related to immigration status or documentation. Liability insurance is linked to vehicle registration – not driver licensing. Thus, the Task Force did not obtain any relevant data from the insurance industry.

Thus, while the Task Force received some anecdotal testimony as to the obvious fact that some undocumented aliens drive without licenses, we were not able to determine, or estimate intelligently, the extent of such illegal activity.

## **Issue No. 6:**

**The Task Force shall study 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 ability to verify effectively the identity of a driver's license applicant is the primary policy implication for homeland security. A driver's license in and of itself enhances public safety by demonstrating that the holder has proven the ability to operate a motor vehicle. The driver's license, though, has clearly become one of the most significant primary methods for identification.

It is this second usage of the drivers' license for which there can be critically important implications for homeland security. The National Commission on Terrorist Attacks Upon the United States noted that all but one of the September 11 hijackers acquired some form of U.S. identification document, which would have assisted them in boarding commercial flights, renting cars, and other necessary activities.

Because the presentation of a state sanctioned form driver's license is so pervasively accepted in the United States as proof positive of personal identification, it is critically important that such a license be issued only under strict controls that can provide surety that the individual displaying the license is, in fact, the person they claim to be.

Proper identification of individuals is a critical part of (1) identifying those who might wish to carry out acts of terror against the United States or its interests abroad, (2) exposing funding streams enabling terrorists to carry out such attacks, and, (3) most importantly, preventing attacks from occurring in the first place.

Steven McCraw, then Assistant Director of the Federal Bureau of Investigation Office of Intelligence, stated in his June 26, 2003, testimony to the House Judiciary Subcommittee on Immigration, Border Security, and Claims that “the Department of Justice and the FBI have concluded that the [Mexican] Matricula Consular is not a reliable form of identification, due to the non-existence of any means of verifying the true identity of the card holder.”

Now serving as Director of Homeland Security for the State of Texas, Mr. McCraw has reiterated his “serious concerns about the efficacy of the Consular Identification Cards,” because “the Mexican issuance policy still relies on visual, rather than computer-based verification to ensure that the applicants are in fact whom they say they are when they show up at the consulate.” The GAO concurs. In his professional opinion, the addition of new security features to the CID to prevent forgery or fraud is not necessarily relevant, because the only reliable safeguard for these cards is the ability to perform a computerized background check and identity verification at the time of issuance.

As noted elsewhere in this Report, a decision by the State of Maryland on this issue is, at best, premature. The September 11, 2001, attacks have resulted in significant attention and discussion at the federal level on this issue. During an August 16, 2004, Congressional hearing, “the (9-11) panel recommended the federal government issue standards for other forms of identification, including birth certificates. Committee Chairman John McCain of Arizona, who said that he will file bills to implement the commission’s recommendations, indicated that he was interested in a national ID card.”<sup>6</sup> The Report of the National Commission of Terrorist Attacks on the United States reiterated that position, with a formal recommendation that the federal government should set standards for the issuance of birth certificates and sources of identification, such as drivers licenses.

As noted above, in August of 2004, the United States Government Accountability Office (GAO) released its report on border security and CIDs. This report, the most recent and comprehensive official examination of the issue, concludes that “federal agencies hold different and, in some cases, conflicting views on the usage and acceptance of CID cards....”<sup>7</sup> The Task Force believes it significant that:

(1) The two federal agencies primarily concerned with National Security, USDHS and the FBI, do not support acceptance of CIDs (GAO Report, p.22);

(2) “The Department of State has not adopted a policy on foreign-issued identification documents or CID cards.” (GAO Report, p.22);

(3) The Homeland Security Council Task Force has not yet issued a report on the acceptability of CIDs, or provided guidance to state and local governments. In reaching its conclusions, the Task Force notes that the “FBI has also cited the threat of falsely obtained CID cards being used by terrorists to move about the United States, citing circumstances of non-Mexicans obtaining CIDs. The DHS’s Border and Transportation Security Director also “has concerns about the use and acceptance of CID cards.... DHS also echoed the FBI’s concerns over use of a CID card as a breeder document for obtaining other forms of identification, which in turn may be used for criminal purposes.” GAO Report, p.22.

The cliché that a chain is only as strong as its weakest link is particularly apt here. It is with this in mind that any discussion of the homeland security implications should be undertaken. The primary question that must be asked and answered is this: can a form of personal identification, which relies solely on the investigation of a foreign country, be, by itself, a legitimate basis for issuance of a state issued and sanctioned form of identification.

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<sup>6</sup> *The National Digest*, August 17, 2004

<sup>7</sup> GAO Report, Highlights page (App. F).

It is clear that the use of foreign-based documentation, such as foreign birth certificates or CIDs, rely heavily on security mechanisms neither reviewable nor verifiable by the United States and, particularly, state government agencies.

Much in the way that a pickpocket relies on large crowds to hide their activity, those that would make use of such mechanisms for criminal or terrorist activity could hide among those who have received driver's licenses through foreign documentation. Nonetheless, driving privileges are just that – a privilege – and not a right. Verifiable documentation, not legal status, is the key consideration.

If it were possible to ensure that the interests of Maryland, and the United States, could be protected with a failsafe mechanism for determining that a carrier is the person who claims to be, then the democratic process would appropriately decide arguments over this issue. But such sureties do not exist with the current issuance of CID and other forms of foreign national identification not vetted by an agency of the United States. Despite the efforts of governments like that of Mexico, the Task Force concluded, relying, in part, on the position of the FBI and USDHS, that it is not advisable, today, to accept foreign identity-type documentation not verified by the federal authority. The risk is simply too great.

## **Issues Nos. 7 and 8**

**The Task Force shall 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 shall 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);**

The MVA has recently completed a similar process with the Maryland State Police to investigate commercial vehicle drivers who request hazardous material endorsements. However, while there are “only” 30,000 hazardous material operators in the State, there are approximately 4 million noncommercial drivers who would be subject to the Issue No. 7 assessment. The MVA reports that this assessment of connections with terrorist organizations, would, not surprisingly, be costly and time consuming.

1. The MVA would first need to develop a driver's license application in its database that could handle the process. The estimated cost of development is approximately \$600,000, and is based upon the cost of developing the database for the hazardous materials endorsement.

2. In addition, fingerprint “live scan” equipment, at \$35,500 for each of the twenty-three MVA offices, would be needed to check applicants in the FBI and TSA databases. Total estimated cost for fingerprint scans: \$816,500.

3. Each of the 23 branch offices of the MVA would need PC workstations, attached to the fingerprint equipment, with the capacity of accepting payments from the driver’s license applicants in checks or credit cards, at a cost of an additional \$68,540 (\$2,980 estimated cost each). The cost of investigating the fingerprints and checking the terrorist databases through the FBI and the TSA would add \$100 to the current driver’s license fee (\$30 for a renewal, \$45 for a new license), for *all* applicants.

4. A specialist for the fingerprint scanners would also need to be hired at each of the branch offices of the MVA, at an estimated annual salary of \$31,344, for a total yearly cost of \$720,912.

Thus, the MVA reports that total start-up costs for the process are estimated at \$1,485,040 with an additional cost of \$720,912 annually for the personnel needed to run the process.

The MVA also reports that the new mail-in driver’s license option, just implemented, would no longer be viable until all applicants have visited the MVA to have their fingerprints scanned, increasing the wait time from about 45 minutes to approximately 91 minutes for each customer, throughout the MVA system.

## **Issue No. 9:**

**The Task Force shall 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.**

Interpol estimates that there are more than 156 foreign countries that issue a form of identity documentation. The Task Force is informed that the MVA has some diplomatic contacts with fewer than a dozen of these 156+ foreign states. Therefore, the feasibility of developing any process to validate documents verified by national representatives would be daunting. Premised on its experience, in part due to language barriers, the amount of time and effort that would be required to establish a reliable contact for each document issuing country would not be feasible.

The MVA experience is that embassy personnel are not trained to verify documents and many do not know how to authenticate or establish the security documents. Moreover, it is impractical for the MVA to accept documents in a language other than English.

The MVA reports additional obstacles to developing a process of the reviewing of foreign documents. For example, some cultures, particularly those in the Middle East, do not record the birth dates of their citizens. Because this is one of the primary identifiers used by the MVA, the lack of a birth date would pose a very considerable problem. The MVA and State Police report that the birth record gap serves as a catalyst for fraudulent activity. Individuals who do not possess a birth record document will go to great lengths and cost to obtain a fraudulent document to satisfy the requirements of U.S. document agencies.



The task of verifying foreign documents with little information available for authentication could significantly overburden the workload of the MVA staff. At a minimum, the MVA would need to hire a significant number of additional staffers, throughout its network of offices, to accommodate the new workload that the attempted verification of foreign documents with foreign national personnel would entail. The MVA estimates include a minimum of an additional two to three trained specialists at each branch office, for a total of 27 new hires, at an annual cost of \$1,086,912, plus benefits.

The individuals would have to undergo an intensive training program to fulfill their roles adequately, but there is currently no training available for foreign document authentication. The MVA believes the training would have to reflect cultural differences, involving experts from various regions of the world, such as the Middle East, Southeast Asia, former states of the Soviet Union, etc. It would require an inordinate amount of time and unknown expense because the MVA would have to hire someone to develop the training and then conduct it. In addition, the training would involve research concerning scores, if not all, of the 156+ countries. This would make the cost simply unfeasible.

Anecdotal evidence indicates that neighboring states are presenting new challenges to the process in Maryland. It is believed that more foreign-born individuals are now coming to the Maryland MVA with papers that the Virginia DMV will no longer accept as viable identification documents. Recent changes in Virginia law mandating lawful presence to obtain a license and tying license expiration to the length of lawful stay could be forcing the individuals out of Virginia and into Maryland in order for them to maintain current identification documents.

## **VI. CONCLUSIONS**

The Task Force received no testimony concerning persons born in the United States or Canada. The Task Force can thus only conclude that the present requirements do not present an undue burden on such persons.

### **Foreign Documents**

The Task Force concludes that an absolutely essential premise of the MVA license issuance process is the verifiability of any paper presented. The MVA has concluded, and the Task Force received no testimony to the contrary, that there is no reliable, convenient, practical, comprehensive and secure means for an agency of this State to validate foreign documents such as passports or identity cards, wherever issued. It is inherently inconsistent with international law and protocol for a state agency to attempt official communication with a foreign sovereign; such communication is, in theory, to pass through the United States Department of State, a lengthy and ultimately impractical exercise. While the MVA has developed some informal avenues of communication, this is not a basis upon which the universally accepted identity document – the driver’s license – should be issued. And even where communication is possible, there is no means of assuring that the information received is accurate.

The Task Force finds it significant that no federal, state or local agency, or national organization, testified in favor of accepting unverified passports or CIDs. The FBI and USDHS, the Country’s primary national security agencies, have unequivocally recommended against their acceptance. The GAO, in a recent and apparently exhaustive study, including receiving much of the same testimony on Mexican CIDs heard by the Task Force, concluded that “risks remain” and that there are “no safeguards” to prevent certain types of document fraud. The Maryland Association of Chiefs of Police, the MVA and the Maryland Director of Homeland Security agree. AAMVA’s official’s position is strongly against acceptance of the CID at this time. The NCSL and

Department of State do not recommend acceptance. The combined resources and expertise of all of the foregoing far outweighs that of the Task Force, and we cannot recommend acceptance of documentation that, today, is overwhelmingly opposed by security experts.

If the GAO, FBI, USDHS or some other agency with equivalent expertise should conclude that certain identity documents of specific countries are sufficiently secure, both in their underlying issuing process and the physical security of the card itself, then the MVA should consider accepting such documentation for identity purposes. Similarly, if AAMVA, with its resources and expertise, should reach a similar conclusion, that too should be considered by the MVA. Conversely, there is nothing to preventing any country from issuing a CID, with little or no security or verification. Without guidance from USDHS, AAMVA or equivalent organizations, it is not practical for the Maryland MVA to pick and choose between, say, the CID of Mexico and any other country.

As noted above, The Task Force believes it significant that agencies and organizations with utterly superior resources and expertise have not recommended acceptance of the CID or other such documents. Thus, the Task Force could not, based upon the limited and unverifiable testimony provided, conclude that AAMVA, USDHS, the FBI and GAO are, all, wrong.

### **Appeal Procedure**

The Task Force recognizes that proving identity by the foreign-born may be a daunting proposition. Indeed, if the matter were simple, there may well have been no impetus for the Task Force's formation in the first instance. We do not believe the appeal route would be (1) utilized frequently or (2) be a course taken by terrorists. Thus, it may be an appropriate means of addressing the exceptional case.

### **Undocumented Minors**

The Task Force recognizes that minors may have been brought to the United States, lived much of their life in Maryland, attended school here, but find themselves unable to prove their identity. Virtually all the identity documents on the present MVA list are intrinsically unavailable to undocumented minors. This exception allows these persons who, at a minimum, must have lived in Maryland since the age of thirteen or before, to obtain driving privileges.

### **Regionalized Appointment System**

The Task Force recognizes that the newly implemented procedures may not be working as well as intended. However, it is too early to scrap an attempted solution, which is intended to benefit both the out-of-country applicant *and* the majority of routine applicants.

### **Federal Legislation**

This Report may be rendered moot by federal legislation pertaining to national drivers' license standards, under active consideration during the Report's drafting process. Obviously, the MVA and Attorney General would advise the Legislature if any revision of Maryland law was mandated by new federal statute. It is also probable that a guest worker program, recently addressed by the President and Secretary of State, would result in verifiable documentation.

## VII. RECOMMENDATIONS

**The Task Force shall 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.**

*A. The Task Force recommends that the MVA continues its current procedures and documentation requirements for persons born in the United States or Canada.*

*B. The Task Force recommends that at the MVA branch offices, non-citizens of the United States be required to present identity documents, which have been validated by a federal, state or municipal authority of the United States.*

*C. If the MVA branch office does not issue a license, an application may be made to the MVA Administrator to review the documentation and issue the license, or reject the application.*

*D. The Task Force recommends that the MVA consider accepting certain documents, which may be, in the future, certified as acceptable by the American Association of Motor Vehicle Administrators or an agency of the United States government.*

*E. The Task Force recommends that the MVA consider establishing an administrative appeals process, whereby the denial of a license at one of the regional offices could be brought before the Administrator, with additional rights of appeal to the Office of Administrative Hearings and, ultimately, the courts, by way of existing administrative procedures.*

*F. The Task Force recommends that the MVA accept a certified record of not less than five years' duration from a Maryland public or private school, with photograph, as proof of identity, provided that the applicant is no more than eighteen years of age. Such a minor would not be required to present additional primary identity documentation.*

*G. The MVA should strive to accelerate, improve and monitor the services rendered at the newly created out-of-country applicant regional offices.*

*H. The MVA should consider adding to its list of acceptable proofs of residency to reflect the circumstances of lower-income applicants.*

*I. Because new documentation establishing identity is occasionally created by the federal government, the MVA should improve its mechanism for reviewing, and adding, acceptable identity documents to its lists of qualifying documentation.*

*J. No revision of current law is necessary, unless federal legislation now being considered requires it.*