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# **SECTION I: CONCEPTS UNDERLYING THE DRIVER'S LICENSE AND ID CARD ISSUANCE PROCESS**

## **INTRODUCTION**

Beginning in the early 1930's, motor vehicle agencies such as the Virginia Department of Motor Vehicles (DMV) began issuing driver's licenses to citizens. At the time, the sole purpose of these credentials was to provide certification that the license holder had acquired the requisite knowledge and skills needed to safely operate a motor vehicle on public roads.

Today, these credentials are used for much more than just a certification that the license holder has been deemed capable of safely operating a motor vehicle. In fact, they are probably more often used as proof of identity than as proof of one's ability to drive safely. Both the public and private sectors have come to rely on a driver's license or photo identification (ID) card issued by DMV as secure proof of identity. Holding one of these credentials provides access to an ever-increasing number of privileges and services, from obtaining credit to cashing checks, from buying or leasing cars to boarding airplanes. The importance of holding a driver's license or ID card issued by DMV renders these documents potentially important commodities to those attempting to commit identity theft and identity fraud.

A credential issued by DMV has become the key that opens all the doors needed to function effectively in today's world. However, in many instances, the statutes, policies and procedures governing the qualification for and issuance of driver's licenses and photo ID cards have not kept pace with the world's increased reliance on these credentials as positive proof of the holder's identity. As a result, motor vehicle agencies have been concerned for years about the security and integrity of the credentials issued and the processes used to issue them. These concerns were heightened by the tragic events of September 11, 2001.

This report has been prepared in response to a mandate by the 2002 Virginia General Assembly (HB 638 and SB 162, Appendix 1) and will assess the effectiveness of current statutes, policies and procedures governing the qualification for and issuance of driver's licenses and photo ID cards. It will identify steps that can be taken to improve the security and integrity of the credentials issued by DMV. The need for including a legal presence requirement for obtaining and maintaining possession of a driver's license or photo ID card will be examined, as well as the need for including one or more biometric identifiers as part of the issuance process and/or the DMV-issued credential.

## **CHAPTER ONE: THE DRIVER'S LICENSE AND ID CARD ISSUANCE PROCESS—THE FUNDAMENTALS**

The goal of a secure license/ID card issuance process is to ensure the applicant is who they say they are, lives where they say they live, and has surrendered any other license or ID card issued by another U.S. jurisdiction. In order to accomplish this goal, the issuance process itself should contain the steps needed to:

- Verify the true identity of applicants for licenses and ID cards,
- Verify the authenticity of information and documents submitted as proof of identity,
- Verify the authenticity of information and documents presented as proof of residency,
- Prevent the issuance of licenses or ID cards to applicants who are not Virginia residents,
- Prevent the issuance of licenses or ID cards that are easily altered,
- Detect, investigate and prosecute instances of fraud related to the issuance of licenses and ID cards, and
- Ensure that the issuing entity is not deemed an easy target by those seeking to commit fraud or abuse the system.

Viewed from a systemic perspective, the issuance process for driver's licenses and ID cards contains four components. A weakness in any one of the components leads to a breakdown of the overall system and results in a lack of security and integrity. Tightening up the controls in one component of the system will inevitably lead to "beat the system" using the inherent weaknesses in one of the other components.

A weak application process, one in which the information submitted on the application is taken at face value with no requirements for supporting documents, no verification of the authenticity of the supporting documents, or no verification of the information provided, will inevitably result in the submission of fraudulent information to commit identity theft or identity fraud.

When the integrity of the application process is enhanced by adding a requirement to submit supporting documents as proof of information provided on the application, submission of fraudulent or counterfeit documents by those seeking to obtain documents to which they are not entitled or for other fraudulent purposes is inevitable. This problem may be offset by verifying the validity of information provided in the application and/or by authenticating the documents which have been presented by the applicant in order to substantiate information on the application.

If the integrity of the issuance process is enhanced by steps to verify the validity of information provided and the authenticity of supporting documents, then there is an increased risk that the license or ID card issued will later be altered for fraudulent purposes. To offset this risk, the security of the credentials issued by DMV may be

protected by including security features such as holograms, machine readable bar codes and tamper-resistant laminate.

As measures are taken to enhance other components of the system for issuing documents, the risk of employee fraud increases. Those seeking to commit identity fraud or identity theft or to otherwise obtain driver's licenses or ID cards to which they are not entitled, will attempt to collude with DMV employees in order to fraudulently obtain the desired documents. Various strategies exist for minimizing this risk. An agency may implement safeguards to ensure that individuals who may have a propensity to engage in improper or illegal behavior are not employed, as well as safeguards to protect against improper or illegal behavior on the part of employees in the document issuance process. Second, the agency may take measures to ensure that its employees receive adequate compensation so the need to seek illicit financial rewards is decreased. Third, the licensing process may be separated into distinct components handled by different employees. The testing components may also be integrated with the customer records database, so the need for manual entry of the test results is eliminated. Another strategy is to strictly limit and control which employees have the authority and capability to exercise "discretion" in the licensing process. Finally, an agency may implement a formal quality assurance program to identify anomalies in transactions conducted by individual employees.

## **CHAPTER TWO: THE DRIVER'S LICENSE AND ID CARD ISSUANCE PROCESS IN VIRGINIA--GENERALLY**

### HISTORY AND BACKGROUND

Currently, Virginia statutes require applicants for driver's licenses and ID cards to provide their name, date of birth, social security number (SSN) if they have been assigned one by the Social Security Administration (SSA), and their residence address. In 1974, law was enacted that states a driver's license applicant may be required to provide "evidence reasonably acceptable" to the Department to prove name and date of birth. The requirement to provide a social security number (if the applicant has one) has been in effect since 1968. The last of these requirements, proof of Virginia residency, was statutorily mandated in 1993.

Current DMV policies and procedures require applicants for driver's licenses and ID cards to provide two proofs of identity, one proof of residency, and one proof of social security number. Generally, these overall requirements have been in place for many years. Lists outlining documents acceptable for providing proof of social security number and identification are set by administrative policy pursuant to discretionary authority that is granted by statute to the Commissioner. The requirement to prove residency was implemented in July 1994 as a result of the 1993 legislation mentioned above. This legislation also gave DMV permissive authority to promulgate residency regulations. Documents acceptable for providing proof of residency are set out in regulations which were promulgated by DMV in 1994, pursuant to the 1993 legislation.

In 1994, the agency, by administrative action, established an identity affidavit (DL-6) that could be provided by an applicant in lieu of a second proof of identity and, by regulation, a residency certification (DL-51) that could be used by an applicant in lieu of proof of Virginia residency. The use of these forms was initiated to help people who, for legitimate reasons, did not have proper proof of identity or residency but needed to obtain a Virginia driver's license or ID card. Guidelines for the use of these certifications were established with input from the Attorney General and immigration support organizations.

The identity affidavit consisted of a sworn statement, submitted by either (a) an attorney who was a member in good standing of the Virginia State Bar or (b) a Virginia resident who was an official or representative of an organization recognized by the Immigration and Naturalization Service, under penalty of perjury, that the affiant personally knew the applicant and attested to the applicant's identity. The residency certification consisted of a certification by a Virginia resident, who was personally acquainted with the applicant, that the applicant lived at the Virginia address provided to DMV on the application. The residency certification was signed, under penalty of perjury, in the presence of a notary or DMV employee.

The identity affidavit and residency certification were intended to be used in only exceptional circumstances, particularly to benefit non-citizens who may have left their native country under extreme circumstances and without appropriate identification

documents. However, use of the identity affidavit and residency certification became somewhat routine. In addition, DMV began to suspect that these two forms were being targeted by individuals with illegal or fraudulent intent as a means for obtaining Virginia driver's licenses and ID cards. As a result of widespread abuse by facilitators who had developed an industry of assisting ineligible individuals to fraudulently obtain Virginia driver's licenses and ID cards, and the events of September 11, 2001, use of the identity affidavit was terminated by administrative action, and use of the residency certification was rescinded by emergency regulatory action, on September 21, 2001. In the 2002 session of the Virginia General Assembly, the residency certification was effectively repealed by language contained in House Bill 638 and Senate Bill 162.

DESCRIPTION OF CURRENT APPLICATION PROCESS AND REQUIREMENTS

Currently, in order to obtain a Virginia driver's license or ID card, an applicant must submit:

- a completed, signed application
- proof of identity: (name and date of birth)
  - two documentary proofs required: one from a primary list of documents and the second from either the primary list of documents or a secondary list of documents.
- proof of Virginia residency:
  - one documentary proof required
- proof of social security number (SSN):
  - for driver's licenses, one documentary proof required, if the applicant has been issued a SSN
  - if a driver's license applicant does not have an SSN, a letter from the Social Security Administration (SSA) stating such
  - for ID cards, one documentary proof required only if the applicant desires display of the SSN on the ID card

DMV has set forth these requirements in a document which is available to the public [entitled Acceptable Documents for Obtaining a Driver's License or Photo Identification Card (DMV-141)]. A copy of the DMV-141, effective as of October 24, 2002 can be found in Appendix 2.

## **SECTION II—DESCRIPTION, ASSESSMENT AND POTENTIAL ENHANCEMENTS TO THE DRIVER'S LICENSE AND ID CARD ISSUANCE PROCESS IN VIRGINIA**

### **INTRODUCTION**

Pursuant to HB638 and SB162, the Commissioner of DMV is to:

".....no later than December 1, 2002, make a report to the Chairman of the Senate Transportation Committee and the Chairman of the House Transportation Committee regarding the need for further modification or enhancement to the identity and residency requirements in the application process for Virginia driver's licenses, commercial driver's licenses, learner's permits, temporary driver's permits and special identification cards. The Commissioner's report shall include but not be limited to the feasibility and effectiveness of any proposed modifications or enhancements to the application process, the advisability of imposing a legal presence requirement for the issuance and continued possession of such DMV-issued documents, and the details, status and implications of federal statutes, regulations, and pending legislation addressing uniform standards among the states for issuance of DMV documents"

Accordingly, in this section of the report, the different system components of the issuance process for driver's licenses, learner's permits, motorcycle learner's permits, commercial driver's licenses, and ID cards will be described and assessed for purposes of determining the effectiveness of the process in:

- Verifying the true identity of applicants,
- Verifying the authenticity of information and documents submitted as proof of identity,
- Preventing the issuance of DMV credentials to applicants who are not who they say they are;
- Verifying the authenticity of information and documents presented as proof of residency,
- Preventing the issuance of DMV credentials to applicants who are not Virginia residents,
- Preventing the issuance of licenses or ID cards that are easily altered,
- Detecting, investigating and prosecuting instances of fraud related to the issuance of licenses and ID cards, and
- Ensuring that the issuing entity is not deemed an easy target by those seeking to commit fraud or abuse the system.

Additionally, various options for enhancing the different components will be discussed.

It should be noted that, in many instances, a key focus of the assessment of the effectiveness of current processes will involve a description of other states' requirements and/or practices. It has been the experience of Virginia and other states that when one or

more states' driver licensing requirements are less stringent than those of other states, particularly neighboring states, those individuals who are unable to meet the more stringent licensing requirements will cross borders in order to obtain a driver's license or ID card. It should not be assumed that these individuals are necessarily lawfully meeting the requirements of the less stringent states. When Virginia accepted identity affidavits and residency certifications, Virginia was targeted by an industry of facilitators who encouraged such activity. The facilitators generated false identity affidavits and residency certifications for individuals who came from numerous states in order to obtain a Virginia driver's license. It has been the experience of Virginia that individuals seeking a driver's license who reside in another state which requires legal presence will often come to Virginia and provide false evidence of their residency in order to obtain a Virginia driver's license. These applicants have no intention of living in Virginia, but simply come to the state for one day to obtain a Virginia driver's license or ID card. Thus, if Virginia has licensing requirements which are deemed less stringent than other states, there exists a strong likelihood that the state will be targeted by individuals whose motives for obtaining a driver's license from that state are not necessarily lawful.

Individuals who obtain Virginia driver's licenses in an attempt to avoid other states' more stringent requirements use Virginia-issued documents to obtain other identity-related documents and/or potentially driver's licenses in other states. Other states, at this point, are willing to accept Virginia-issued driver's licenses as proof of eligibility to drive. However, not all states are willing to accept Virginia DMV credentials as proof of identity. Florida has indicated that DMV-issued credentials from several states, including Virginia, are no longer being accepted as primary identification by Florida DMV. This illustrates the point that if Virginia or any other state is perceived as having particularly lax issuance criteria, then such a state may lose its "standing" among the states and its driver's licenses and ID cards may no longer be afforded reciprocity by one or more states.

At the same time, however, there must be a balance between the means designed to ensure the integrity of the driver's license and ID card issuance process and the goals of ensuring transportation safety and providing members of society with a document that has become one of the most prevalent means of proving identity. Because DMV understands this need for balance, the agency conducted five public meetings to gather public comment concerning key topics that will be addressed in this report. The meetings were held, as indicated by the public notices, to address three issues:

- a proposal to repeal residency regulations governing the issuance of driver's licenses and identification cards;
- the advisability/impact of imposing a legal presence requirement in the issuance of driver's licenses and ID cards; and
- the impact of imposing a biometric requirement in the issuance of driver's licenses and identification cards.

The meetings were held in the evening hours in Portsmouth on September 18, 2002, in Richmond on September 19, 2002, in Fairfax on September 20, 2002, and in Roanoke on September 24, 2002. A fifth meeting was held in Alexandria on October 19, 2002 in the

afternoon. A list of attendees, as well as individuals who signed up to speak at the meetings, is contained in Appendix 3. Transcripts of the public meetings have been made available on DMV's website [www.dmvnow.com](http://www.dmvnow.com), (General Information, Public Hearings on Driver Licensing Issues). The agency also accepted written comments during the meetings and until November 1, 2002, concerning the aforementioned issues. Copies of the written comments are contained in Appendix 4.

Overall, DMV received a total of 89 verbal comments and 16 written comments. It should be noted that the majority of comments did not address the issues set forth in the public notices, but rather addressed the proof of identity requirements in the application process for driver's licenses and ID cards. The nature of the comments will be discussed in relevant sections of this report.

## CHAPTER ONE: THE APPLICATION PROCESS

Currently applicants for driver's licenses, ID cards and other DMV-issued credentials must complete an application. Identity and residency information which applicants are required to provide on the application, pursuant to statute, and which DMV records in its electronic records, include name, date of birth, and a Virginia residential address. In addition, applicants for driver's licenses must provide a SSN, if one has been issued, while applicants for ID cards are required to provide a SSN only if the number is to be displayed on the face of the card. If an applicant for a driver's license does not have an SSN, DMV requires the applicant to provide a letter from SSA stating that no SSN has been assigned. Applicants also provide and DMV records in its database, information pertaining to the applicant's physical appearance, such as hair and eye color as well as a facial image.

Applicants are required to sign the application, certifying, under penalty of perjury, that the information presented is true and accurate. A parent of a minor applicant is also required to sign the application for their minor child. Recently DMV implemented procedures in which staff processing the application are required to annotate the documents that were provided as proof of identity and residency on the application and to record this information on the individual's record in DMV's database. Finally, if an applicant is using another state's driver's license or ID card as proof of identity, the applicant is generally required, by agency policy, to surrender the driver's license or ID card to DMV.

Applications are microfilmed in order to maintain a record of the application as submitted and retained for eight years.

### ASSESSMENT

Requiring applicants to certify to the information on the application under penalties of perjury serves to place applicants on notice that the information being provided on the application is important. In addition, applicants are provided with the notice necessary for prosecution in the event that false information is provided.

When DMV rescinded the use of the DL-6s and DL-51s, the agency had no record of which driver's licenses and ID cards had been obtained using these documents. In December 2001, the agency began collecting and recording information concerning the documents that are submitted as proof of identity and residency. This data will provide the agency with a means to examine data and trends pertaining to documentation that is being offered as proof of residency and identity in the application process. In the future, if any particular documents are found to be susceptible to fraud, DMV will have the data needed to determine which driver's licenses or ID cards (if any) should be investigated for possible fraudulent activity.

Requiring the surrender of out-of-state driver's licenses and ID cards helps to ensure that one individual is not permitted to hold multiple driver's licenses from multiple

jurisdictions. In addition, when an application is processed, the agency submits an inquiry to the National Driver Registry which provides information concerning revocation or suspension of the applicant's driving privilege in other jurisdictions. These two practices help to ensure that an individual is unable to continue driving when their privilege to drive has been revoked or suspended in another jurisdiction.

DMV's photo imaging system is a state of the art, digital system which provides the capability for manually comparing all images for a given customer identifier number. While this is a manual method, it does provide a means for utilizing the facial image information contained in the agency's database for identification of fraudulent activity.

As may be expected in any agency or organization in which there are multiple offices or locations, consistency in the approval or rejection of applications is a key issue. There have been significant changes to various aspects of the application process and requirements for the issuance of driver's licenses and ID cards. Decisions in these matters are often less than black and white, which has led to instances of inconsistency among the DMV Customer Service Centers (CSCs) in the administration of new issuance requirements. Applicants are aware of the potential for inconsistency and often shop CSCs in order to obtain approval of their applications.

#### OPTIONS FOR ENHANCEMENT

Enhancing the penalties for providing false information on the application or in the process for obtaining a Virginia driver's license, ID card or other credential is one option which could serve to deter the submission of false identity, residency or SSN information. The penalties for obtaining a Virginia driver's license or ID card when not entitled thereto were enhanced in the 2002 General Assembly. The offense was reclassified from a class 2 misdemeanor to a class 6 felony. It is probably too early to determine whether such enhancement had any impact on this type of conduct. It should be noted that other provisions of the Code of Virginia dealing with the provision of false information on the driver's license application or during the application process were not amended to reclassify these offenses as class 6 misdemeanors. One option for enhancement, therefore, is to amend the Code to provide for consistency in the classification of these similar types of offenses.

Although the Code of Virginia provides for the surrender of other states' driver's licenses when applying for a Virginia driver's license, the authority granted to DMV to require surrender is permissive. Amending the Code to mandate the requirement that any other state's driver's license held by the applicant be surrendered as a condition of obtaining a Virginia driver's license would eliminate any discretion on the part of the agency.

Another option that would serve to enhance the application process would be implementation of a system in which information from rejected applications is recorded permanently or for some meaningful period of time on an automated database. Such information could be shared among the CSCs and would help to eliminate "CSC

shopping”. It is estimated that the costs associated with implementation of such a system would be approximately \$22,000.

Currently DMV issues documents utilizing the instant issue process in which applicants are generally able to obtain the document before leaving the CSC. Central issuance of DMV documents would help to reduce the number of applicants who would come to Virginia for a “quick issue” fraudulent license and, in particular, would act as a hindrance to those who would provide the agency with false address information in the application process. Central issue would involve the production and mailing of DMV documents from one central location. The most significant enhancement to the application process would be realized if central issue was utilized for the issuance of documents for applicants who had never before held a Virginia DMV-issued document.

Implementation of a central issuance program would be very costly. DMV has assessed two different approaches to implementing a central issuance program, and the costs associated with each approach are presented in Table 1 below.

**Table 1**  
**Estimated Costs To**  
**Utilize Central Issuance**  
**for All Original Driver’s Licenses and ID Cards**

<b>All Original Documents Issued and Mailed from DMV Headquarters</b>		<b>All Original Documents Issued at CSCs But Mailed from DMV Headquarters</b>	
<b>Implementation Costs</b> <ul style="list-style-type: none"> <li>• Issuance of temporary licenses and ID cards at CSCs</li> <li>• Driver License system changes needed for documents to print at headquarters</li> <li>• Additional headquarters staff</li> <li>• Equipment</li> <li>• Construction</li> <li>• Mailing costs</li> </ul>	\$106,000  \$430,000  \$167,500 \$190,000 \$15,700 \$199,600	<b>Implementation Costs</b> <ul style="list-style-type: none"> <li>• Issuance of temporary licenses and ID cards at CSCs</li> <li>• Driver License system changes needed to maintain accountability of documents</li> <li>• Additional headquarters and CSC staff</li> <li>• Equipment</li> <li>• Mailing costs</li> </ul>	\$ 106,000  \$194,000  \$1,204,500 \$190,000 \$199,600
<b>Total First Year Costs</b>	<b>\$1,108,800</b>	<b>Total First Year Costs</b>	<b>\$1,894,100</b>
<b>Recurring Annual Costs</b> <ul style="list-style-type: none"> <li>• Mailing costs</li> <li>• Additional headquarters staff--salary</li> </ul>	\$199,600  \$167,500	<b>Recurring Annual Costs</b> <ul style="list-style-type: none"> <li>• Mailing</li> <li>• Additional headquarters and CSC staff</li> </ul>	\$199,600  \$1,204,500
<b>Total Recurring Costs</b>	<b>\$367,100</b>	<b>Total Recurring Costs</b>	<b>\$1,404,100</b>

In the first approach summarized above, the original driver's license and ID card transactions would be processed at the CSCs as they are today. Temporary driver's licenses and ID cards would be issued at the CSCs and the official licenses and ID cards would be issued and mailed from DMV headquarters. The estimated total first year cost of this approach to central issuance is \$1,108,800. Included in this estimate is \$106,000 for the system changes needed to issue and record temporary licenses and ID cards at the CSCs. Changes to DMV's driver licensing system would also be needed so that official licenses and ID cards could be printed at headquarters instead of in real time at the CSCs. The estimated cost of these system changes is \$430,000 and construction costs necessary to accommodate changes to the driver's license system would be \$15,700. A total of six additional employees would be needed at headquarters to issue and mail all original licenses and ID cards, and the estimated salary and benefits costs for these employees is \$167,500. The agency would incur estimated costs of \$190,000 to acquire an additional mail inserter. Finally, DMV would incur an additional \$199,600 in costs to mail all original driver's licenses and ID cards to the respective applicants. Utilizing this approach, it is estimated that under ideal conditions applicants would receive the requested driver's license or ID card a minimum of eight days after application. Recurring annual costs of \$367,100 for additional staff and mailing would be incurred if this approach to central issuance was implemented.

In the second approach, the original driver's license and ID card transactions would be processed at the CSCs and the respective documents would be printed at the CSCs. However, temporary driver's licenses and ID cards would be issued in the CSCs and the printed official documents would be sent to headquarters for mailing to the applicants. The estimated total first year cost of this approach to central issuance is \$1,894,100. This approach would require programming changes to issue and record temporary credentials on DMV's automated system, costing an estimated \$106,000. In addition changes to DMV's driver's licensing system would cost an estimated \$194,000. With this approach, a total of six additional employees at headquarters and 29 additional employees at the CSCs would be needed to mail the credentials received from the CSCs to the applicants. The anticipated salary costs for these additional employees is \$1,204,500. The agency would incur estimated costs of \$190,000 to acquire an additional mail inserter. Finally, DMV would incur an additional \$199,600 in costs to mail all original driver's licenses and ID cards to the respective applicants. Utilizing this approach, it is estimated that under ideal conditions applicants would receive their DMV credentials a minimum of ten days after application. Recurring annual costs of \$1,404,000 for additional staff and mailing would be incurred if this approach to central issuance was implemented.

Additional training of CSC staff and management regarding recent changes to the application process also would serve to enhance consistency among the CSC's in determining whether or not to approve applications for DMV documents. Such training should include review of recent changes to the application process and requirements, as well as the rationale for such changes.

## **CHAPTER TWO: DOCUMENTATION/VERIFICATION OF INFORMATION ON THE APPLICATION**

### **A. PROOF OF IDENTITY**

After September 21, 2001 and elimination of the identity affidavit, DMV continued to examine the identity requirements in the application process for DMV credentials in order to determine whether potential still existed for fraud or abuse. After several months of study, on December 10, 2001, DMV further strengthened the list of documents acceptable as proof of identity. The agency classified acceptable identity documents as primary and secondary proofs of identity, based on consideration of several factors, including:

- the criteria under which such documents were issued;
- the issuing entity;
- the likelihood of verifying the document with the issuing entity;
- the susceptibility of the documents to forgery or alteration; and
- whether particular documents were recommended for acceptance by the American Association of Motor Vehicles (AAMVA) and/or accepted by other states.

Based on the various factors examined, documents which appeared to have a higher level of security or integrity, such as other states driver's licenses or military ID cards, were placed on the primary list. Documents which appeared to have a lower degree of security and integrity, such as marriage certificates or certified copies of school records, were placed on the secondary list.

Since January of 2002, the agency has been conducting an extensive evaluation of the list of acceptable documents for proof of identity, in order to remove documents that have been deemed to be unreliable, to add documents that were found to be reliable, and to modify document descriptions for clarity. The agency is finding that most individuals can readily obtain a primary identification document, such as another state's driver's license, birth certificate or passport/Visa/I-94. However, some individuals, particularly foreign-nationals, have difficulty obtaining a secondary form of identification from the list of acceptable documents. To accommodate these individuals, DMV has developed a process whereby the identity documents the individual is able to provide are sent to Headquarters by CSC staff and reviewed on a case-by-case basis. In most instances, the agency has been able to accommodate refugees as well as other foreign nationals who generally have been found to be able to provide documentation from the Immigration and Naturalization Service (INS), their employer or a school that supports the passport/visa/I-94 that has been presented as a primary identification document. Of approximately 1,674 cases that have been referred to this process, involving individuals from approximately 90 different countries, driver's licenses or ID cards have been issued in 80 percent of the cases. This process has proven to be successful for not only the individual involved, but other individuals in similar situations, as it has often provided DMV with information that has

enabled the agency to add additional documents to its primary and secondary lists of acceptable identity documents. Currently, the agency is examining ways to decentralize the exception process, so that it may be made administered at the CSC level.

The agency, for the first time, has begun recording the documents which are provided as proof of identity on customer records maintained in DMV's system. An analysis of original driver's license and ID card transactions processed from January 2002 to October 2002 shows that the four documents most commonly presented by applicants under the age of 18 as primary proof of identity were birth certificates issued by a U.S. state, jurisdiction, or territory, U.S. passports, Virginia DMV-issued driver's licenses, and ID cards. The four documents most commonly presented as secondary proofs of identity were school records/transcripts, U.S. passports, health insurance cards/policies, and military dependent ID cards. The four documents which proved to be the most frequently presented by adults aged 18 years and older as primary proof of identity were: Virginia DMV-issued ID cards issued after September 21, 2001, Virginia DMV-issued driver's licenses, birth certificates, and Virginia DMV-issued learner's permits. Six documents proved to be the documents most frequently presented by adults 18 years of age and older for secondary proof of identity: U.S. passports, health insurance cards/policies, birth certificates issued by a U.S. state, jurisdiction or territory, U.S. military ID cards, unexpired out-of-state driver's licenses, and marriage licenses issued by U.S. states, jurisdictions, territories or municipalities.

### ASSESSMENT

In order to assess the need for enhancement or modification to the identity requirements for obtaining a Virginia DMV driver's license or ID card, it is necessary to assess the effectiveness of current DMV policy and procedures for proving identity. The assessment should measure whether or to what extent the issuance process itself incorporates steps needed to:

- Verify the true identity of applicants, and
- Verify the authenticity of information and documents submitted as proof of identity.

There exists little empirical data which would benefit an assessment of the current process for proving identity. Thus, any such assessment will be very subjective in nature and should include not only a discussion of what is being done in Virginia, but what is being done in other states.

The identity requirement for obtaining a Virginia DMV-issued credential has been significantly tightened by the repeal of the identity affidavit and tightening and classification into primary and secondary documents the list of acceptable identity documents. It is far less likely today, than prior to September 21, 2001, that a first-time applicant will obtain a Virginia driver's license or ID card in a name or under an identity other than that applicant's true name or identity.

However, as previously described, whenever a particular requirement or component of the issuance process is enhanced, those seeking to obtain driver's licenses or other DMV-issued documents will attempt to find weakness in another stage or component of the process. DMV anticipated that repeal of the identity affidavit and enhancing the list of acceptable documents for proving identity would potentially result in an increase in attempts to obtain driver's licenses and ID cards utilizing fraudulent identity documents. To address this issue, DMV conducted fraudulent document training for front line employees in late 2001. This training was designed to help front-line personnel better recognize possible counterfeit and fraudulent supporting documents. In addition, the agency established "document verifiers" in each customer service center. The duty of the document verifier is to examine each document presented for authenticity and to determine if the applicant has the required documents needed for the issuance of a driver's license or ID card. The documents are examined to determine if the security features that are specific to the document are present and whether the document has been altered. With today's technology, counterfeiters are producing documents that appear legitimate to the naked eye but because of the expense, lack the security features present on legitimate documents. Document verifiers have received training in the use of ultraviolet light, black light and magnifiers, among other tools, to assist in detection of counterfeit or altered documents.

DMV recently conducted a survey of its customer service delivery personnel (managers and clerical staff) regarding the agency's program for fraudulent document detection. Of 463 responses submitted, 76 percent (350 responses) indicated that the use of document verifiers was an effective way to detect fraudulent documents. When asked if the use of document verifiers discourages customers from trying to use fraudulent or altered documents, 74 percent of the respondents provided a response of "Yes" or "Somewhat". Survey participants were also asked to provide input regarding what DMV could do in order to improve the driver license/ID card document verification process. Of the 272 employees who provided responses, 77% (101 respondents) made recommendations for more or enhanced training in fraudulent document detection.

As a general rule, the more Virginia's driver's license and ID card issuing requirements equate to or exceed the requirements of other states, particularly surrounding states, the less likely it is that Virginia will be targeted by individuals who are not entitled to receive a DMV credential. In addition, the more comparable Virginia's requirements are to requirements of other states, the greater the likelihood that Virginia credentials will maintain credibility among other states. Tables summarizing identity requirements of the various states that were examined and the District of Columbia are contained in Appendix 5.

In an effort to assess the "comparable" effectiveness of proof of identity requirements for Virginia driver's licenses and ID cards, DMV recently performed a cursory review of the identification requirements for issuance of driver's licenses and ID cards in the District of Columbia and 46 states for which written information concerning the state's issuance requirements was readily available and collected in early 2002. Seven jurisdictions required only one document as proof of identification while 27 states (59

percent), like Virginia, required two documents. Two states required 3 documents while the remaining jurisdictions utilized some type of hybrid system such as a point system or a system requiring varying numbers of identity documents depending upon the nature of documents submitted or an applicant's circumstances.

In some instances, DMV found the lists of acceptable identity documents among the jurisdictions to be very similar; in other instances the lists of acceptable documents were much more stringent or much less stringent than the list utilized in Virginia. A somewhat subjective comparison of other jurisdictions' overall proof of identity requirements was performed and it was found that the overall requirements of 17 states and the District of Columbia (38 percent) could be deemed more stringent than Virginia's requirements, the requirements of 18 states (38 percent) could be deemed less stringent than Virginia's requirements, and the requirements of 11 states (24 percent) were comparable to Virginia's requirements. Of the 18 jurisdictions whose requirements generally could be deemed more stringent than Virginia's requirements, one state and the District of Columbia accepted other jurisdictions' driver's licenses and ID cards as stand-alone identity documents, and hence, applicants who held other states' driver's licenses would find it less difficult to obtain a driver's license or ID card in these jurisdictions than in Virginia.

The issue of whether foreign documents should be accepted is currently being debated in various states and by AAMVA, primarily because of concerns regarding the inability of states to verify the documents, the potential for counterfeiting, and language issues. DMV's review of other jurisdictions' identity requirements revealed that approximately 32 states generally accept some form of foreign document other than a foreign passport as one proof of identity: 2 states accept certain Canadian documents only and 3 states accept certain Canadian and Mexican documents only. Thus, 68 percent (32 out of the 47 jurisdictions examined) accepted some form of foreign documents other than foreign passports as proof of identity. The most prominent examples of the various foreign documents that are being accepted as proof of identity by one or more states include: foreign birth certificates, usually if accompanied by an appropriate translation (20 states) and foreign driver's licenses accompanied by an international driver's license or translation (15 states). At the current time, Virginia DMV does not include foreign-issued documents, other than foreign passports, on its acceptable identity document list. However, the agency is examining the issue of whether to begin accepting foreign birth certificates if accompanied by an appropriate translation.

Taking into consideration that Virginia does not currently accept foreign documents other than foreign passports as proof of identity, the agency attempted to compare the identity requirements of Virginia with the identity requirements of the District of Columbia and 46 states for which written information concerning issuance requirements was readily available, from the standpoint of foreign applicants for driver's licenses and ID cards. Based on this subjective comparison, the agency found that taking into consideration the general identity requirements of the issuing jurisdiction and whether foreign documents are accepted as proof of identity, and disregarding the issue of legal presence when possible, a foreign applicant would likely find 7 states' requirements to be

about the same as Virginia's requirements, 9 states' requirements to be more stringent than Virginia's requirements and 29 states' requirements to be less stringent than Virginia's requirements. In the remaining 2 jurisdictions that were examined, although from a foreign applicant's standpoint the state's identity requirements appeared generally to be more stringent or about the same as Virginia's requirements, it was found that these jurisdictions accept another state's driver's license as a stand-alone identity document. Hence, if a foreign applicant held a driver's license issued by another state, the applicant would likely find the identity requirement in these jurisdictions to be less stringent than Virginia's requirements.

Based on the foregoing subjective comparisons, it appears that Virginia's requirements for proving identity in the application process for driver's licenses and ID cards could be deemed neither more stringent than a majority of other states' requirements nor less stringent than a majority of other states' requirements.

It should be noted that the agency has been receiving complaints from applicants regarding the tightened identity requirements. To summarize, many applicants, particularly those from foreign countries, are complaining that they are unable to obtain sufficient documentation to satisfy DMV's current proof of identity requirement. As a result, late in the summer of 2002, DMV organized the Virginia DL/ID Task Force, consisting primarily of organizations representing individuals who, for various reasons, have difficulty in obtaining a Virginia driver's license or ID card. A list of persons and organizations invited to attend task force meetings, as well as a list of subcommittee members, is contained in Appendix 6.

The primary purpose of the task force was to provide recommendations to the agency for modifying its proof of identity requirements in order to address the difficulties experienced by various groups in obtaining Virginia driver's licenses and ID cards. Ultimately, several subcommittees were created, each addressing a separate issue associated with driver's license and ID card issuance, including issues that would be addressed by this report. One of the subcommittees addressed issues relating to identity and proof of identity in the application for driver's licenses and ID cards. The report from this subcommittee, *Report of the DMV Task Force Subcommittee Considering Primary and Secondary Documents to Establish Proof of Identity Necessary to Obtain DMV Driver's Licenses or Identification Cards*, is contained in Appendix 7.

Because the reports of the subcommittees were submitted to DMV in late October, the agency has not had the opportunity to fully consider the subcommittee reports or the recommendations contained therein. DMV will, in the next several months, closely examine the task force recommendations and make those adjustments to agency policy and procedure that the agency deems to be appropriate and feasible.

It should also be noted that during the recent public meetings conducted by the agency, the agency received a large number of comments concerning the difficulty first-time applicants are experiencing in providing the necessary identity documents. The vast majority of the comments originated from foreign nationals and their advocates. Of

approximately 89 verbal and 16 written comments that were received, 58 commenters addressed current proof of identity requirements. Fifty-seven comments consisted of requests for DMV to relax its proof of identity requirement or descriptions of the difficulty experienced by an applicant in obtaining a Virginia driver's license or ID card because of current requirements. One commenter stressed that, since September 11, 2001, circumstances have changed and providing proof of identification was of utmost importance, while another who lost a son in the World Trade Center attack did not support any measures which made it easier to obtain Virginia driver's licenses and ID cards.

### OPTIONS FOR ENHANCEMENT

One of the most important options for verifying identity in the issuance of driver's licenses and ID cards is the collection and storage of biometric identifiers. A biometric is a unique physiological characteristic of an individual that is not easily altered. Due to the complexity of the information and issues associated with biometrics, a separate chapter has been dedicated to this topic.

Options for enhancing the process for proving identity also include the use of technology to authenticate the supporting documents provided by applicants, or to verify the information on the documents submitted as proof of identity. In its latest effort to enhance the proof of identity requirement for obtaining Virginia DMV-issued credentials, DMV conducted pilot tests of several systems to determine whether such systems or approaches could prove to be viable options in furthering the agency's effort to verify the identity of an applicant. The systems which were tested included:

Private Information Systems: One type of system that may provide an opportunity for enhancing identity requirements is an information system maintained by private industry which gathers or maintains information concerning individuals, often from various sources. Such systems could potentially be used to verify applicant names, addresses and social security numbers. The implementation or use of such systems may require an amendment to Virginia statutes in order to permit release of personal information from driver records at DMV to private entities solely for the purpose of verifying information provided as proof of identity.

DMV has investigated and pilot tested one such system. The results of the pilot revealed that no fraudulent applicant information was detected using the system. In addition, the particular data source for address information utilized by the system that was tested often indicated that the address under query was not a residential address when, in fact, it was a residential address. Overall, the pilot demonstrated that while such systems may hold promise as a means of verifying applicant identity, these systems will require significant modification and adaptation before they would be useful as a tool in the process for issuance of driver's licenses and ID cards in Virginia.

Document Readers/Verification Systems: Document verification systems consist of document readers which are programmed to electronically read or scan documents. Such

systems are capable of detecting counterfeit documents as well as documents which are authentic but have been altered. These systems are being considered by many entities for document verification, including airport security and law enforcement agencies. It should be noted that these systems are only effective for use with documents that have some form of built-in security features. They generally are not effective for use with documents such as birth certificates which have no security features.

DMV has investigated and pilot tested one such system. The results of the pilot revealed that no fraudulent documents submitted by applicants were detected using the system. When several known fraudulent documents were tested, however, the system was effective in detecting the fraudulent document. It should be noted that the mere usage of a document verification system, such as the one tested, may serve as a deterrent to those who would otherwise submit fraudulent documents in order to obtain a driver's license or ID card.

Notwithstanding the inability of the document verification system to effectively read or verify certain types of documents, the system did appear to effectively verify several major categories of documents, particularly driver's licenses and passports. It is estimated that during the pilot, drivers licenses from 44 jurisdictions (43 states and the District of Columbia) and passports from 79 countries, including the U.S., were tested and effectively verified using a document verification system. In addition, the system was capable of reading and verifying certain types of immigration documents, such as visas, if the documents contained security features. It is likely that other documents which were not tested by DMV, such as foreign driver's licenses, could also be verified by a document verification system.

It is anticipated that, in this nation's quest for enhancing security, document verification systems will become more prevalent and document/credential-issuing entities will be called upon to issue documents that contain security features so that document verification will require less human intervention. The advantages of having the electronic means to verify documents are made obvious by the fact that the document verification system piloted by DMV tested and verified, in a matter of seconds, passports from approximately 80 countries. These systems may offer significant advantage over current day manual document verification by minimizing the time it takes to verify a document, increasing consistency in verification, increasing the accuracy of verification and minimizing personnel training requirements.

Governmental Information Systems: Governmental databases or information systems serve as another source by which applicant information and documents could be verified. The Social Security Administration provides a Social Security Number verification service, which is described elsewhere in this report. The Systematic Alien Verification System for Entitlements (SAVE) Program is another government administered electronic information system. Provided by the Immigration and Naturalization Service, SAVE is designed to provide information concerning the immigration status of non-citizens, and in many cases, provides such information in a matter of seconds. In some cases, however, the SAVE Program is unable to provide an instantaneous response to the initial inquiry and a

secondary or subsequent inquiry must be made. Generally, it takes three to four days before a response is returned on a secondary inquiry and potentially weeks before a response is returned on a subsequent inquiry—because INS must resort to manual methods in order to locate information responsive to an inquiry. Upon submission of key numbers (A-numbers and I-numbers) from immigration related documentation, the SAVE system provides a response which among other things, contains information such as the name and date of birth of the individual to whom the A-number or I-number has been assigned.

DMV has investigated and pilot tested the INS SAVE system. The primary purpose of the pilot was to determine whether the SAVE system could be used as an aid to verify INS documentation presented as proof of identity by applicants for driver's licenses and ID cards. A secondary purpose of the pilot was to examine the ease with which employees could be trained to use the SAVE system in determining whether an applicant was lawfully present in the U.S., should legal presence ever serve as a prerequisite to obtaining a driver's license or ID card.

Results of the INS SAVE pilot revealed that one fraudulent identity document may have been detected. The pilot also showed that, with minimal training in immigration law, DMV staff was able to determine whether an applicant had lawful presence in the U.S. in most cases.

## **B. PROOF OF RESIDENCY**

Residency is often a rather nebulous concept under the law and is not easily defined. Although the requirement that applicants must be residents of Virginia in order to obtain a Virginia driver's license or ID card was set forth in statute in 1993, there exists no statutory definition of "residency" per se in the Virginia statutes pertaining to the issuance of driver's licenses and ID cards. Rather, Va. Code §46.2-100 provides the following definition of "nonresident":

“every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding sixty days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ [46.2-300](#) et seq.) of this title; (iii) a person, other than a nonresident student as defined in this section, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ [46.2-341.1](#) et seq.)”

Although Va. Code §46.2-308 provides, in part, that “A resident over the age of sixteen years who has been duly licensed as a driver under a law of another state or country requiring the licensing of drivers shall, for the first sixty days of his residency in the Commonwealth, be permitted, without a Virginia license, to drive a motor vehicle on the highways of the Commonwealth”, this Code section merely affords new residents a “grace period” in which to obtain a Virginia driver’s license.

At the current time, Virginia approaches the definition of residency by stating what a resident is not and then providing the exceptions which are residents. Thus, based on the definition of nonresident in Va. Code §46.2-100 the following would be considered residents: (1) corporations authorized to do business by the SCC and actually doing business in the Commonwealth (2) principal offices and branches in the Commonwealth of corporations who are incorporated in the Commonwealth, but are doing business outside of the Commonwealth; (3) persons gainfully employed in the Commonwealth for more than 60 days—but this does not apply to Chapter 3 (§46.2-300 et.seq., the driver’s licensing provisions) (4) persons not domiciled in the Commonwealth, other than nonresident students, who have actually resided in the Commonwealth for a period of six months, whether employed or not, (5) persons who have registered a motor vehicle, listing an address in the Commonwealth in the application for registration, (6) persons domiciled in the Commonwealth.

Currently, the proof of residency process and documents which DMV must accept as proof of Virginia residency for purposes of issuing DMV credentials are set forth in residency regulations (24VAC 20-70 sections 10 through 50). Based on the regulations, an applicant must present one proof of Virginia residency, and the documents that DMV is required to accept as proof, are specifically set forth in the regulations. Since elimination of the residency certification by emergency regulatory action, DMV has examined those documents set forth in the residency regulations as acceptable proof of Virginia residency and identified several documents which are unreliable as proof of residency, based on issuance criteria, or which are susceptible to abuse or fraud. In most instances, because these documents are set forth in the regulations, the agency has been unable to terminate their use. Hence, the agency is currently seeking repeal of the residency regulations.

Repeal of the residency regulations would not eliminate the proof of residency requirement, but would simply enable DMV to administer the requirements for proving Virginia residency in the same manner as the requirements for proving identity in the application process for DMV credentials—through policy and procedure. Administering these requirements in such a manner would afford the agency added flexibility to eliminate, or modify its acceptance of, documents which were found to be unreliable or subject to fraud in an expeditious manner. Administering these requirements by regulation would delay the elimination, or modification, of the agency’s acceptance of problematic documents pending promulgation of amended regulations (potentially 14 months or longer) or pending approval of emergency regulatory action, assuming such repeal or modification met the high threshold required for emergency regulation. The proposed regulation to repeal all residency regulations was filed with the Registrar of Regulations on August 21, 2002, and was published by the Registrar on September 9, 2002. As previously

stated, public meetings regarding repeal of the residency regulations were held on September 18, 2002 in Portsmouth, September 19, 2002 in Richmond, September 20, 2002 in Fairfax, September 24, 2002 in Roanoke and October 19, 2002 in Alexandria. The public comment period for this action closed on November 9, 2002 and hence, a summary of the comments was not completed at the time that this report was finalized.

Since January of 2002, the agency has been conducting an extensive evaluation of the list of acceptable documents for proof residency. An analysis of licensing transactions processed from January 2002 to October 2002 revealed that four documents proved to be the most frequently presented for proof of residency by applicants less than 18 years of age: parental verification of residency, school records, bank statements and DMV-issued documents such as photo identification cards. For applicants 18 years of age and older, the following five documents were the most frequently presented for proof of residency: utility bills, bank statements, deeds/mortgages/lease agreements, payroll checks/stubs, and DMV-issued documents.

### ASSESSMENT

In order to assess the need for enhancement or modification to the residency requirements for obtaining a Virginia DMV issued credential, it is necessary to assess the effectiveness of current DMV policy and procedures for proving residency, which necessarily must include an assessment of the residency regulations. The assessment should measure whether or to what extent the issuance process and/or requirements incorporate steps needed to:

- Verify the authenticity of information and documents presented as proof of residency, and
- Prevent the issuance of DMV credentials to applicants who are not Virginia residents

Such an assessment is very subjective in nature and should include not only a discussion of what is being done in Virginia, but what is being done in other states.

One major issue that must be addressed, prior to assessing the effectiveness of the process for proving Virginia residency, is the lack of a clear-cut statutory definition of residency. Without a statutory definition of residency, any assessment will be based on nothing more than an inference of what is intended by the term as used in the statute. Based upon the various Code provisions in Title 46.2 in which the term residency or resident is used in the context of obtaining a DMV-issued document, it can be inferred that residents of Virginia are:

- persons who are domiciled in the Commonwealth,
- persons who are not domiciled in the Commonwealth but who have resided in the Commonwealth for more than six months, and
- persons who have registered a motor vehicle, listing an address in the Commonwealth in the application for registration.

The process and acceptable documents for proving residency set forth in the residency regulations do not establish that an applicant is domiciled in Virginia, or that an applicant, if not domiciled in Virginia, has resided in the Commonwealth for more than 6 months. In addition, the residency regulations set forth a definition of principal residence and resident that are much broader than the inferred definition supplied in Virginia statutes. Accordingly, it is virtually impossible to conclude that the processes currently utilized by DMV, as mandated by the regulations, establishes the residency of an applicant with any reasonable degree of certainty. At best, the processes and list of acceptable documents specified in the regulations merely establish that an applicant has a Virginia address or owns property in Virginia.

Notwithstanding the foregoing, DMV has identified several documents in the list of acceptable residency documents set forth by regulation that are not reliable as proof of residency and/or are subject to abuse or fraud. These documents, such as voter registration cards, U.S. Passports, and Virginia driver's licenses or ID cards issued after July 1, 1994, have been identified as such because the issuing entity does not require proof of residency prior to issuing the documents, the person's address must be written in the document in pencil so that it can be changed, or the documents may have been issued using unreliable processes for proving residency, respectively. DMV has identified the Virginia vehicle registration as a document potentially subject to abuse because, by statute, merely listing a Virginia address on a vehicle registration title is sufficient to establish one's residency in Virginia. The agency has detected specific instances in which multiple individuals registered the same vehicles in Virginia for the sole purpose of qualifying for Virginia driver's licenses or ID cards.

The Virginia DL/ID Task Force included a subcommittee which addressed the repeal of Virginia residency regulations. The subcommittee prepared a report and recommendations, *Repeal of Virginia Residency Regulations*, which is included in Appendix 8. Because the subcommittee report was submitted in late October, DMV has not had opportunity to review the report and recommendations. The agency will be reviewing this report and considering the recommendations contained therein in the next several months.

The public meetings conducted by DMV to gather public comment regarding the potential repeal of the residency regulations produced approximately ten comments which could be interpreted as addressing repeal of the residency regulations. Six of these comments (60 percent) were explicitly or implicitly opposed to repeal, generally because of a concern for diminished public input in future development of residency requirements or because it was felt that the current residency requirement should be relaxed or eliminated. Four comments (40 percent) were supportive of repeal of the residency regulations and tightening of the residency requirement, one of which stressed the need for continued public input.

Based upon a review of other states' issuance requirements, it appears that 19 states (38 percent) require proof of residency in the application process for DMV issued

documents. Appendix 9 provides a table which summarizes the various states that require applicants to prove residency and the documents that are acceptable as proof of residency.

When compared to the documents accepted by other states as proof of residency, the documents accepted by Virginia DMV as proof of residency do not appear to impose more or less of a burden upon the applicant. In other words, the proof of residency requirement in Virginia appears to be comparable to the proof of residency requirements in the other eighteen states that have imposed a proof of residency requirement in the issuance of driver's licenses and ID cards.

Although not all states currently have a residency requirement or require applicants to prove residency in order to obtain a driver's license or ID card, in August, 2002, AAMVA developed and the AAMVA board approved the following residency definition for members' use:

“A person must have an actual physical dwelling place in the jurisdiction in which he or she seeks to obtain a driver's license or identification card. If a person has a dwelling place in more than one jurisdiction, he or she must choose one jurisdiction when applying for a driver's license or an identification card. In no event shall a person obtain or hold a driver's license or an identification card from more than one jurisdiction at any one time.

A jurisdiction shall not issue a driver's license or an identification card to any person who does not have an actual physical dwelling place in the jurisdiction in which the person is applying for a driver's license or identification card. If state law requires that a person obtain a driver's license from the jurisdiction in which the person is employed, and the person does not have an actual dwelling place in the employing jurisdiction, a jurisdiction may issue a person a driver's license only if the jurisdiction is satisfied that the person does not have another driver's license or identification card issued by another jurisdiction.”

### OPTIONS FOR ENHANCEMENT

One option for enhancing the residency requirement would consist of legislation providing for a clear definition of residency, preferably one that provides objective criteria.

Repeal of the residency regulations would allow DMV to administer proof of residency requirements through administrative action and policy. Repeal of the regulations would permit the agency to modify the process and requirements for proving residency without regulatory action and would provide the agency the flexibility to respond to abuse, fraud and unreliable documents in a prompt manner.

Central issuance of DMV documents, whether from regional offices or from headquarters, as described previously in this report, (see Chapter One of this section: The

Application Process, *Options for Enhancement*), would act as a hindrance to those who would provide the agency with false address (residency) information when applying for DMV documents. If DMV resorted to central issue, the agency would be assured that documents would be sent to valid addresses or would be returned as undeliverable. In addition, central issuance would afford the agency the opportunity to detect and investigate situations in which it was suspected that a particular address provided in the application for a DMV document was a non-residential or otherwise inappropriate address, such as a hotel or business address. However, as previously discussed, central issuance is a costly option.

One type of system, previously described in this report, that may provide an opportunity for enhancing residency requirements would be an information system maintained by private industry which gathers or maintains information concerning individuals, often from various sources. Such systems have potential uses as a means of verifying applicant names, addresses and social security numbers. The implementation or use of such systems may require amendment to Virginia statutes in order to permit release of personal information from driver records at DMV to private entities solely for the purpose of verifying information provided as proof of identity and residency.

DMV has investigated and pilot tested one such system. The particular data source for address information utilized by the system that was tested often indicated that the address under query was not a residential address when, in fact, it was a residential address. Overall, the pilot demonstrated that while such systems may hold promise as a means of verifying applicant residence or address information, these systems will require significant modification and adaptation before they would be useful as a tool in the process for issuance of driver's licenses and identification cards in Virginia.

### **C. PROOF OF SOCIAL SECURITY NUMBER**

DMV has made minor modifications to the list of acceptable documents for proof of social security number (SSN). More importantly, the agency has entered into an arrangement with the Social Security Administration (SSA) which provides for batch verification by SSA of the name, SSN and date of birth of individuals. In September of 2000, the first batch of records was submitted to SSA for verification and, as of March, 2001, all SSN information contained in existing records at the agency had been submitted to SSA and information returned as to whether a particular SSN, name and date of birth combination on DMV records matched information on file at the SSA. In those instances where the information submitted by DMV matched what was in SSA's records, a notation has been made on the individual's DMV record, indicating that SSN information has been verified. In those instances where the information submitted by DMV did not match what was in SSA's records, a notation has been made on the individual's DMV record indicating that SSN information is a mismatch with information at SSA and the individual is notified at time of renewal that the inconsistency must be resolved with SSA prior to renewing any DMV credential.

DMV has also taken the steps necessary to participate in SSA's on-line verification program, whereby name, date of birth and SSN information can be instantaneously verified with SSA. At this point, the agency is able to perform on-line verifications of only renewal applicants because of volume constraints in SSA's electronic system. The agency is currently unable to perform on-line verification for all new applicants and must submit new applicant information via the batch method. Accordingly, the agency now submits SSN information pertaining to new, first-time applicants to SSA for verification on a monthly basis. For batch verification, DMV reimburses SSA approximately \$0.0017 per inquiry. For on-line verification, the fee paid to SSA is \$0.03 per inquiry.

The agency does not require an applicant to have a SSN in order to obtain a driver's license, but only requires the individual to provide an SSN if one has been issued. In July 2002, the agency implemented a program requiring applicants who indicate that they have no SSN to provide a letter from SSA (Form SSA L-676) verifying that the applicant has never been issued a SSN.

### ASSESSMENT

SSN verification generally has enhanced the process for obtaining driver's licenses and helps to ensure that SSN's placed on a record are correctly associated with the appropriate name and date of birth of an applicant. SSN verification is an indirect method of verifying identity and helps to prevent identity fraud by assisting the agency in preventing persons from using the SSN of another person. Requiring that a person without an SSN provide the agency with a letter from SSA (Form SSA L-676) assists the agency in deterring fraud by preventing applicants from claiming that they have no SSN when, in fact, they have been issued an SSN. Virginia is ahead of many states, in that many states have not yet implemented SSN verification.

It should be noted that the Virginia DL/ID Task Force included a subcommittee which addressed the social security number requirement for obtaining a driver's license. The SSN subcommittee prepared a report and recommendation, *Social Security Number Requirement to Obtain A Virginia Driver's License or Register a Motor Vehicle*, which is contained in Appendix 10. DMV will be reviewing this subcommittee report and recommendation over the next several months.

### OPTIONS FOR ENHANCEMENT

Probably one of the most significant enhancements to the SSN requirement would be full implementation of on-line verification with SSA. DMV executed an Memorandum of Understanding with the SSA and attempted to implement the on-line verification in the summer months of 2002. However, because of volume constraints associated with the electronic system available to DMV for accessing SSA's records in real time, DMV has been prevented from fully implementing the on-line verification and is unable to verify in real-time information provided by first-time applicants. Full implementation would enable

DMV to enhance the issuance process by performing on-line verification for a key group, first time applicants. As soon as the issues associated with on-line verification and access (which are beyond the control of DMV) are resolved, DMV is prepared to fully implement on-line verification for all applicants.

It has been suggested that DMV collect a federal taxpayer ID number (TIN) from individuals who do not have a social security number. The agency will be reviewing this issue in the next several months to determine whether such a measure would serve to enhance the proof of SSN or other requirements in the issuance of driver's licenses and identification cards. Depending upon the nature and intent of such a requirement, implementation may require legislation.

### CHAPTER THREE: SECURITY OF DMV-ISSUED DOCUMENTS

Currently DMV utilizes a Polaroid (Digimarc) driver's licensing system to produce DMV-issued credentials. The system ties an individual's photograph and signature which are stored in a database to a record in DMV's driver record system.

All DMV credentials contain a photograph of the individual, a copy of their signature, laminate containing a hologram, a copy of the state's seal, microprint border, a bar code and other state-of-the-art security features.

#### ASSESSMENT

The system of security features currently utilized for maintaining the security of DMV credentials ranks among the highest in the nation. The agency takes every precaution to maintain the confidentiality of the key security features, but concerns are mounting that no statute exists to authorize or protect DMV efforts to maintain the confidentiality of security features. The agency receives several requests each year for sample driver's licenses and ID cards, as well as descriptions of the security features used.

AAMVA has issued standards concerning the security features of state DMV-issued driver's licenses and ID cards. As stated in the AAMVA standards document, *AAMVA National Standard for the Driver License/Identification Card* (2000), the standard is intended to provide minimum requirements for the provision of human-readable identity information on driver's licenses and ID cards. The standard also provides specifications for certain technologies, such as bar codes and digital imaging, but clearly states that the use of any such technology is optional. Based upon the 2000 AAMVA standards, Virginia DMV-issued driver's licenses and identification cards exceed the minimum requirements set forth by AAMVA for human-readable identity information as well as the overall AAMVA standard by virtue of various technologies, bar codes and digital imaging, which are incorporated into these documents.

#### OPTIONS FOR ENHANCEMENT

One option for enhancement of the security of DMV documents would be statutes providing for non-release of security features and/or enhanced penalties for intentional disclosure. In the 2002 General Assembly legislation was enacted which provided for the non-disclosure of security information pertaining to access to state buildings. The legislation did not address other types of security-related information which would include security features of DMV credentials.

## CHAPTER FOUR: EMPLOYEE SAFEGUARDS

Applicants for employment at DMV are required to fill out state employment applications and are then screened by the agency's personnel department. Applications of eligible candidates are forwarded to appropriate management. Once eligible candidates have been screened by management and interview candidates are selected, a panel of 2 to 3 management level staff conduct the interview and make a selection. Background checks are completed for new hires.

Newly hired employees participate in a four week training program specifically designed to teach them the fundamental duties of their position to include policy and procedures concerning issuance of DMV credentials and automated system data entry. This training consists of two weeks of classroom instruction in a training environment similar to the CSC. The trainees subsequently work at the CSC for a two week period to work as a front line teller processing the simple types of transactions recently learned in the classroom. Upon completion of the two week rotation at the CSC, the trainees return to the classroom for formal instruction on the more difficult transactions. A trainee's progress is monitored throughout the training and the CSC manager and district manager are kept abreast of each trainee's progress.

A two-day fraudulent document training class and manual also has been developed for field employees. The first day focuses on identity and social security documents and how to detect fraudulent identity-related documents. The second day focuses on vehicle title documents and how to detect fraudulent titling documents. This class is mandatory before an employee can be designated as a document verifier.

As described previously, the agency established "document verifiers" in each customer service center. The duty of the document verifier is to examine each document presented for authenticity and to determine if the applicant has the required documents needed for the issuance of a driver's license or ID card. The documents are examined by the document verifier to determine if the security features that are specific to the document are present and whether the document has been altered.

Currently DMV utilizes audit procedures to detect employee mistakes or misfeasance. In each CSC a driver audit teller verifies the count of applications received in any one day by document type against totals which are reported by DMV's automated system. The driver audit teller checks all of the driver license and ID card applications to ensure that any license/permit/ID card that was surrendered is attached to the application and that, if another state's document was surrendered, the fact is noted on the application. The driver audit teller verifies that all pertinent information has been recorded on the application and notifies management immediately if any information is missing from an application or if surrendered licenses/permits/ID cards are not attached to applications.

## ASSESSMENT

Currently DMV rotates the driver audit function among CSC staff. Although the practice is designed to evenly distribute work responsibilities, it is questionable whether such a practice is advisable. Rotation of this function may decrease the likelihood that the individual conducting such audits takes ownership of the function and increases the likelihood of peer pressure. Hence, it is arguable that the function does not rise to the level of a true, objective audit.

In most CSCs, at least two different employees will enter information in DMV's database, conduct the skills test, operate the camera and/or hand the document to the applicant in any one driver's license or ID card transaction. In addition, document verification is usually performed by a document verifier, an individual who is dedicated to this function. This division of duties among two or more employees, in addition to providing a means of enhanced fraudulent document detection, also serves as a means of reducing employee fraud or misfeasance.

Currently DMV does not track or maintain records concerning fraudulent document detection by specific employees. Thus, the agency does not have a means of determining the norm or the number of fraudulent documents that might be expected to be detected by a DMV employee in a given period of time or per number of applications processed.

## OPTIONS FOR ENHANCEMENT:

One option for enhancement that is under review is assignment of the audit function to one individual per CSC. Assigning this function to one person might serve to emphasize the importance of the function, enhance objectivity and minimize the potential influence of peer pressure. In addition, this practice would also assist the agency in detecting questionable behaviors or trends being demonstrated by particular employees.

Another option for enhancement would be the development of a system for assessing employee proficiency in detecting fraudulent documents and for providing additional training to those who would benefit from such training. Such a system would require the identification of expected fraudulent document detection rates for particular CSCs or districts and then the development of procedures and methods to measure individual employees' fraudulent document detection performance or proficiency. Finally, any such system should offer training to employees whose performance has demonstrated a need for additional training.

One other option that would serve to measure the performance of individual CSC employees as well as the effectiveness of agency policies and procedures in the area of fraudulent document detection would be implementation of a quality assurance program

involving the application for DMV documents by “undercover” customers who are provided with, and present, false proof of identity and/or residency documents.

## **CHAPTER FIVE: DESCRIPTION AND ASSESSMENT OF IMPOSING NEW LEGAL PRESENCE REQUIREMENT**

### **INTRODUCTION**

Since the events of September 11, 2001, DMV, as well as federal and state legislators, have been examining ways to enhance the security and ensure the validity of driver’s licenses and ID cards. In addition to enhancing and tightening the processes for proving identity and residency, legislators have begun to focus on the issue of whether or not legal presence should be a factor in determining an applicant’s eligibility for a state-issued driver’s license or ID card. In the 2002 session of the Virginia General Assembly several bills were introduced which would have required that an applicant provide proof of legal presence in the United States in order to obtain a Virginia driver’s license or ID card. Although legislation creating a legal presence requirement was not enacted, DMV’s Commissioner was directed, by HB 638 and SB 162, to study, among other things, the advisability of imposing a legal presence requirement for the issuance and continued possession of such DMV-issued documents.

In reporting on the advisability of imposing a legal presence requirement for the issuance and continued possession of DMV-issued documents, key considerations that must be addressed include: how legal presence should be defined, whether the validity period of a driver’s license or ID card can realistically and should be tied to the duration of the applicant’s legal presence, and the impact of imposing a legal presence requirement.

### **DEFINITION OF LEGAL PRESENCE**

The concept of legal presence originates under federal law and generally refers to a person’s authority to be present in the United States. Thus, the most appropriate and most workable definition of legal presence seemingly is one that makes reference to federal law. For example, California statutes provide that the department must require every applicant for an original driver’s license or ID card to submit satisfactory proof that the applicant’s presence in the United States is authorized under federal law.

It is a common misconception that the term or duration of an individual’s lawful presence in the U.S. may be equated to the expiration date on their visa. It is less than accurate to rely on a person’s visa as an indication of the individual’s lawful presence in the U.S. A visa permits the bearer to apply for entry into the U.S. but does not guarantee entry. The INS has authority to grant or deny admission to the U.S. and also determines how long an entrant may remain in the U.S. The visa does not accurately reflect the period the entrant is entitled to remain in the U.S. It is the I-94 or some other document issued by the INS that reflects the period during which the bearer is entitled to remain in the U.S. In

some instances an individual's legal presence expires prior to the expiration of the visa and in other instances legal presence may be valid after the visa has expired. In addition, there exists a Visa Waiver Program, which permits entrants from certain countries to enter the U.S. without first obtaining a visa. Hence, any concept of legal presence that tied the expiration of a person's visa to the expiration of their legal presence would in some instances overstate the duration of lawful presence in the U.S., in other instances would understate the duration of lawful presence, and in still other instances would fail to address a group of applicants altogether.

Based on the foregoing, the most reasonable and accurate way to define or describe legal presence is presence in the United States that is authorized under federal law.

### **TYING OF DRIVER'S LICENSE/ID CARD VALIDITY DATES TO DURATION OF LEGAL PRESENCE**

When considering the question of whether to impose a legal presence requirement in the issuance of DMV credentials, the issue of whether the expiration date of the credential should be tied to the expiration of the applicant's lawful presence in the U.S. should be addressed. To impose a requirement that an applicant provide proof of legal presence at the time of application, while not tying the expiration date of the credential that is issued to expiration of the applicant's legal presence would more than likely result in the issuance of many credentials that were valid long after expiration of the applicant's legal presence. Accordingly, in order for a legal presence requirement to be meaningful, expiration of the document that is issued based upon such a requirement should be tied to the expiration of the applicant's legal presence.

Tying the expiration of a DMV-issued credential to expiration of an applicant's legal presence does, however, present issues that cannot be ignored. It is not always clear from an bearer's immigration documents when their lawful presence in the U.S. will expire. For instance, certain classes of visa holders, such as students and their families and international governmental representatives, are admitted for duration of status, meaning that as long as they meet the requirements of their admission into the U.S., they are permitted to remain in the U.S. Thus, entrants admitted into the U.S. for duration of status are afforded lawful presence in the U.S. that does not have a definitive expiration date. In addition, while in the U.S., aliens may petition for a change in their immigration status. During the petition process, the petitioner's current status may expire. While the documentation which has been issued to the individual may reflect an expiration of their status, because they have submitted a petition which is currently under review, their presence in the U.S. is not necessarily unlawful.

Examination of the concept of tying the expiration of a person's driver's license or ID card to their lawful presence in the U.S. also requires examination of the situations in which a person has been granted a driver's license or ID card tied to the duration of their lawful presence but their lawful presence is terminated early. If a legal presence requirement is enacted and document issuance is tied to the duration of legal presence, then

providing, by statute, for the revocation of a driver's license or ID card if legal presence is terminated early, would ensure that the tying requirement is fully realized. Ideally, any such revocation provision would describe the nature, level or source of information concerning termination of legal presence that would be necessary in order for revocation action to be taken.

It should be noted that any requirement that the duration of an applicant's legal presence be tied to the expiration date of any DMV driver's license or ID card would be enhanced by access to the INS SAVE Program. As previously described, DMV conducted a pilot test of the INS SAVE Program to determine its effectiveness as a means of verifying identity information on INS documentation. During the Pilot test, the agency, strictly for purposes of data collection, also noted whether the legal presence of applicants who were submitting INS documents for identification purposes was apparent from the SAVE system. This information was gathered to determine the ease with which the SAVE system could be used by DMV employees to determine legal presence. The pilot showed that, with minimal training in immigration law, DMV staff was able to determine, using the INS SAVE system, whether an applicant had lawful presence in the U.S. in approximately 89 percent of the cases in which INS documentation was presented as proof of identification. For applicants whose data was submitted to the SAVE system, the system provided an indication of lawful presence for approximately 85 percent of these applicants and an indication that the applicant did not have legal presence in approximately 4 percent of the cases. In approximately 11 percent of those cases in which the applicant presented INS documentation as proof of identity, it was not clear to DMV staff, using the INS SAVE system alone, whether the applicant's presence in the U.S. was lawful. It should be noted that information obtained from the SAVE system concerning legal presence was not always instantaneous; in some cases it took several days to several weeks to complete an inquiry concerning legal presence.

Based on information available at the time this study was drafted, while many states are considering subscribing to the service, only two states' (Wyoming and California) motor vehicle agencies are utilizing the SAVE system as a means to verify the legal status of driver license and ID card applicants. Colorado was scheduled to implement use of the SAVE system in the fall of 2002.

### **IMPACT OF IMPOSING A LEGAL PRESENCE REQUIREMENT**

During the 2002 session of the Virginia General Assembly, several bills which would have required proof of legal presence in the application for and issuance of DMV-issued documents were introduced. During consideration of these bills by the House and Senate, representatives of various interest groups expressed concerns with the imposition of a legal presence requirement and the potential impacts upon their constituents, DMV, safety and the economy.

Based upon the concerns that were raised in the 2002 General Assembly, DMV determined that, in order to identify the possible impacts of imposing a legal presence

requirement, it would be advisable to obtain input from the public. As a result, the agency conducted five public meetings to, among other things, gather public comment regarding the advisability of imposing a legal presence requirement in the issuance of DMV credentials.

A total of approximately 38 written and verbal comments pertaining to the advisability of imposing a legal presence requirement for the issuance of driver's licenses and ID cards were received. The vast majority of comments pertaining to legal presence opposed implementation of the requirement in issuance of driver's licenses and ID cards; only 3 comments (8 percent) favored implementation of the requirement. The comments received in the meetings, and throughout the year, concerning a legal presence requirement are very similar to the arguments that are often presented in favor of, or in opposition to, tightening proof of identity requirements, and address impacts that may be divided into the following categories: impacts upon transportation safety, impacts upon public safety and national security, impacts upon individuals and families, impacts on the economy and impacts upon DMV.

*Transportation Safety:* Those who oppose a legal presence requirement in the issuance of driver's licenses and ID cards argue that imposition of such a requirement would have a negative impact upon safety. It is argued that those who are unable to provide proof of legal presence would be forced to drive without a driver's license, and hence, highway safety would be impacted because these individuals would not have undergone testing of their driving knowledge and skills and would likely remain uneducated in traffic laws. It is also argued that driving history of the unlicensed driver would remain undocumented because it will not be tracked by DMV.

*Public Safety and National Security:* It is argued that imposition of a legal presence requirement could lead to a higher incidence of crime. Those who oppose a legal presence requirement argue that imposition of such a requirement would prevent those who are unable to prove legal presence from opening bank accounts—as banks generally require some form of identification such as a driver's license or ID card. As a result, individuals would be forced to maintain large amounts of cash on their person or property—thereby subjecting them to robbery or burglary. It is also argued that individuals who are not present in the U.S. lawfully are less likely to report crimes because they fear detection by law enforcement authorities, and that those who would victimize these individuals are aware of the reluctance to report a crime.

Those who favor a legal presence requirement argue that imposition of the requirement would enhance national security, by ensuring that those who are not in this country legally and are seeking to do harm are prevented from obtaining a means of integrating into society. Some have also argued that, although a legal presence requirement may not have prevented the attacks of 9-11, imposition of such a requirement in the issuance of driver's licenses and ID cards would at least provide another hurdle which those who wish to do this country harm will have to clear.

*Impacts upon Individuals and Families:* Those who oppose a legal presence requirement argue that imposing such a requirement would impact individuals and families by hindering every day life functions. It is argued that rendering men and women unable to obtain driver's licenses greatly hinders their ability to obtain or retain jobs and support their families. In addition, the inability to obtain a driver's license makes it difficult to carry out simple tasks such as going to the doctor's office, the bank, or the grocery store. It has been argued that it is virtually impossible for parents to enroll their children in school without a driver's license and that imposing a legal presence requirement could result in a decrease in enrollment of the children whose parents are not lawfully present in the U.S. It has also been reported that a mother giving birth in a hospital has been unable to obtain a birth certificate for her child because she had been unable to obtain a Virginia driver's license or ID card.

*Impacts upon the Economy:* Those who oppose a legal presence requirement argue that imposing any such requirement would have significant negative economic impacts. It is argued that much of Virginia's business and economy is reliant upon labor that is derived from persons who are not, or who are unable to prove that they are, lawfully present in the U.S. It is argued that these individuals need to drive for employment purposes (travel to, from and during employment) and need identification in order to open bank accounts and perform many other day-to-day functions. It is argued that if these workers and their families are unable to obtain driver's licenses and ID cards, then Virginia will be less likely to attract these workers and the businesses which rely on these workers, and as a result, the economy will suffer. Those who oppose a legal presence requirement cite as economic impacts: loss in sales tax revenues, loss in income tax revenues and an overall increase in the labor rate. It is also argued that those who are unable to obtain a driver's license are unable to obtain automobile insurance. Accordingly, it is argued that imposition of a legal presence requirement would result in an increase in uninsured drivers and would ultimately result in increased insurance rates in the Commonwealth.

Although DMV would have preferred to provide an assessment of the overall economic impact that would be associated with imposition of a legal presence requirement, DMV has neither the resources nor the expertise to address such a complex issue. However, the agency reviewed several sources of information regarding immigrants and the effects of immigration on the economy.

Based on information collected by INS, it was estimated that 5 million undocumented immigrants were residing in the United States in October 1996, while an estimated 55,000 undocumented immigrants were residing in Virginia<sup>1</sup>. The population of undocumented immigrants was estimated to be growing by about 275,000 nationally each year<sup>2</sup>. According to the INS, undocumented aliens made up about 1.9 percent of the total U.S. population with the highest percentages in California, the District of Columbia and Texas. In the majority of states, undocumented immigrants comprise less than 1 percent of

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<sup>1</sup> U.S. Immigration and Naturalization Service, *Statistical Yearbook of the Immigration and Naturalization Service, 2000*, U.S. Government Printing Office: Washington, D.C. 2002, p 271.

<sup>2</sup> *Id.*

the population<sup>3</sup>. It is estimated that, since 1988, 43 states (including Virginia) have experienced growth in the population of undocumented residents of no more than 3,000 annually, many of which experienced growth by 1,000 or less annually<sup>4</sup>. The INS warns of the limitations in data concerning undocumented immigrants, noting that estimating the size of a hidden population is inherently difficult.

Of the various sources of information concerning fiscal impacts that were reviewed, the most reliable addressed the overall fiscal impact of immigration generally. Based upon information presented at a conference sponsored by the El Paso branch of the Federal Reserve Bank of Dallas, the fiscal impact of immigration varies across regions and different levels of government. Overall, “immigrants have been found to produce a net fiscal gain (that is they pay more in taxes than they receive in services) at the federal level, but they impose a net burden on the states and local communities where they are concentrated. Thus, though immigrants do not represent a fiscal burden on the nation as a whole, high immigrant-receiving states, such as California, New York, Florida, Texas, New Jersey and Illinois absorb a net fiscal cost from their immigrant populations”<sup>5</sup>.

The National Research Council sponsored a study and produced a comprehensive report, *The New Americans: Economic, Demographic and Fiscal Effects of Immigration*, in which it was found that the “most plausible magnitudes of the impacts of immigration on the economy are modest for those who benefit from immigration, for those who lose from immigration and for GDP”<sup>6</sup>. It is estimated that the net gain for the economy, from all immigration, is between \$1 billion and \$10 billion a year, which based on \$7.6 trillion economy, could be deemed modest but significant<sup>7</sup>.

The agency would note that, in support of its opposition to imposition of a legal presence requirement during the 2002 session of the General Assembly, the Hispanic Committee of Virginia provided information concerning tax revenues attributable to "undocumented immigrants in Virginia", a group that would be directly and the most significantly impacted by a legal presence requirement. According to the information provided by the Hispanic Committee of Virginia, undocumented immigrants in Virginia contribute the following tax revenues:

Federal Income Tax:	\$ 77,000,000
State Income Tax:	\$ 11,000,000
Sales Tax:	\$ 29,452,500

The above estimates are based on the estimated 55,000 undocumented immigrants in Virginia using income rates of \$17,000 per individual and a 14 percent federal tax rate and 2 percent gross state tax income rate. The state sales tax revenues were calculated

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<sup>3</sup> U.S. Immigration and Naturalization Service, *Statistical Yearbook of the Immigration and Naturalization Service, 2000*, U.S. Government Printing Office: Washington, D.C. 2002, p 272.

<sup>4</sup> *Id.*

<sup>5</sup> Federal Reserve Bank of Dallas, Immigration and the economy—Part II, *Southwest Economy*, September/October 1988, found at [http://www.dallasfed.org/html/pubs/swe/9\\_10\\_98.html](http://www.dallasfed.org/html/pubs/swe/9_10_98.html).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

assuming expenditures of 70 percent of income and a 4.5 percent sales tax rate. No information was provided regarding the costs of services utilized by the undocumented immigrants residing in Virginia.

*Impact upon DMV:* Those who oppose a legal presence requirement argue that DMV lacks the ability to accurately administer such a requirement. It is argued that immigration law is complex and beyond the scope of the agency's abilities. Opponents indicate that an alien's authorization to be in the U.S. is not always clear cut, as their status may be pending or their stay may be indefinite. It is also argued that INS is backlogged and hence, DMV would be unable to rely on information provided by INS even through the SAVE System. To summarize, it is argued that there is significant risk that incomplete or outdated information will result in the denial of issuance to many applicants who actually do have legal presence.

Those who would argue in favor of a legal presence requirement in the issuance of a driver's license or ID card argue that providing driver's licenses and ID cards to applicants who are not lawfully present in the U.S. enables these individuals to disappear into society and interferes with their detection. In essence, it is argued that DMV and/or the Commonwealth, by providing driver's licenses and ID cards to those who are not lawfully present in the U.S., are aiding and abetting those who are in violation of federal immigration law, by providing these individuals with a critical means of disappearing into and functioning in American society.

In addition to gathering public comment, DMV also conducted an internal study to assess the potential impact upon the agency in the event that the agency was required to implement a legal presence requirement for the issuance of driver's licenses and other DMV documents. The agency examined the impact upon the agency and assessed the costs associated with programming, additional staffing levels, training requirements, and transactions, assuming utilization of the SAVE system, that would be associated with imposition of a legal presence requirement.

Table 2 on the next page summarizes the potential cost of requiring all applicants for original driver's license and ID cards, as well as all applicants for driver's license replacements and renewals to prove legal presence. The cost estimates shown are based on the assumption that the expiration of a driver's license or ID card would be tied to the expiration of the applicant's legal presence.

One component of estimated programming costs, \$130,610, would cover the modifications to DMV's automated system to capture and store legal presence determinations and annotations about the type of legal presence documentary proof provided by each applicant as well as the system changes needed to vary the expiration date of DMV-issued credentials based upon the applicant's legal presence status. If, in legal presence legislation, DMV was required to issue each applicant a temporary credential pending a review of the applicant's proof of legal presence documents and a determination of legal presence status, an additional programming cost of \$106,000 would

be incurred to implement this option because DMV currently does not enter information from temporary documents onto its automated system.

**Table 2**  
**Estimated Costs To Implement**  
**A Legal Presence Requirement**  
**For**  
**All DMV-Issued Credentials**

ITEM	ESTIMATED COST
Additional Staff <ul style="list-style-type: none"> <li>• 148 additional CSC employees</li> </ul>	\$ 5,292,332
Training for CSC Staff	\$ 200,000
Utilization of INS' SAVE Program	\$ 41,727
<b><i>TOTAL RECURRING COSTS</i></b>	<b>\$ 5,534,059</b>
Programming Changes to Capture and Store Legal Presence Information on DMV's Record and on the License/ID Card <ul style="list-style-type: none"> <li>• Tying expiration of license/ID card to legal presence</li> </ul>	\$ 130,610
Option of issuing a temporary license/ID card pending legal presence determination	\$ 106,000
<b><i>TOTAL ONE TIME COSTS</i></b>	<b>\$ 236,610</b>

It is assumed that implementing a legal presence requirement would lengthen the license and ID card issuance process by approximately five minutes per applicant. As shown in Table 2 above, in order for DMV to maintain current customer service levels and wait times while ascertaining legal presence every time a license or ID card was issued, the agency would need to add 148 additional employees to its staffing levels in the CSCs at an estimated cost of approximately \$5.3 million annually. Out of the 148 additional employees, 70 would be necessary if DMV imposed a requirement that an applicant prove legal presence every time a license or ID card was issued because the agency's current alternative services for driver's license replacement and renewal would be eliminated. This approach would result in a requirement for the CSCs to process an additional 347,538 transactions that are currently processed by staff in headquarters.

If a legal presence requirement was implemented, approximately 300 employees in various types of positions both in the CSCs and headquarters would require training in

immigration law, immigration documentation and status and the INS SAVE Program. It is estimated that the initial training costs for CSC personnel alone would be \$200,000.

If a legal presence requirement was imposed through statute, DMV would likely participate in the INS SAVE Program in order to utilize the database maintained by the Immigration and Naturalization Service to quickly verify the authenticity of immigration documents presented by applicants. The SAVE system does not contain information on U.S. citizens; therefore, for purposes of this estimate, it was assumed that approximately five percent of all applicants for DMV-issued credentials would be verified through the SAVE program. A requirement for all applicants for DMV credentials to prove legal presence each time a driver's license or ID card was issued would result in approximately 135,000 SAVE inquiries annually at an estimated cost of \$41,727 each year, provided DMV was permitted to make legal presence determinations for existing credential holders as part of the normal renewal process.

If a legal presence requirement was imposed only on applicants for original driver's licenses and ID cards, however, the first year costs would be approximately \$1.2 million with annual recurring costs of approximately \$960,000. Table 3 on the next page summarizes these estimated costs, based on the assumption that the expiration of an original driver's license or ID card would be tied to the expiration of the applicant's legal presence.

The same programming changes would be required, regardless of whether the legal presence requirement applied to all DMV-issued credentials or only to original driver's licenses and ID cards. It is estimated that \$130,610, would be needed to cover the modifications to DMV's automated system to capture and store legal presence determinations and annotations about the type of legal presence documentary proof provided by each applicant as well as the system changes needed to vary the expiration date of DMV-issued credentials based upon the applicant's legal presence status. If, in legal presence legislation, DMV was required to issue each applicant a temporary credential pending a review of the applicant's proof of legal presence documents and make a determination of legal presence status, it is estimated that an additional \$106,000 would be required to make the system changes and the license/ID card format changes needed to issue and record temporary credentials on DMV's automated system.

DMV would only need 21 additional CSC employees if legal presence legislation allowed existing DMV-credential holders to be grandfathered. The estimated annual salary and benefit costs for these 21 additional employees is \$960,000 compared to the estimated \$5.3 million in annual costs required to serve all applicants for DMV-issued credentials. In addition, this type of legal presence requirement would enable DMV to maintain its current alternative service delivery methods for driver's license renewals and replacements.

If a legal presence requirement was applicable only to first-time applicants for driver's licenses, it is estimated that five percent of these applicants would present immigration documents that would need to be validated through the INS SAVE Program.

The estimated annual cost of utilizing the SAVE Program under this scenario is \$8,197 compared to the estimated \$41,727 that would be incurred to utilize the SAVE Program to verify five percent of all applicants for original driver’s licenses, replacement driver’s licenses, renewed driver’s licenses and ID cards.

**Table 3**  
**Estimated Costs To Implement**  
**A Legal Presence Requirement**  
**For**  
**Only Original Driver’s Licenses and ID Cards**

ITEM	ESTIMATED COST
Additional Staff <ul style="list-style-type: none"> <li>• 21 additional CSC employees</li> </ul>	\$ 750,939
Training for CSC Staff	\$ 200,000
Utilization of INS’ SAVE Program	\$ 8,197
<b><i>TOTAL RECURRING COSTS</i></b>	\$ 959,136
Programming Changes to Capture and Store Legal Presence Information on DMV's Record and on the License/ID Card <ul style="list-style-type: none"> <li>• Tying expiration of license/ID card to legal presence</li> </ul>	\$ 130,610
Option of issuing a temporary license/ID card pending legal presence determination	\$ 106,000
<b><i>TOTAL ONE TIME COSTS</i></b>	\$ 236,610

The Virginia DL/ID Task Force included a subcommittee which addressed imposition of a legal presence requirement in the issuance of driver’s licenses and ID cards. The subcommittee prepared a report and recommendations, *Report of the DMV Task Force Subcommittee Considering the Advisability of Imposing a Requirement of Proof of Legal Presence in the United States to Obtain DMV Driver’s Licenses or Identification Cards*, which represents the majority position of the task force and is contained in Appendix 11. The following points are taken from the report, verbatim:

- Imposing a Requirement of Proof of Legal Presence in the United States Will Not Improve Public Safety
- A DMV Requirement of Proof of Legal Presence in the United States Would Not Have Stopped the Events of September 11<sup>th</sup>, and Will Not Stop Terrorism
- Imposing a DMV Requirement of Proof of Legal Presence in the United States Will Not Improve National Security or the Security of Virginia
- Imposing a Requirement of Proof of Legal Presence in the United States Will Require Costly Training of DMV Personnel, Will Deny Licenses to Many Lawfully Present Immigrants, and Will Expose DMV to Lawsuits Based on Discrimination.

The primary recommendation of the report is that DMV not require proof of legal presence in the United States as a prerequisite to obtaining DMV documents—which ultimately is an issue to be decided by Virginia lawmakers. Another issue, the allegation that DMV’s proof of identity requirement imposes a de facto legal presence requirement, is an issue that will be examined and reviewed by the agency in the upcoming months.

It should be noted that not all members of the Virginia DL/ID Task Force opposed a legal presence requirement in the issuance of driver’s licenses and ID cards. Several members, representing the minority, supported the imposition of a legal presence requirement. The minority position is set forth in the remarks of then Delegate O’Brien, provided in a meeting of the task force on September 9, 2002, contained in Appendix 12.

Based upon a survey conducted in March 2002 by AAMVA, it is estimated that in approximately 26 states applicants for driver’s licenses and ID cards are required to prove legal presence (See Appendix 13). Jurisdictions on the east coast or in reasonable proximity to Virginia which have implemented a legal presence requirement in the issuance of driver’s licenses include Maine, New Hampshire, New York, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, District of Columbia, Kentucky, South Carolina, Georgia and Florida.

DMV conducted a survey of the 50 states and DC regarding legal presence and the issuance of driver’s licenses and ID cards. Several tables summarizing survey results, as well as a copy of the survey, are contained in Appendix 14. Based upon the responses received from 42 states and the District of Columbia, the agency found that of the 25 respondent states that had implemented a legal presence requirement, 7 had done so by administrative action, while 18 had done so as a result of legislation. The survey also showed that 14 states (56 percent) with a legal presence requirement do not currently tie the expiration date of driver’s licenses to expiration of legal presence, while 11 states (44 percent) do tie expirations. Finally, a majority of states (14) that have imposed a legal presence requirement indicated that a driver’s license applicant’s immigration status is verified with INS only when the applicant’s immigration status or documentation is questionable, while 6 states responded that immigration status is verified with INS routinely. It should be noted that the manner in which a state has implemented the legal presence requirement, the documents that are accepted as proof of legal presence, whether

proof is required at time of initial application only or anytime a driver's license or ID card is issued, and whether expiration of a driver's license or ID card is tied to expiration of the applicant's legal presence all impact the significance and effect of a state's legal presence requirement. For instance, states which do not tie the expiration date of a driver's license or ID card to the expiration of the applicant's legal presence have imposed a legal presence requirement that, in essence, is in effect only at the time of application. Thus, although a state may impose a legal presence requirement in the issuance of driver's licenses and ID cards, the impact of the requirement may significantly vary from state to state.

As discussed in other areas of this report, if Virginia's requirements for issuing DMV documents are deemed to be less stringent than those of other states, individuals who are unable to satisfy, or are attempting to evade, the requirements of the state in which they reside will target other states which have more lenient requirements. Instances in which applicants from other states have come to Virginia in order to obtain driver's licenses or ID cards at a time when their legal presence is soon to expire have been reported by CSCs. In one recent case, several applicants with New York credentials which were soon to expire provided proof of residency documents with Virginia addresses while documents submitted as proof of identity revealed that the applicants had been admitted into the U.S. to work at a New York address and their legal presence was soon to expire. When CSC staff took effort to verify the addresses of the applicants, the individuals fled the CSC, using a van bearing New York license plates. It should be noted that instances such as the foregoing are anecdotal and are based upon reports of CSC staff. While this type of activity is not common, nevertheless, it does illustrate the point that disparity in issuance requirements among the states can lead to forum shopping by applicants for driver's licenses and ID cards.

## **CHAPTER SIX: USE OF BIOMETRICS TO IMPROVE THE INTEGRITY OF THE DRIVER'S LICENSE AND ID CARD ISSUANCE PROCESS**

Given the common acceptance of the driver's license as proof of identity, it is increasingly important for motor vehicle agencies to use adequate identity verification tools to assist in deterring identity fraud. Defined as either obtaining a driver's license by supplying false information or altering the identity information on a driver's license, this type of fraud is committed most frequently by unsafe drivers wishing to obtain additional driver's licenses in false names in order to maintain clean driving records and by teenagers to facilitate the illegal purchases of alcohol and tobacco. There is also a need for greater security in the driver's license and ID card issuance process to deter identity theft. Defined as the deliberate assumption of another person's identity for financial or other gain, identity theft has become one of the fastest growing crimes in the United States with an estimated 500,000 cases reported each year.<sup>8</sup>

The first level of identity verification can be accomplished by reviewing documents, such as birth certificates, immigration documents and passports, to ensure they are not fraudulent. A second level of defense against identity fraud and identity theft entails verifying the actual issuance of these types of documents with the issuing entities, such as the Social Security Administration, the Immigration and Naturalization Service, and the birth registries across the country.

However, the strongest defense against identity fraud and identity theft is to use identity verification tools that either (1) identify individuals from a larger group of possible matches (identification) or (2) identify that a person is who they say they are (authentication). Neither of these can be accomplished effectively without the use of measurable physiological characteristics or biometrics.

Capturing human biological characteristics, such as the shape of a person's face, fingerprint patterns, or the shape of the eye and storing this information mathematically for later reference, motor vehicle agencies can better verify identity before issuing driver's licenses and third parties can easily authenticate the identity of any one who presents them a driver's license containing a biometric.

Biometric identifiers are unique to each individual and are not subject to change or criminal forgery. As an identity verification tool, biometrics promise accuracy and consistency.

### **STEPS IN THE BIOMETRIC PROCESS**

There are five steps in the biometric process. First, the biometric and demographic information about the individual must be captured. This is termed user enrollment. Next, the actual image of the selected biometric must be captured. In order for the captured

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<sup>8</sup> Associated Press, Washington, D.C. (2000, September 14). *Personal identity theft is on the rise*. [Electronic version]. Found at <http://www.usatoday.com/life/cyber/tech/cti525.htm>

image to be stored in a database for future use, the next step is to convert the image to a digital format. The fourth step in the biometric process is called feature extraction. This entails extracting specific features, or minutiae points, of the image that will be used later for comparison of biometric attributes. The final step varies, depending upon whether one is attempting identification or authentication. For identification, this step involves a one-to-many (1:n) search where a real-time live scan or a single captured biometric image is compared with the multiple stored images in the repository of biometric templates. For authentication, this final step involves a one-to-one (1:1) search. This is accomplished by comparing a captured image either stored on a driver's license or in the repository of biometric templates with a real-time live scan. At this time, only finger, facial and iris biometrics offer effective 1:n matching.

The use of biometrics to strengthen the drivers' license and ID card issuance process involves only identification, or a 1:n match. The biometric captured from the applicant is compared to the stored biometrics of all other customers on the database. If no match is found, then the DMV can assume that the applicant is not attempting to commit identity fraud or identity theft.

The use of biometrics to strengthen the acceptance of driver's licenses and ID cards as proof of identity involves authentication, or a 1:1 match. Businesses would capture a live scan and compare the image to the biometric image or template stored on the driver's license or ID card. If the images match, the business can safely assume that the customer presenting the license or ID card really is the individual to whom the document was issued.

## TYPES OF BIOMETRICS

Today's technology offers a choice of four biometrics that can be captured and used for identification and authentication purposes in the driver's license and ID card issuance process. The chart on the next page summarizes each of these, providing a brief description of the biometric, and the various factors associated with each type.

**Fingerprints as Biometrics.** The human fingerprint has several characteristics that can be used to identify individuals. Fingerprint systems, similar to the fingerprinting used by law enforcement during the 20<sup>th</sup> century, records an optical image of the entire fingerprint, requiring a significant amount of electronic storage space (approximately 250kb of storage space per finger). A finger-scan system, on the other hand, requires less storage space because proprietary feature extraction software converts the image to a mathematical algorithm. Approximately 80 percent of the finger-scan systems use minutiae points, or discontinuities that interrupt the otherwise smooth flow of ridges in a full fingerprint, to create the algorithm for the stored template. Each template contains approximately 300 bytes. The remaining finger-scan systems use pattern matching for the algorithm, with each template containing 900 bytes of data.



**TYPES OF BIOMETRICS**

Biometric Type	Description	Ease of Use	Accuracy Level	Public Acceptance Level	Causes of Errors	Read Security Level	Long-term Stability	Input Devices	Implementation Considerations
Finger print, thumbprint	Uses the patterns found on the fingertips, but may vary by finger or thumb. This method uses ridges and meeting of ridges for uniqueness assessment.	High	High	Medium. Some association with criminal element	Dryness, dirt, age	High	High	Great variety of devices	No additional criteria
Retinal	Uses analysis of the layer of blood vessels situated at the back of the eye. Low-density light source is through a coupler to scan the unique patterns of the retina.	Low	Very High	Medium, depending on user community	Glasses, contact lenses, etc.	High	High	Requires user to accurately follow instructions	No additional criteria
Iris	Uses analysis found in colored ring of tissue that surrounds the pupil. Uses conventional camera element and requires no close contact between user and reader unlike retinal.	Medium	Very High	Medium	Poor lighting	Very High	High	Performs well with glasses, lenses in place	Matching iris scan to previously recorded image higher than average
Face	Analyzes facial characteristics and requires digital camera to develop a facial image of the user for authentication.	Medium	High	Medium	Lighting, glasses, age, hair	Medium	Medium	Not applicable	High end input devices. May not be accurate under some scenarios.

The effectiveness of the exchange of templates between organizations, such as the 51 driver's licensing entities in the United States, for verification and authentication can be significantly impaired because template systems provided by different vendors often are not compatible. In addition, the quality of images generated from templates cannot currently be guaranteed because the technology used to convert templates to full fingerprint images is undergoing change at this time. Most entities that are using fingerprint as the selected biometric currently capture a full image of the fingerprint, create a template from it, and use the template data as a key to customer data associated with the biometric. This choice works fairly well when only 1:1 matches at a later time are required. In addition, the American Association of Motor Vehicles has issued a standard for using fingerprint images as a biometric. Adherence to this standard will help ensure that fingerprint images captured by motor vehicle administration agencies can be effectively exchanged.

Finger-scan technology has been used for over 35 years. It has achieved great acceptance by law enforcement and has been relied upon as legal evidence. Although finger-scans are very accurate and cost effective, many citizens associate the collection of finger-scans with criminals and criminal investigations. Collecting finger-scans is considered to be moderately intrusive for the customer.

Currently 12 states (24 percent) are considering or have implemented finger-scan technology. Those states that have already implemented finger-scan technology are: Arkansas, California, Georgia, Hawaii, South Carolina, Texas, and West Virginia. The following states are currently considering finger-scan technology: Colorado, Kansas, Kentucky, Mississippi, and Oklahoma.

The Virginia Department of Motor Vehicles has explored the adoption of finger-scan technology to enhance the security of its license issuance process and the integrity of its driver's licenses and photo identification cards. It would take the Virginia DMV up to seven years to collect finger-scans for all of its driver's license and ID card holders if the current driver's license renewal cycle is maintained. Table 4 on the next page summarizes the estimated costs to incorporate finger-scan technology into the issuance process.

Purchase and deployment of the hardware and software needed to implement finger-scan technology would cost approximately \$8.1 million. The technology needed to capture and store scans of each customer's left and right index fingers, create the minutiae points from finger-scans, store these in a DMV database along with the customer's photograph and digitized signature, and encode the templates in the bar code on the back of the driver's license or ID card would cost approximately \$1.1 million. This includes the cost that would be incurred to make changes to the current layout of the driver's license and ID card to accommodate the storage of the templates.

The largest component of the estimated technology costs, \$7 million, would cover the searching and matching functions needed to best utilize the biometric to support identification and authentication. These features are necessary if the finger-scan is going to be an effective tool for enhancing the security and integrity of DMV-issued credentials

because 1:1 and 1:n searches are needed to deter and detect identity fraud and identity theft.

**Table 4**  
**Estimated Costs to Implement**  
**Finger-Scan Biometrics**  
**For**  
**All Originals, Renewals, and Replacements**

ITEM	ESTIMATED COST
<i>Technology</i> <ul style="list-style-type: none"> <li>• Hardware and Software to Capture and Store the Finger Scan</li> </ul>	\$ 1,100,000
<ul style="list-style-type: none"> <li>• Hardware and Software to Perform Searching and Matching Functions</li> </ul>	\$ 7,000,000
<i>Additional Staff</i> <ul style="list-style-type: none"> <li>• 61 additional employees to compensate for the elimination of Central Issuance at Headquarters</li> </ul>	\$ 2,181,299
<ul style="list-style-type: none"> <li>• 31 additional employees to maintain current service levels</li> </ul>	\$ 1,108,529
<i>Training</i>	\$ 560,000
<b>TOTAL FIRST YEAR COSTS</b>	<b>\$11,949,828</b>

Capturing and comparing finger-scans every time a driver's license or ID card is issued would eliminate DMV's current alternative service delivery methods for renewing or replacing driver's licenses. As a result, the agency would have to add 61 additional employees to the CSCs to process the 347,538 renewal and replacement transactions currently handled by headquarters. The associated annual salary and benefit costs are estimated to be approximately \$2.2 million. In addition, each license or ID card transaction would take approximately two additional minutes in order to capture and compare a finger-scan for every applicant. DMV would need 31 additional employees in the CSCs in order to maintain current customer service delivery levels and wait times. It is

estimated that the annual salary and benefit costs for these additional employees would be \$1.1 million.

However, today when driver's license renewals are processed over the Internet, by mail, or using touch-tone telephone renewal DMV retrieves the customer's original photograph and signature from the agency's database and places them on the renewed credential. Use of the stored images and signatures significantly reduces the probability of identity fraud. As a result, requiring all renewal applicants to visit a CSC to provide a new finger-scan would offer little benefit in terms of enhancing the security and integrity of y's process. Given that fact, DMV could continue to process driver's license renewals through alternative service options and retrieve stored finger-scans and place them on the renewed credentials. Utilizing stored photographs, signatures, and finger-scans to process renewals through alternative means would reduce the number of additional CSC staff needed to maintain current customer service delivery times and wait times by 61 FTEs, saving approximately \$2.2 million annually. This approach results in redirecting only driver's license replacements, which create more significant opportunities for identity fraud, to the CSCs.

Implementation of a finger-scan biometric would necessitate training for all CSC staff in the appropriate use of the technology to ensure that finger-scans are captured accurately and that 1:n searches are conducted appropriately before licenses or ID cards are issued. It is estimated that this training would cost approximately \$560,000. It should be noted that training costs would likely be higher because DMV's investigative staff as well as state and local law enforcement personnel would also need training in the appropriate use of this technology to investigate identity fraud and identity theft.

**Eye Scans.** There are two types of eye scans that can be used as biometrics, iris scans and retinal scans. Iris recognition is based on the qualities of the iris that are visible either with regular or infrared light. A primary characteristic is the radiating pattern in the iris. Other visible qualities in the iris can also be collected. A camera is used to start the enrollment process by positioning the lens about 3 feet from the eye. The camera uses both visible and infrared light. After the data is collected and reduced to mathematical representations, the data is cataloged. The entire process takes about one second. Iris scans are extremely accurate, use low-cost camera technology, and offer quick scan times. A major disadvantage of iris scans is the generally intrusive nature of a camera delving into and recording the innermost partitions and striations of a human eye. Currently iris scans are not used by any motor vehicle agency.

A retinal scan is captured by employing optical technology to map the capillary pattern of the retina of the eye. This technology produces a unique print similar to a fingerprint. No two patterns are the same, even between the right and left eye or in identical twins. Retinal patterns do not change with age unless glaucoma or cataracts develop. The retinal pattern template only requires about 35 bytes. The primary application for this technology to date has been in areas where high-security access control is needed. Retinal scans are extremely reliable, present no false positives when used for identification and authentication, and are rarely rejected by authorized users of the scans.

The major drawback of retinal scans is the extremely invasive nature of the capture process. Retinal scans are difficult to administer due to their invasive nature and this leads to many errors in the data collection process. In order to obtain a usable scan, an individual must cooperate by keeping his head fixed and focusing on a target while an infrared beam is shown through the pupil. The reflected light is then measured and captured by a camera.

**Facial Scans.** Facial scan technology uses a camera to capture facial images concentrating on fixed facial features that are difficult to modify, such as the placement of a person's eyes. The effectiveness of using facial scans to verify and authenticate identity, unlike photographs, is not affected by changes in hairstyle or hair color. In addition, this technology can be used with off-the-shelf personal computer video capture systems and the cameras can be purchased for approximately \$50 each. Facial scan technology can be used for 1:n searches but accurate comparisons may require human intervention because the facial system may only be able to display a limited number of possible matches in a single search session. In addition, the effectiveness of this technology is dependent upon the level of cooperation given by the subject since facial distortion may completely obscure a relevant match to an uncooperative subject.

Facial scans can be captured when the customer's photograph is taken during the license issuance process. Obtaining a quality scan is considered moderately difficult and facial scan technology is moderately intrusive for the customer. Generally, it takes about 20 to 30 seconds to capture the facial scan and enrollment involves taking several pictures at different angles and with different facial expressions in order to facilitate more accurate searches. After enrollment, distinctive features, such as the coordinates of the eyes are extracted, resulting in the creation of a template. The template is much smaller than the image from which it is drawn. Whereas quality facial images generally require 150-300kb, the templates are approximately 1300 bytes, or less than 1/100th the size of the original.

There are four primary methods used to identify subjects in a facial scan system:

- 1) Eigenfaces, which utilize two dimensional global grayscale images representing distinctive characteristics of a facial image;
- 2) Feature analysis, where the distinctive characteristics of the face are highlighted for use in future authentication;
- 3) Neural network mapping technology, which employs an algorithm to determine the similarity of the unique features of live scans compared to "enrolled" or reference faces, and
- 4) Automatic face processing, which uses the distances and distance ratios between eyes, ears, nose and mouth.<sup>9</sup>

Facial recognition software can be used to convert existing photographic databases, such as the one currently maintained by Virginia DMV, into facial scans. This feature

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<sup>9</sup> International Biometric Group. (2002), [Electronic version]. *Facial-scan: how it works*. Retrieved November 23, 2002 from [http://www.ibgweb.com/reports/public/reports/facial-scan\\_tech.html](http://www.ibgweb.com/reports/public/reports/facial-scan_tech.html).

makes customers more accepting of facial identification because it is quick and no new technology is used. Currently, seven motor vehicle agencies, including Colorado, Connecticut, District of Columbia, Illinois, Louisiana, North Carolina, and West Virginia, are either using or planning to implement facial scan technology or manual facial matching.

DMV has explored the option of including facial scan technology in its license issuance process. As with finger-scans, it would take the Virginia DMV up to seven years to collect facial scans for all of its driver’s license and ID card holders if the current driver’s license renewal cycle is maintained. Table 5 summarizes the estimated costs for implementing facial scan technology.

Purchasing and deploying facial scan technology would cost an estimated \$728,000. This technology is slightly less expensive than finger-scan technology because the resulting templates would not be encoded into the bar code on the back of the driver’s license or ID card. As a result, changes to the current layout of the license and ID card would not be required.

**Table 5**  
**Estimated Costs to Implement**  
**Facial Scan Biometrics**  
**For**  
**All Originals, Renewals and Replacements**

ITEM	ESTIMATED COST
<i>Technology</i> <ul style="list-style-type: none"> <li>• Hardware and Software to Capture and Store the Facial Scan</li> </ul>	\$ 728,000
<ul style="list-style-type: none"> <li>• Hardware and Software to Perform Searching and Matching Functions</li> </ul>	\$ 1,100,000
<i>Additional Staff</i> <ul style="list-style-type: none"> <li>• 56 additional employees to compensate for the elimination of Central Issuance at Headquarters</li> </ul>	\$ 2,002,504
Training	\$ 560,000
<b>TOTAL FIRST YEAR COSTS</b>	<b>\$ 4,390,504</b>

Facial scan technology would allow DMV to scan the customer's eye coordinates during the process of capturing the applicant's photograph. The minutiae points from facial scans would be converted to templates that would be stored on a DMV database along with the customer's photograph and digitized signature. The cost of adding searching or matching functions to support the identification and authentication processes needed to deter and detect identity fraud and identity theft, is estimated to be \$1.1 million.

Capturing and comparing facial scans every time a driver's license or ID card is issued would eliminate DMV's current alternative service delivery methods for renewing or replacing driver's licenses. As a result, the agency would have to add 56 additional employees to the CSCs to process the 347,538 transactions that are currently handled by headquarters. The associated annual salary and benefit costs are estimated to be \$2.0 million. No additional CSC staff would be needed to maintain current customer service delivery levels or wait times because, unlike finger-scan technology, facial scan biometrics are captured at the same time the applicant's photograph is taken. As a result, transactions times for driver's license and ID card issuance remain virtually the same.

As discussed with the implementation of finger-scan technology, if facial scans were only required for original issuance or replacement of a lost license or ID card, driver's license renewals could continue to be offered through existing alternative service delivery options. Targeting the use of facial scan technology to only those transactions most susceptible to identity fraud and identity theft would eliminate the need for additional staff in the CSCs in implementation and use of the technology.

Implementation of a facial scan biometric would necessitate training for all CSC staff in the appropriate use of the technology to ensure that eye coordinate scans are captured accurately as part of the photographing process and that 1:n searches are conducted appropriately before licenses or ID cards are issued. It is estimated that this training would cost approximately \$560,000. It should be noted that training costs would likely be higher because DMV's investigative staff as well as state and local law enforcement personnel would also need training in the appropriate use of this technology to investigate identity fraud and identity theft.

Increasingly, two or more biometric methods are being used in single applications when greater authentication is required. The use of such technology is termed multi-modal biometrics. Acceptance of recognition based on a single biometric varies among user groups and as a result of variances in particular situations. This limits the use of single biometrics because no single biometric is considered both sufficiently accurate and user-acceptable for universal application. Multi-modal biometrics can provide a more balanced solution to the security and convenience requirements of many applications. However, such an approach can also lead to additional complexity in the design and management of authentication systems, creating complex hierarchies of security levels and increasing the

difficulty of meeting competing requirements. A strong case can be made for increasing recognition accuracy and acceptance by combining the use of two or more biometrics.<sup>10</sup>

DMV has explored the incorporation of two biometrics into its license issuance process and has found that money can be saved if the two are implemented simultaneously. The hardware and software costs related to the capture, storage, database searching, and biometric matching can be reduced if finger-scan and facial scan technologies are implemented as a combined solution. In addition, DMV could likely reduce the costs for the hardware and software required to capture, save, search, and match biometrics if these functions were implemented at the same time the agency implements a new driver's licensing system rather than attempting to add this functionality to its existing system. Finally, if two biometrics such as finger-scan and facial scan are implemented at the same time, the number of additional employees needed to implement both biometrics would be 92, the number required for implementation of finger-scan technology alone.

## OTHER BIOMETRIC CONSIDERATIONS

**Public Perception.** DMV conducted 5 public meetings to gather public comment regarding the advisability of imposing a biometrics requirement in the issuance of DMV documents. Very few comments were received regarding imposition of a biometric requirement. (Of the 16 written and 89 verbal comments that were received, 10 comments addressed the issue of biometrics.) Four commenters opposed biometrics, while the remaining six commenters generally favored the use of biometrics, four of whom stressed that they supported the collection of biometrics only if the requirement was uniformly applied to all applicants.

**Public Education.** If DMV implements the use of biometrics, it will be important for the agency to educate the agency's customers about the threat of identity theft in our society and how the use of biometrics will provide them the ability to protect themselves from this threat. Without this understanding, customers will likely oppose and possibly resist the use of biometrics in the licensing process.

**Stewardship of Sensitive Biometric Data.** The capture, storage, retrieval and comparison of biometric data related to millions of customers creates a significant stewardship responsibility for DMV. If the use of biometrics is incorporated into the issuance process, DMV will need to ensure that the biometric database is secure. The agency will need to use small-scale redundant, compartmentalized hardware and software for this database and all of its functions in order to deter attempts from criminals and terrorists to illegally *access* the stored biometric data. This type of approach will also help offset the security issues that could arise if one component of the system fails or is breached.

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<sup>10</sup> Deravi, F., Fairhurst, M.C., Mavity, N.J. Department of Electronics, University of Kent. Presentation: Effective design of multimodal biometric systems using intelligent agent technology, Presented at *Advancing Biometric Technologies* at the Royal Statistical Society. Retrieved November 30, 2002, from <http://www.bmva.ac.uk/meetings/meetings/02/6March02>

**Potential Negative Impact.** Biometrics do not offer a complete solution to identity fraud and identity theft in and of themselves. In fact, the use of biometrics in the issuance process can create even more significant problems. When someone who is attempting to commit identity fraud or identity theft provides a biometric for storage, the existence of that biometric creates an even more solid false identity. This makes it even more difficult for victims of identity theft to extract themselves and their lives from the negative consequences of identity theft. Therefore, the use of biometrics in the driver's license issuance process increases, rather than decreases, the significance of ensuring that fraudulent documents are not presented and checking pre-existing DMV records to help identify imposters prior to issuance.

## **SECTION III: DEVELOPMENTS IN FEDERAL LAWS AND NATIONAL/MULTI-JURISDICTIONAL POLICIES**

### **INTRODUCTION**

Developments in federal law as well as policies and recommendations of various key organizations or associations including the American Association of Motor Vehicle Administrators (AAMVA), the National Governor's Association (NGA) and the National Council of State Legislatures (NCSL) have the potential for impacting the issuance of driver's licenses and ID cards in Virginia. As a result of the events of September 11, 2001, issuance of driver's licenses and ID cards, although currently within the jurisdiction of the states, has become the focus of several federal bills. In addition, AAMVA, the NGA and the NCSL have initiated review and are pursuing development of and/or revision to key policies dealing with the standards under which these documents are issued.

## CHAPTER ONE: FEDERAL LEGISLATION

Federal legislation has been enacted that impacts the issuance of commercial driver's licenses, specifically hazardous material endorsements. As of October 25, 2002, although federal legislation has not been enacted, several federal bills are pending which would directly and significantly impact the manner in which driver's licenses and ID cards are issued by state motor vehicle agencies. Appendix 15 is a federal tracking report which provides a brief synopsis of bills that could potentially impact the issuance of driver's licenses and ID cards or information which is relied upon in the issuance of these credentials. Appendix 16 is a quick reference chart which identifies the bills and their key provisions.

### DRIVER'S LICENSE AND ID CARDS—GENERALLY

The USA Patriot Act of 2001 was enacted in late October of 2001 and among other things, impacts the issuance of hazardous material endorsements. Specifically, the bill prohibits a state from issuing a hazardous materials endorsement to an applicant unless and until the US Attorney General's Office has conducted a background check of the applicant and the US Secretary of Transportation has certified that the applicant poses no security risk. Although the law became effective at time of enactment, states are waiting for rules or regulations from the appropriate federal authorities in order to implement measures to comply with the new federal law. It is speculated that any regulation or rule that is promulgated will require the fingerprinting of applicants in order to facilitate the requisite background check by the US Attorney General's Office.

Three federal bills are pending which would directly and significantly affect the manner and standards under which driver's licenses are issued by the states if enacted. One bill, The Driver's License Modernization Act of 2002, (HR 4633), is sponsored by Representative Moran and co-sponsored by Representative Davis. A second bill, The Driver's License Fraud Prevention Act, (S 3107), is sponsored by Senators Durbin and McCain. Finally, a third bill, the Securing America's Freedom Through Enforcement Reform (SAFER) Act of 2002, (HR 5013) is sponsored by Representatives Virgil Goode and Jo Ann Davis.

The Driver's License Modernization Act (HR 4633) seeks to standardize the issuance of driver's licenses and ID cards by the states. Within five years of enactment, states would be required to issue driver's licenses and ID cards which bear a computer chip capable of storing biometric information as well as information which would enable the credential to serve as a means of conducting various public and private transactions. The bill would also impact issuance of driver's licenses and ID cards by requiring states to adhere to standards/regulations issued by the US Secretary of Transportation, including standards for establishing identity and residency of applicants. States would also be required to collect and store on agency databases a second biometric of applicants and participate in the linking of all driver's license/ID card databases.

The Driver's License Fraud Prevention Act, (S 3107), like the Driver's License Modernization Act, seeks to standardize the issuance of driver's licenses and ID cards among the states. This bill, however, places more emphasis on the various aspects of the application/issuance process and places less reliance on one form of technology as the means to enhance driver's license and ID card security and integrity. This bill would require the federal Secretary of Transportation (Secretary) to perform a study to assess use of a unique identifier in issuance of driver's licenses and report results to Senate and House committees. Under this bill, the Secretary would be required to consult with states, representative organizations, and experts and to issue regulations concerning minimum standards (including identity standards) to be uniformly applied by states in processing driver's license/ID card applications and regulations regarding minimum security standards (tamper/counterfeit resistance, unique identifiers) for issuance and use of driver's licenses and ID cards. The bill would prohibit issuance of a driver's license to a person who holds another state's driver's license unless the other license is surrendered. In addition, the Secretary is to issue regulations concerning, and states are to perform audits for, compliance with the law and further, the Secretary is to review state audit results periodically. The Secretary is directed to assist states in developing Driver's License Agreement to ensure reciprocity in the administration of the driver's license program. Finally, the bill provides for enhanced penalties to be applied in cases in which a driver's license is fraudulently obtained and in cases of internal agency fraud. The bill would permit the Secretary to award grants for innovative pilots of information systems and other means of preventing fraud in the issuance of driver's licenses. The bill also requires the Secretary to establish the Driver Record Information Verification System which will contain information concerning all drivers in all states. The bill also contains provisions which enhance the privacy of personal information. Specifically, the bill would amend the federal Driver Privacy Protection Act to eliminate certain permissible uses of personal information and to broaden the definition of personal and highly personal information to include biometrics. Finally, the bill would also prohibit display of the SSN on driver's licenses, but would permit use of SSNs and verification of SSNs for identifying applicants.

The SAFER Act, (HR5013), would impact the manner in which states issue driver's licenses by barring federal agencies from accepting as proof of identity, a driver's license or ID card, unless the state's standards for issuance comply with regulations promulgated by the Secretary of Transportation. State DMVs would be mandated to accept only those birth certificates that met specific security criteria.

It should be noted the above-referenced bills provide for grants of federal funds. However, the grants are discretionary and the federal funds allocated under each of the bills are inadequate to address the bills' many provisions, particularly in light of the fact that the bills would impact the driver's license issuance process in every state in the nation in significant ways.

#### LEGAL PRESENCE

Several federal bills would directly or indirectly require states to implement a legal

presence requirement in the issuance of driver's licenses and ID cards. One bill, HR 5322, introduced September 9, 2002, would require tying of the period of validity of a non-immigrant's visa to the expiration date of a driver's license or ID card. HR 5013, introduced in the spring/summer of 2002, would amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to require states to issue driver's licenses and ID cards that expired on the date that an non-immigrant alien applicant's authorization to remain in the U.S. expires. Another bill, HR 4043, would bar federal agencies from accepting state-issued driver's licenses and other comparable identification documents as proof of the bearer's identity if the state does not tie expiration of the document to the expiration date of the applicant's visa.

### BIOMETRICS

As noted above, federal legislation has been introduced which would require states to implement biometric requirements for the issuance of driver's licenses and ID cards. The Driver's License Modernization Act (HR 4633) appears to provide for the collection of two different biometrics, one which would serve as the means for self-authentication of the driver's license or ID card and the other which would be stored in a database and would serve as the means of identifying the subject of the driver's license or ID card record.

The Driver's License Fraud Prevention Act (S 3107) does not mandate biometrics per se, but would require the U.S. Secretary of Transportation to assess potential methods, costs and the feasibility of "uniquely identifying" individuals, "including usage of biometric identifiers in the issuance of driver's licenses. The Secretary is to report the results of the assessment to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate. The report is to contain any recommendations the Secretary deems appropriate.

Although not directly related to driver's licenses, several federal bills also call for the implementation of biometrics in the issuance of visas and other immigration related documents, documents which are accepted as proof of identity in the driver's license and ID card application process. Although not all of the bills specify which biometric methodology is to be used, the majority of those that do contain any specification call for some form of fingerprint. In the event that biometrics are implemented in the issuance of Virginia driver's licenses and ID cards, the issue of interoperability may become a critical factor in determining which biometric to implement. A trend by the federal government to use a particular biometric, such as fingerprints, should not be overlooked in the assessment of the various options available.

## **CHAPTER TWO: EMERGING NATIONAL/MULTI-JURISDICTIONAL POLICY DEVELOPMENTS (AAMVA, NGA AND NCSL)**

### *AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS (AAMVA)*

Historically, AAMVA has worked with state motor vehicle agencies to develop uniform policies and best practices in various aspects of the regulation of motor vehicles and drivers. Since the events of September 11, 2001, AAMVA has heightened its efforts in the area of driver's license and ID card security and has been examining various ways in which policies and processes impacting driver's license and ID card issuance could be enhanced. According to information on AAMVA's website, AAMVA believes that enhancement of driver's license and ID card security will help increase national security and highway safety, decrease fraud and system abuse, increase efficiency and effectiveness and achieve uniform processes and practices.

After September 11, 2001, AAMVA's Driver's License and Control Committee's Uniform Identification (UID) Subcommittee created 13 task groups to assist in the subcommittee's efforts to standardize driver's licenses and ID cards. The task groups and their respective functions are set forth below:<sup>11</sup>

UID1—Acceptable ID Document List: This task group will be developing an acceptable list of documents that verify an applicant's identity. UID1 is to first update the current acceptable ID document list and then will assess the use of foreign documents as proof of identity. It is anticipated that the revised list of acceptable identity documents will be presented to AAMVA's board of directors for approval in early 2003.

UID2—Residency/Non-residency/Non-citizen: This task group is to work with member jurisdictions to develop a definition of residency/domicile for purposes of driver license and ID card issuance; one with a legal presence requirement and one without a legal presence requirement. (As noted in this report (See Chapter Two (Documentation/Verification of Information on the Application) Subsection B. Residency) the task force has issued, and the AAMVA Board has approved, a definition of residency, (which incorporates no legal presence requirement).

UID3—Fraudulent Document Recognition: This task group is to revise and further develop a fraudulent document recognition training program in order to assist jurisdictions with training of document examiners and clerks in recognition/detection of fraudulent documents.

UID4—Internal Controls: This task group is to collect and evaluate information concerning current practices in order to identify and develop effective means of reducing and minimizing internal fraud.

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<sup>11</sup> AAMVA, *Helping Secure A Safer America*, found at <http://www.aamva.org/IDSecurity/>

UID5—Oversight Compliance System: This task group is charged with reviewing current procedures for oversight and compliance of federal and state programs and is to devise a process for compliance with AAMVA's DL/ID administrative processes and procedures.

UID6—Model Legislation: This task group will develop model legislation for state enactment, once the various task groups have identified the necessary or key elements which warrant and rise to the level of legislation.

UID7—Card Design Specifications: This task group will focus on features of driver's licenses and ID cards, including security features, layout of visible elements and common recognition elements.

UID8—Verification: This task group will focus on ways to verify identity documents of driver's license and ID card applicants.

UID9—Unique Identifier: This task group is charged with developing and implementing processes for producing uniform, secure and interoperable driver's licenses and ID cards that will uniquely identify the bearer.

UID10—Enforcement and Control: This task group will work with various groups to develop penalties for credential fraud and to form liaisons with state and federal officials to establish relationships in support of penalties for document fraud.

UID11—Driver's License Agreement (DLA): This group will work to improve and standardize initial driver's license and ID card processes and to assist in the implementation of said processes to produce uniform, secure and interoperable driver's licenses and ID cards that will uniquely identify the bearer. The DLA is a compact that has recently been finalized and which is intended to replace the Driver's License Compact and the Nonresident Violator's Compact (currently enacted under Virginia law). It is anticipated that the DLA will be revised to include provisions concerning standardization of issuance and other procedures to enhance the security of driver's licenses and ID cards.

UID12—DRIVERs Infrastructure: DRIVERs is a system currently under development by AAMVA which will provide for the exchange of driver information among the jurisdictions. This working group will assist in implementing processes that will produce a uniform, secure and interoperable driver's license or ID card.

UID13—Process/Procedure: This task group will consolidate all deliverables of the various task groups into a single Model Program.

Thus far, AAMVA's policies and procedures pertaining to driver's licenses and ID cards have been recommendations; member states are under no obligation to adopt or comply with the various AAMVA generated policies, procedures or programs pertaining to driver's licenses and identification. Jurisdictions have, in the past, been at liberty to implement or not implement the various AAMVA procedures, policies and programs

pertaining to driver's licenses and identification. Those that have chosen to implement, have done so by administrative and legislative means.

Recently, driver's license and ID card security have become the focus of several bills at the federal level. AAMVA has cooperated with the drafter of at least one of the bills and is cited in one or more bills, usually as an entity with which federal regulators are to consult in promulgating or issuing regulations.

#### NATIONAL GOVERNORS ASSOCIATION (NGA)

The NGA has, as part of its effort to assist governors in protecting states from terrorism and to reinforce the states' role in implementing homeland defense strategies and policies, formed a homeland security task force. One project that will be undertaken by the task force is to strengthen driver's license standards. The task force will, in conjunction with the National Conference of State Legislatures and the Council of State Governments, seek to determine best practices in the issuance of driver's licenses. Currently NGA does not have policy on the integrity of state-issued driver's licenses, but it is anticipated that the Association will take the lead in the effort to develop enhancements to the policies and processes by which states issue these documents and will not rely on federal legislation for implementation of the enhancements. Further information concerning the NGA's efforts concerning driver's license and ID card security may be found at [www.nga.org](http://www.nga.org).

#### NATIONAL CONFERENCE OF STATE LEGISLATURES (NCSL)

It appears that the NCSL will also play a significant role in the development of policies and processes by which states issue driver's licenses and ID cards. NCSL has done a fairly comprehensive review of legislative developments in 2002 concerning driver license and ID card security across the states. A summary of the NCSL review may be retrieved at: [www.ncsl.org](http://www.ncsl.org).

## SECTION IV: RECOMMENDATIONS

Based on the information gathered by DMV pursuant to this study, the Commissioner would make the following recommendations for enhancement of the requirements for obtaining Virginia driver's licenses, commercial driver's licenses, learner's permits, temporary driver's permits and ID cards:

### THE APPLICATION PROCESS

Various options were discussed as a means to enhance the application process for driver's licenses and ID cards generally. With the exception of heightened penalties for fraudulently obtaining a driver's license or ID card and surrender of other states' driver's licenses in the application process, DMV would have the authority to implement all of the options discussed without legislation. However, due to current budgetary restraints, those measures that would impose anything more than an insignificant cost, such as central issue, could not be implemented by the agency without an appropriation by the General Assembly.

As discussed in this report, the classification of the offense of obtaining a driver's license or ID card when not entitled thereto was changed to a class six felony. Other sections of the Code of Virginia, however, dealing with the provision of false information during application were not amended to reflect such a change.

**Recommendation 1: DMV would recommend legislative amendments to the Code of Virginia which would provide the same treatment to offenses involving the provision of false information during the application process for a Virginia driver's license or ID card as the treatment that is afforded the offense of wrongfully obtaining these documents, by reclassifying these offenses as class 6 felonies.**

The report also notes that, although the Code of Virginia provides for the surrender of other states' driver's licenses when applying for a Virginia driver's license, the authority granted to DMV to require surrender is permissive. Amending the Code to mandate the requirement that another states' driver's license be surrendered as a condition of obtaining a Virginia driver's license would eliminate any discretion on the part of the agency.

**Recommendation 2: DMV would recommend a legislative amendment which would mandate that an applicant surrender any other states' driver's licenses held by the applicant, as a condition of obtaining a Virginia driver's license.**

## DOCUMENTATION/VERIFICATION OF INFORMATION ON THE APPLICATION

***Proof of Identity:*** Of the various options available, with the exception of biometrics, knowledge based tools, such as information databases and electronic document verification systems, appear to hold the greatest potential for effective enhancement to the identity requirement for obtaining a Virginia driver's license or ID card. These systems are still relatively new and require further development and adaptation to use in the verification of identity for driver's license issuance. In addition, these systems may prove to be costly, based on transaction fees and/or equipment costs. Accordingly, DMV would recommend that the agency continue its assessment of the various systems that are emerging to determine the effectiveness and feasibility of utilizing one or more such systems to enhance the issuance process for driver's licenses and ID cards. Once it is determined that systems are available which are suitable for use by the agency in verifying identity and/or the documents used to prove identity, the agency will propose legislation and request appropriations necessary to implement any suitable system.

**Recommendation 3: At the present time, DMV would recommend only that relevant sections of the Code of Virginia be amended to permit release or submission of applicant information to administrators of information databases or systems for the sole purpose of verifying the information so submitted.**

***Proof of residency:*** There is currently no statutory definition of residency for purposes of obtaining a driver's license or ID card in Virginia's statutes.

**Recommendation 4: DMV would recommend that the Code of Virginia be amended to provide for a definition of residency for purposes of issuing driver's licenses and ID cards.** (In the event that said amendment is agreed to, the agency will work with a sponsor to develop language for a bill.)

DMV intends to continue the regulatory process relating to repeal of the residency regulations. No statutory changes are necessary for this action, as the authority for DMV to promulgate regulations concerning proof of residency for obtaining a driver's license or ID card is permissive.

As mentioned in the report, systems which serve to verify address and residence information are beginning to emerge. These systems are still relatively new, may require further development and assessment and may prove to be costly, based on transaction fees and/or equipment costs. Accordingly, DMV would recommend that the agency continue its assessment of the various systems that are emerging to determine the effectiveness and feasibility of utilizing one or more such systems to enhance the issuance process for driver's licenses and ID cards. Once it is determined that systems are available which are suitable for use by the agency in verifying an applicant's residence/address and other

information provided in the application process, the agency will propose legislation and request appropriations necessary to implement any suitable system.

***Proof of Social Security Number:*** At this time the agency believes current requirements pertaining to proof of an applicant's social security number are sufficient. The agency will continue to examine the issue of whether it would be advisable to require those who do not have a social security number to obtain and provide the agency with proof of their federal taxpayer identification number.

**Recommendation 5: DMV would recommend no statutory changes pertaining to enhancement of the requirement that an applicant provide the agency proof of their social security number if one has been issued**

#### **SECURITY OF DMV-ISSUED DOCUMENTS:**

The current contract for DMV's driver's license and ID card system will expire, no earlier than 2004 and no later than 2006. Hence, any enhancements to the cards issued by the agency would not be implemented until 2005 or 2006. In addition, due to various developments regarding the security of DMV-issued documents that may be emerging in the next several years as a result of national policy or federal legislation, it is not clear what new requirements will be imposed. Thus, it would not be advisable, at this time, to place into statute, any requirement pertaining to security features of driver's licenses and ID cards. It would, however, be advisable to ensure that information concerning the security features of driver's licenses and ID cards is afforded enhanced protection.

**Recommendation 6: DMV would recommend that statutes pertaining to freedom of information be amended to protect information concerning the production and security of DMV-issued documents that is deemed confidential and necessary to assist in the prevention of the production of counterfeit documents.**

#### **EMPLOYEE SAFEGUARDS**

The agency will continue to utilize internal audits and to investigate potential quality control methodologies in order to deter employee misfeasance and to measure employee competency in processes, procedures and fraud detection. These measures would require no action by the General Assembly.

**Recommendation 7: DMV would recommend no statutory changes regarding**

**assurance of employee integrity in the issuance of driver's licenses and ID cards.**

## **LEGAL PRESENCE**

At this time, various federal bills which would impose a legal presence requirement and/or which address standardization of the issuance of driver's licenses and ID cards, are pending. In addition, various organizations such as the NGA, the NCSL and AAMVA are examining security and integrity of driver's licenses and ID cards and are expected to develop policies intended to standardize issuance of these credentials. Based on the foregoing, as well as the significant costs that would be incurred, the staffing adjustments, and training that would be necessary for implementation of the requirement, DMV believes that it would be neither feasible nor advisable to implement a legal presence requirement in the foreseeable future.

**Recommendation 8: DMV would recommend that no action be taken by the General Assembly at this time to require applicants for driver's licenses and ID cards prove that their presence in the U.S. is lawful or to require that expiration of the documents be tied to the duration of an applicant's legal presence.**

**Recommendation 9: In addition, DMV recommends that no action be taken to reenact HB 637 (Acts of Assembly, Chapter 412) which provided for exchange of information between certain federal agencies and the Department of Motor Vehicles and the Department of State Police, to prevent issuance of driver's licenses and ID cards to persons who are not lawfully present in the U.S.**

## **BIOMETRICS**

The use of biometrics appears to offer one of the most effective means of ensuring that once a record bearing identification information concerning an applicant is established, those who would commit identity fraud or identity theft will be deterred and hindered from altering their identity, from establishing a different record under a different identity, and from attempting to steal the identity of another individual. In addition, it is anticipated that, as other entities with an interest in ensuring the identity of individuals move to utilization of biometric information to establish and confirm identity, use of the biometric on the driver's license or ID card will serve to enhance the value and acceptability of these documents as identification documents.

As discussed in this report, various federal bills are pending which address standardization of the issuance of driver's licenses and ID cards and would impose a biometric requirement. In addition, several organizations such as the NGA, the NCSL and AAMVA are examining security and integrity of driver's licenses and ID cards and are expected to develop policies which, among other things, would likely address biometric

requirements. Thus, at this point, it is not clear whether a biometric requirement will be imposed at the national level and if so, whether a particular biometric identifier will be mandated.

It should be noted that a requirement that DMV collect, and an applicant provide, biometric information for the issuance of a driver's license or ID card, for optimum use, should be tied to DMV's driver's license issuance system. DMV's current driver's license system contract is due to expire as early as 2004 and may be extended up to 2006. Thus, the agency will, in approximately the next one to two years, be placing its driver's licensing system out to bid and, if biometric technology is to be implemented, this would present the opportunity for the agency to build the biometric into the driver's licensing system.

**Recommendation 10: Accordingly, DMV would recommend that enabling legislation be enacted either in the 2003 or 2004 session of the General Assembly, which would mandate collection of biometric information, beginning no later than 2006. DMV does not recommend specification of a particular biometric at this time, but would recommend that the agency be permitted to review trends and developments over the next several months to determine the most appropriate methodology. The agency would also note that, based upon the current fiscal situation, the agency would not, without specific appropriations by the General Assembly, have sufficient funds to replace its driver's license system or to implement the collection and storage of biometric information from driver's license and ID card applicants.**

## CONCLUSION

The issues surrounding security and integrity of issuance of driver's licenses and ID cards are issues that are not restricted to Virginia. Virtually every state in the nation is examining the process for issuing driver's licenses and ID cards. One concept that appears to be evolving is the need for standardization of the processes and requirements among the states for issuing DMV credentials. Standardization would serve not only to increase the reliability and credibility of driver's licenses and ID cards, regardless of the issuing state, but would serve to deter forum shopping by applicants seeking to commit fraud. The concept of standardization is not only included in policies and recommendations by the NGA, NCSL, and AAMVA, but is also being introduced in numerous bills at the federal level.

It is clear that no single solution exists to solve the issues presented by the issuance of driver's licenses and ID cards. Rather, enhancement to the process will involve a multitude of integrated approaches that will require years and significant funds to implement.